

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

**Seventy-Eighth Session
February 23, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:31 p.m. on Monday, February 23, 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

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

George Ogilvie, Chair, Colorado River Commission of Nevada
Jayne Harkins, P.E., Executive Director, Colorado River Commission of Nevada
Lina Tanner, General Counsel, Public Utilities Commission
Crystal Jackson, CPM, Executive Director, Public Utilities Commission
Scott Leedom, Southern Nevada Water Authority
Justin Harrison, Las Vegas Metro Chamber of Commerce
Fred Voltz
Katrín Ivanoff

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Angel De Fazio
Robert Frank, Citizen Task Force
Carole Fineberg
Gary Schmidt
Bonnie Klud
Herrmann Glockler
Jane Lyon
Carol Howell
David Gustafson, Chief Information Officer and Administrator, Division of
Enterprise Information Technology Services, Department of
Administration
Brett Kandt, Special Assistant, Office of the Attorney General
Suzie Block, Technical Operations Manager, Technology Division, Office of the
Attorney General
Julie Butler, Administrator, General Services Division, Department of Public
Safety
Mark Feest, General Manager, C C Communications
Mike Eifert, Executive Director, Nevada Telecommunications Association

Chair Goicoechea:

We will open the hearing with Senate Bill (S.B. 46).

SENATE BILL 46: Revises provisions relating to the Colorado River Commission of Nevada and the Public Utilities Commission of Nevada. (BDR 31-359)

George Ogilvie (Chair, Colorado River Commission of Nevada):

I am testifying in support of S.B. 46.

The Colorado River Commission of Nevada (CRC) is directed by chapter 538 of the *Nevada Revised Statutes* (NRS) to receive, protect, safeguard and hold in trust for Nevada all rights to the waters of the Colorado River and the power generated thereon. The CRC is further charged with the responsibility to represent Nevada in negotiations and contracts to bring the greatest possible benefit of the Colorado River to the State. Those benefits include hydroelectric power and water through the allocation granted to Nevada. The allocation of water is 300,000 acre-feet annually, which is 90 percent of southern Nevada's water supply. In addition to hydroelectric power, other resources of the Colorado River are the wildlife habitat and species associated with the lower Colorado River Basin.

Seven members constitute the CRC board, four are gubernatorial appointees and three are appointed by the Southern Nevada Water Authority (SNWA).

The enactment of S.B. 46 is needed for the CRC to attract and retain employees with the education level and technical expertise required to carry out its duties. A critical point is that S.B. 46 does not affect the compensation of the Commissioners. The gubernatorial appointees would still be paid \$80 per meeting. The bill simply addresses the compensation structure of the staff of the CRC and the Public Utilities Commission (PUC).

Senate Bill 46, as it relates to the CRC, will not require any State General Fund revenues because all CRC costs are funded through fees paid by the CRC's power and water customers. The CRC operates and maintains a high-voltage transmission and distribution system valued at \$120 million and transacts approximately \$280 million annually in electric power purchases and sales.

Over the past several years, the CRC has lost valuable staff members with high-level education and professional expertise in electric power and water issues to jobs with private or public entities that pay significantly higher salaries. The technical knowledge, skills and experience required to address developments in electric power and water industries are not generally available at other State agencies. This is a highly specialized area in both water and hydroelectric power, and the professional skills required in top-level employees at the CRC are not available. We are in direct competition with other public agencies as well as private entities throughout the West. I have determined that the ability to recruit and retain these highly skilled employees can only be accomplished through the enactment of a bill similar to S.B. 46.

For example, a CRC employee, making \$102,000 a year, accepted a job offer at a public utility in Washington with similar responsibilities for \$150,000 a year. Two other employees have left in the last 2 years for higher salaries. The CRC has eight employees eligible to retire in the next 5 years, which is 24 percent of its workforce. Salary levels are the greatest obstacle to the CRC in recruiting and retaining qualified professional employees required to carry out its mission and maintain customer service.

The purpose of S.B. 46 is to enable the CRC to carry out its statutory responsibilities by allowing it to hire and retain personnel with the necessary level of education and specialized technical expertise. The CRC competes

throughout the West for skilled and experienced personnel. We have found that the salary limitations imposed by the inclusion of the CRC in the State Budget Act exposes the CRC to the loss of key personnel and delayed hiring of qualified personnel. Highly capable and credible personnel are essential when protecting the State's access to the water and power of the Colorado River.

Senate Bill 46 would exempt the CRC from the State Budget Act. It would streamline the budget approval process by authorizing the CRC and the PUC to approve agency budgets and salary structures in open public meetings subject to NRS 241.

Senate Bill 46 proposes to exempt employees of the CRC from the State personnel system as nonclassified employees, exempting them from the pay cap but allowing them to continue to participate in the Public Employees' Retirement System (PERS) and Public Employees' Benefits Program. The bill also provides a 1-year reemployment status for classified employees—CRC has six in this status—who wish to stay in classified service in another State agency.

As noted in the Legislative Counsel's Digest of S.B. 46, this bill's exemption of the CRC and the PUC from the requirements of the State Budget Act requires both agencies to continue to submit their biennial agency budgets to the Legislature and the Budget Division of the Department of Administration. Several other State agencies are treated in a similar manner.

The CRC would remain a State agency under the oversight of the Legislative Committee on Public Lands and would continue to comply with Nevada's Open Meeting Law, Public Records Act and other applicable requirements. It would continue to issue its Comprehensive Annual Financial Reports and be subject to audits by the Legislative Counsel Bureau (LCB) and the Department of Administration, Division of Internal Audits.

The CRC receives no General Fund revenues because it is fully funded through fees paid by its power and water customers. This bill will not change this funding mechanism. More specifically, the CRC is funded by administrative charges paid by its power customers under Nevada Administrative Code (NAC) 538.610 pursuant to contracts entered into under NRS 538.161 and by water customers under NRS 538.226. The provision of electric power is also subject to collateral requirements pursuant to NRS 538.181 subsection 2, and NAC 538.744.

Pursuant to NRS 538.191, revenues received from the sale and lease of power or water are deposited with the State Treasurer for credit to the CRC special revenue fund. Revenue from power and water users for activities under the Colorado River Research and Development Account are deposited with the State Treasurer for the CRC fund.

I endorse this legislation because it is needed to fulfill the CRC's statutory requirements and to satisfy its mission. This legislation benefits the State by making the CRC a stronger, more viable agency and ensuring that Nevada's Colorado River resources are protected.

I have submitted written testimony supporting S.B. 46 ([Exhibit C](#)).

Senator Hardy:

Are you one of the government appointees?

Mr. Ogilvie:

I am one of the gubernatorial appointees.

Senator Hardy:

Does Governor Brian Sandoval approve of this or do we care about what he does after he has appointed you?

Mr. Ogilvie:

Since the Governor appointed me, I always care what he thinks about what I am doing. This is one of the Governor's bills, and he does approve.

Senator Hardy:

I noticed you said we have noted and then you changed it to I have noted. Did the CRC Board vote on this or is this you alone coming before us with this bill?

Mr. Ogilvie:

I will address your question directly and then indirectly. Directly, the Board has not taken a vote on this. Indirectly, this approach had its genesis approximately 3 years ago when our former executive director left for a higher-paying job and we were in the process of recruiting a replacement.

During that recruiting process, I formed an industry panel of customers, which included the SNWA, the City of Henderson, Overton Power and NV Energy. I

had an opportunity to discuss these issues and address the problems of attrition with all of these customers. All agreed upon the exercise that led to this bill. This is an attempt to exempt the CRC from the State Budget Act to allow us flexibility in hiring and retaining the necessary qualified professionals.

As a result, the CRC, through the efforts of me, Berlyn Miller, another CRC Commissioner, and Marybel Batjer, a former CRC Commissioner, met with all of our customers to discuss this and we received the endorsement of each one. There was discussion on the exact language of this proposed legislation that customers did or did not endorse. It is neither the precise language I would have preferred nor the exact language all of our customers would have preferred. However, I have yet to have one customer tell me that he or she does not endorse this in concept.

The SNWA has some concerns that I have discussed with the SNWA general manager, John Entsminger. He assured me that he still supports the concept to be accomplished through this legislation. The SNWA will address other concerns.

Senator Hardy:

Do other agencies have this kind of autonomy?

Mr. Ogilvie:

Yes.

Jayne Harkins, P.E. (Executive Director, Colorado River Commission of Nevada):
Nevada Revised Statutes 353 exempts the Legislative and Judicial Branches, the Tahoe Regional Planning Agency and PERS from the State Budget Act. We are following what they have done already.

Senator Hardy:

Are the fees enough to cover this obvious expansion of salaries, or are you going to increase the fees?

Ms. Harkins:

Since we have already submitted our biennium budget for the next 2 fiscal years, we have committed to our customers that we would stay within that budget. Our budget process is to sit down with our customers in advance of sending the budget to the Legislature. We intend to continue this as we work

through the salary process. We have customers who pay a larger share, and we have customers who pay a smaller share but a larger percentage. We realize we need to make sure that the smaller-share customers can live with what we are proposing, and we are committed to working with them to do that.

Chair Goicoechea:

The bill refers to PERS which staff assures me is because of the verbiage. It does not change PERS. The PERS is already outside the State Budget Act.

The Legislature would have to adopt your biennial budget, but I am concerned if that will be enough oversight for the public and the consumers. Many State agencies are in the same position. The State pay scale is not high enough and we are losing personnel. It is the Legislature's responsibility to fix that and be fair to State employees.

My concern is that only a couple of State agencies are requesting to become unclassified in this Session, but then some State agencies might request that in the next Legislative Session.

Lina Tanner (General Counsel, Public Utilities Commission):

The passage of S.B. 46 would solve a similar problem for the Public Utilities Commission (PUC) regarding the use of agency resources. Before, during and after the economic recession, the highly skilled workforce employed by the PUC had suffered salary inequities in comparison to comparable State positions, the private sector and the federal government.

By allowing the PUC to better define the parameters of employment of its highly skilled workforce and to set a compensation plan reflective of those requirements, it will be able to attract and retain the types of employees required to support the PUC effectively and efficiently.

The work of the PUC is unique. We affect nearly every resident in this State. Nevada has over 2.8 million residents, and almost all use some form of public utility service. The PUC, like its sister agencies nationwide that regulate monopoly utilities, acts as a substitute for competition because we cannot choose our utility provider. It is dictated depending on where we live. The substitution of competition occurs by checking and balancing the rate requests of the utilities to ensure that the requests are just and reasonable in light of the

needs of ratepayers of this State, needs of utility shareholders and rate comparison with those of utilities in other states.

A highly skilled workforce is required to assess critically the dockets that come before the PUC. In the world of utility regulation, if we fail to address or fully examine an issue due to our limited resources, it is deemed approved. It is not deemed denied.

We do not ask to compete with the private sector that we regulate, but we must compete within our own State and local governments. Otherwise, our open positions become the jobs of last resort. That does nothing but hurt the ratepayers of Nevada. Our needs are similar to those of the CRC.

Crystal Jackson, CPM (Executive Director, Public Utilities Commission):

The PUC is responsible for regulating public utilities such as electric, natural gas, telephone, water and wastewater services; and gas and electric master meter service at mobile home parks; and some propane systems. We also are responsible for monitoring gas pipeline and railroad safety. This equates to approximately 400 different utilities.

We are a unique agency. We do not receive any General Fund money nor do we compete against General Fund programs. We are funded through an annual regulatory assessment capped in statute. Some of our regulated utilities pass the assessment on to ratepayers, and some choose to absorb the cost.

The decisions made by the PUC affect millions of consumers, billions of investor and ratepayer dollars, our local and regional economies, our air, land and water resources, our public safety and reliability of utility service. I am not sure that any other State agency affects our economy as we do.

The PUC is a quasi-judicial agency. We run similar to a court. The decisions made by the PUC are binding on the parties and are based on evidentiary records. The PUC proceedings require credible expert witnesses. Our employees appear before the PUC, write and present testimony, and are subject to cross-examination by other parties to the case, including regulated utilities. Similar positions in State government are not expected to act as expert witnesses; if they do, it is not part of their daily workload.

The PUC's record is only as good as our expert witnesses, and the quality of the PUC's decisions depend on that record. We require education, expertise and regulatory experience in multiple areas. The majority of our staff is comprised of professional-level positions such as attorneys, economists, engineers and financial analysts.

The problem is a broken pay system. The compensation for our agency is too low. We cannot recruit and retain employees given the complexity and the nature of our work, particularly with respect to the statutory deadlines.

The utility industry constantly changes, but our staff structure is fixed. That is a problem. We continue to lose personnel to other State agencies as well as federal agencies that pay more for similar work. In the last 5 years, we have lost 66 percent of our regulatory staff—our expert, credible witnesses as well as our safety personnel. That means that every 10 years, the staff fully turns over. In the last 5 years, we have lost 34 percent of our support services.

The PUC relies on historical knowledge. Not having the ability to compete, attract and retain highly qualified personnel is a problem. Once our employees are trained, a 3-year-to-5-year learning curve is on the job. Once employees are trained, they are attractive and vulnerable to other employers.

Senate Bill 46 is the solution. It allows us to maintain fiscal accountability while being responsible to emerging agency priorities. It also allows us to address issues that arise while being proactive instead of reactive. It gives us the ability to embrace an environment of continuous improvement and work toward efficient ways to fulfill our regulatory responsibilities. It also provides for consistent compensation and leave reporting for all PUC employees.

Only about one-quarter of our staff is classified. The majority of our positions are unclassified. We have rail inspectors who are safety specialists responsible for the entire State. They are in the classified service. We also have gas pipeline safety personnel who have similar duties in the unclassified service. We have an inconsistent system within our own administration as to how we treat employees who have similar work responsibilities.

The PUC has additional safeguards which distinguish it from other State agencies. The PUC approves the budget in an open public meeting before it goes to the Legislature; therefore, our process is transparent. The budget would

still require legislative approval, and our annual regulatory assessment is capped in statute. We are not asking to change that cap. We are not asking for additional money. We are looking for flexibility in allocating the money and competing within comparable labor markets.

Utility customers must pay for our personnel through rates. It only makes sense that utility customers benefit from objective, well-educated, trained and knowledgeable staff who can investigate, evaluate and judge utility performance.

I have submitted my testimony on a printed presentation ([Exhibit D](#)).

Senator Hardy:

This is in the Governor's bill. Are both agencies in there on purpose?

Ms. Tanner:

As stated by the CRC, a single vehicle in the Governor's 110 agency bills allowed us to bring this to you because we have similar problems. We do not interregulate with the CRC. We both have highly skilled workforces who suffer from salaries.

Senator Hardy:

Do the Governor's people know these are together?

Ms. Tanner:

Yes.

Senator Hardy:

If we are not changing the cap, how do we give more competitive salaries?

Ms. Jackson:

The majority of our positions are in the unclassified pay bill; therefore, they are capped in the pay bill with respect to salary. We have a pot of money, Category 01 for personnel services. We ask to use that pot of money effectively to recruit and hire necessary resources to meet our regulatory obligations. There is no increase to the cost of doing that, it is just a change in how we allocate the same pot of money.

Chair Goicoechea:

The CRC and the PUC both said they have biennial budgets that still require legislative approval. What happens if the Legislature does not approve your budget? We do not have control to change that. How is that going to work? If there is no mechanism, perhaps we need to put one in there.

Ms. Jackson:

You are correct; however, the personnel category is capped. If the Legislature expresses displeasure with that, the Commissioners would listen. The Commissioners have to approve the budget in an open public meeting. At least two Commissioners would have to support the budget. The Governor appoints the Commissioners. As a safeguard, we would work through legislative objections.

We will not increase everyone's salary today or tomorrow. This would be a phase-in over time. We want to compete in the market and within our own State government. We cannot compete with the regulated entities, but we should be able to retain employees.

We spend money in training only to lose our employees. It makes more sense to have salaries equal to that of other State agencies in order to retain our personnel and their expertise.

Chair Goicoechea:

That is a concern. I am sympathetic with the PUC because if it takes you too long, time is money in any industry. Preparing a rate case that takes too much time costs either the utility or the consumer—but in the end, consumers pay all of these.

I along with the consumers are concerned about what happens if everybody becomes unclassified, and then 2 years or 4 years later, other agencies request the same treatment.

Senator Atkinson:

I am sympathetic about the issues of spending money on training, getting employees to a certain level of experience and then seeing them go somewhere else that pays more. That has always been a challenge for State and government employees.

If you do anything about salaries, will something be in place to prohibit you from just going ahead and doing it without discussion with someone?

Ms. Jackson:

We envision that the PUC would establish a compensation plan through an open public meeting. We would have minimum and maximum salary ranges, which would be similar to the way the LCB structures its salaries with respect to step increases. It would be based on the labor market in which we compete.

For example, in November 2013, we conducted a salary survey. We solicited other State agencies, commissions and local governments that had positions similar to ours. We took that information to get a better understanding of the deficiency of our salaries.

As in the past, it would be based on comparable labor markets at the time. We would revisit the compensation plan at least annually, maybe twice a year, in an open public meeting. That plan will be a public record.

Senator Lipparelli:

You describe a process that is not required in statute. The concern I have is for the PUC to adopt wide-open salary ranges what with no qualifier in the language. It does not say pursuant to a market study or anything like that. That is one of my questions which you might have previously answered by saying that the budget is the natural boundary. However, you created another question by saying that the only ability to change salaries would be accomplished through the movement of monies within the personnel category. That implies that either someone gets less and someone gets more or positions are being eliminated and money is being reallocated to the positions you want to increase.

Ms. Jackson:

We often have savings in the personnel category because it sometimes takes six months or longer to fill a position.

Senator Lipparelli:

That is dubious, though, because of using next year's money. If you used the salary savings to give someone an increase, the State is now obligated for the full amount the next year, presuming the person is at that higher level unless you expect the turnover to continue. Then you will always use salary savings.

However, the more competitive you become, we should see a corresponding decline in job openings.

Ms. Jackson:

That is the idea behind this. At some point, it will stabilize, and we will not have the salary savings to use. However, it will give us the flexibility during peaks and valleys. For example, we just lost an engineer. If we had been able to offer him an incentive, we might have retained him after spending approximately \$14,000 to train this individual for the long term.

Senator Lipparelli:

The natural boundary you create, potentially the salary obligation in the next year's budget, is where we see the increase request. Hypothetically, across the board, we identify the high-risk jobs that we are losing, and give everyone an 8 percent increase. In the next biennial budget, the Legislature would see an 8 percent increase in salary requests. You are up against that boundary.

Ms. Jackson:

Yes, that is correct.

Chair Goicoechea:

Do you have a capped salary fund? I understand the \$3.5 million cap. However, you cannot use all of that for salaries. It was my understanding that you have a piece of the fund called a capped salary line item in your budget. Technically, you budget \$10 million for salaries. The Legislature or your people cap that in the approved budget. If you go beyond that \$10 million, how do you augment that?

Ms. Jackson:

That would come back through the legislative biennium budget process. We have a personnel Category 01 and we have \$19.8 million. We are asking to use that money and effectively allocate it given the personnel we have. If we exceed that amount by \$30,000, we can do a \$30,000 housekeeping work program that does not require legislative approval. Anything beyond that comes back through our biennium budget process for the Legislature to augment the personnel category.

Chair Goicoechea:

You are explaining where you are today, but 2 years in the future, you come before the Legislature with the biennial budget. If the cap goes from \$19.8 million to \$29.8 million and the Legislature does not approve, how do you address that to satisfy the Legislature? If the PUC becomes completely unclassified and outside the State Budget Act, how does the Legislature address that \$10 million?

You are at \$19.8 million and suddenly your salaries are at \$25 million. That is outside what the Legislature deemed appropriate when approving the first biennial budget. Then you come back to the Legislature and present a \$30 million budget for review. That was not approved. How do we fix that? The Legislature will tell you no, it is too much. What mechanism gives the Legislature authority over that?

Ms. Jackson:

For example, in our 2015-2017 biennium budgets, we have \$19.8 million dedicated to personnel services. We have to work with the funds approved by the money committees until the budget is done again. If we ask for \$25 million in our next budget, it is Legislature's responsibility to approve those monies before we could exceed any salaries within the approved budget amount.

Chair Goicoechea:

Then once the Legislature approves the \$25 million as the total to expend for salaries, that would be as far as you could go.

Ms. Jackson:

That is correct.

Senator Lipparelli:

What if the Legislature does not approve an increase and you stay at \$19.8 million? Are you overcommitted to the next biennium with salary increases on the books? Would you have to roll those back?

Ms. Jackson:

No. Unless the Legislature decided to decrease our personnel, we would have the \$19.8 million.

Senator Lipparelli:

No, I am saying things are static.

Ms. Jackson:

We would not have to roll anything back. Everything would stay status quo.

Senator Lipparelli:

Nothing about the ensuing legislative biennium would allow you to exceed the current biennium's cap. Therefore, the pot of money to allocate to your personnel costs will always be within the envelope of the current biennium's funding, such that you do not commit the State to the next biennium through an increase.

Ms. Jackson:

That is correct.

Scott Leedom (Southern Nevada Water Authority):

As the CRC's largest customer, the SNWA has concerns with this bill. The CRC approached us during the interim and told us about the problems the Commission had keeping power purchasers from leaving for other employment because it could not offer competitive salaries. We offered to work with the CRC to help find solutions to the power purchaser issue. We requested that the CRC conduct a classification and compensation study to determine the appropriate salary levels for these employees.

We are concerned that the bill as introduced includes all employees, which goes farther than just addressing the power purchaser issue. To our knowledge, a classification and compensation study has not been conducted.

After we saw the language in this bill, we met with the CRC again and said we would support the bill if the SNWA board has the ability to approve the CRC budget in the event changes to salaries increased our costs. This was a reasonable request because the SNWA pays 100 percent of the CRC's water costs and approximately 70 percent of its power-related costs.

The Commissioners told us they were not supportive of that amendment. As a result, the SNWA cannot support the bill in its current form. This bill needs checks and balances that allow the SNWA to have a say in any salary increases

that result in net increases to the SNWA's costs and, ultimately, to the water ratepayers in southern Nevada.

We want to ensure efficiency in coordination with the SNWA to avoid duplication of staff efforts. We are willing to work with the CRC to address the specific issue with retaining the power purchasers staff without needing legislative action.

Since the SNWA does not fall under the jurisdiction of the PUC, we have no position on that portion of the bill.

Senator Lipparelli:

Is your appearance at public meetings to object to the adoption of salary ranges not sufficient to have input on whatever plan the Commission develops?

Mr. Leedom:

We have input into the process. I differentiate between having input into the process from ultimately having approval if it increases our costs.

Senator Lipparelli:

What would approval look like?

Mr. Leedom:

We would review the budget and either approve or not approve the increases that would increase the SNWA costs.

Senator Lipparelli:

Is that different from showing up at the public meeting and expressing your reservations about the proposed salary ranges? I do not understand the difference between those two things other than just veto power.

Mr. Leedom:

We have input into the process. We could show up and oppose the salary increases, but ultimately we would have no say or authority beyond that. We suggested having the ability to approve the budget if the salary increases increased our costs.

Senator Hardy:

Do you not have board members that go to both SNWA and CRC?

Mr. Leedom:

We have three members of the SNWA Board who serve as members of the CRC seven-member Board.

Senator Hardy:

Do you have much influence on the ultimate budget of the CRC?

Mr. Leedom:

We have some input, yes.

Senator Atkinson:

At that meeting, the three SNWA members would have input as Board members on anything that the CRC proposes.

Mr. Leedom:

Those Board members would have input in that process.

Senator Atkinson:

What are you opposing? You are saying that you do not have input, but you obviously do.

Mr. Leedom:

We are not saying that we do not have input. As written, the bill does not give us the ability to approve the budget.

Senator Atkinson:

Does the budget not come to SNWA's three members on the CRC Board?

Mr. Leedom:

It does go before the Board members and those three SNWA Board members would have input into the process. If the salary increases requested by the CRC increase costs for the SNWA and potentially increase costs for water ratepayers of southern Nevada, the SNWA should have approval of that budget.

Senator Atkinson:

I am confused. You keep saying that. You have three members who have authority to approve or disapprove. Certainly you inform them that the SNWA does not support the CRC budget if the salaries are incorrect and then they

would approve or not? That is oversight to me. You have three members on the Board.

Mr. Leedom:

We do have three members. The only distinction I could make is it would satisfy our concerns if the SNWA Board, not just the three on the CRC Board, could have the ability to approve the budget if it increased the SNWA costs as the CRC's largest customer.

Senator Atkinson:

You want more than just your three members.

Chair Goicoechea:

If this gets bogged down, you can call for a supermajority rather than a simple majority to get that passed. It might be reasonable without changing the whole makeup. If you had five votes, it would be a supermajority.

Justin Harrison (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce believes there should be strong accountability standards when it comes to spending public dollars. That has been a long-standing policy position of the Metro Chamber.

Regarding S.B. 46, the Metro Chamber would like to share several of our concerns about the bill. As a statewide business organization engaged on good governance, all government and State agencies should have strong checks and balances in place; and S.B. 46 seems to remove a number of them. The bill essentially removes many oversight functions, leaving little oversight or control by the Executive or Legislative Branches on how agencies handle salary and benefits.

The State offers competitive retirement and benefit packages not normally found in the private sector. By removing these positions from the review of elected officials, you obligate PERS to pay benefits on which the State has little input. Before processing this bill, we encourage you to ask how this is different from any other State agency that wants to be exempt from the requirements of the State Budget Act. In addition, what would prevent other agencies funded by user fees from requesting this same exemption? We are confident that other solutions are available to address these concerns. We are happy to be a part of that conversation.

Fred Voltz:

I have submitted written testimony in opposition to S.B. 46 ([Exhibit E](#)).

Katrin Ivanoff:

I am against S.B. 46 for the same things said by the man before me. The excuses they find are mindboggling so they can get away with murder. That bill is a Trojan horse waiting to kill us all. We taxpayers are sick of paying taxes with money going for whatever they want without any input from us.

This is ridiculous. I am upset. I hope that you vote that thing down without any thought for even entertaining it because it does not do anything to help the taxpayers of Nevada, or the working people of Nevada.

They can do other things to attract people other than making the salary big. They get good benefits.

Angel De Fazio:

I have submitted written testimony in opposition to S.B. 46 ([Exhibit F](#)).

Robert Frank (Citizen Task Force):

I am familiar with the difficult-to-hire-people problem whereas you train them and then an industry steals them away by paying them more money. You cannot stop that process. That is the nature of our society and the way our system works.

The agencies have to deal with the problem of training people, motivating them, dealing with government employee packages and not playing a salary game with the industry. The industry overstates the salary whenever it is convenient, keeps employees as long as it wants and then lets them go.

This is a bad idea. I agree that if you let them do this, you will have to let other agencies or commissions do it. It is a bad move, and I would encourage you to advise the agencies to find a better way to solve their problems.

Carole Fineberg:

Senate Bill 46 is one of the more unconscionable bills to come down the pike in recent years. I can only address the PUC part of the bill because I have not interacted with the CRC. This bill removes any oversight of the PUC and its staff. They want to hire, fire, set salaries and award employee benefits without

being fettered by the trappings of the State budget system or oversight by anyone, for that matter.

Executive director Crystal Jackson keeps talking about open public hearings, but the hearings are held midday during the week, and many people cannot go. Unless meetings are broadcast on TV or radio or email heads-up go to those of us who request them, we do not know when those budget meetings are held.

The PUC wants to raise salaries without limitation, but it wants to stay in the State employee budget system. The PUC should not have it both ways. It all goes on the backs of the ratepayers.

If this State agency is allowed to be exempt from State statutes, it will be no time at all before other governmental agencies also want no oversight. We have NRS on public officers and employees for a reason. Legislative oversight is the only way we can control the PUC.

Suddenly and without notice, the three PUC Commissioners pulled their 20 percent increases out of the budget, figuring this bill would pass and no one would be the wiser. They could just proceed with their pay increases. The budget you see does not include the three Commissioner's salaries.

We elected you to do the right thing for your constituents. The PUC is appointed, and we have no remedy where it is concerned. We do not trust the Governor's staff to do anything but rubber-stamp what they take to him. We desperately need legislative oversight.

Senate Bill 46 is a shakedown of the public at a time when our economy is flailing and we are distrusting of government. I am outraged, and you should be too. Please do not let S.B. 46 get out of this Committee.

Gary Schmidt:

I echo the sentiments of Carole Fineberg, having attended many thousands of public meetings. When you attend a public meeting and appear before people you do not vote for, you have no influence. "If it aint broke, don't fix it."

I also echo the sentiment of this Committee that allowing these commissions to exempt themselves from your oversight may invite a potential flood of others wanting the same thing.

If the PUC wants to raise salaries that are limited by State law, it can appear, propose legislation and be subject to public hearings before elected officials over whom we have control. Then we have influence. Sometimes minor influence. There is no influence when you appear before appointed bodies.

The summary of this bill says it revises provisions related to the CRC of Nevada and the PUC of Nevada. That is a broad summary. I would suggest an amendment to this bill to strike the language proposed and amend it to allow for the election of four out of seven of the members to those bodies. Then the public might be encouraged to appear before them.

Bonnie Klud:

I echo all people who oppose this bill because they have legitimate concerns.

Herrmann Glockler:

Much has been made in the previous presentation about personnel the PUC and CRC have lost because of salary disputes, but nothing has been said about the potential that the salaries those people receive are not the driving force for moving. Those people may very well have moved to different positions. What are the tax structures in the states to which they are moving? Some states have higher salaries; some states have lower salaries with lower or higher property taxes.

Just because someone you train leaves does not necessarily mean that person receives a better salary. It may also mean that he or she will have different responsibilities. This happens every day. These things have to be looked at as well. Salaries are not the only things that motivate people; responsibility and scope of the potential job presented do as well.

Jane Lyon:

I have heard several of you express sympathy and understanding for the problems the PUC and the CRC express about payments. I, for one, express sympathy for the taxpayer because, ultimately, that is where all this money comes from. You can have the greatest sympathy in the world for this commission or that commission, but they get their money from the taxpayers. I happen to be one of those.

Carol Howell:

I do not support this bill. The Legislature needs to keep oversight of the PUC for your constituents.

Chair Goicoechea:

I will close the hearing on S.B. 46 and open the hearing on S.B. 72.

SENATE BILL 72: Makes various changes relating to the Division of Enterprise Information Technology Services of the Department of Administration. (BDR 19-310)

David Gustafson (Chief Information Officer and Administrator, Division of Enterprise Information Technology Services, Department of Administration):

The Division of Enterprise Information Technology Services (EITS) performs mission-critical information technology (IT) functions for all Executive Branch agencies. A few examples of our services include SilverNet, the State's Wide Area Network; State data centers; the telephone system for over 10,000 users; the centralized email system; the State's only mainframe computer; over 700 servers; and the centralized security-monitoring and remediation effort. These are just a few of our services.

Legislative actions from the 76th Session and the 77th Session merged the IT functions of the Department of Administration and the Department of Public Safety (DPS). As such, EITS is now responsible for managing the Nevada Criminal Justice Information System (CJIS) network and systems in compliance with federal requirements established by the FBI.

Over the past few years, EITS has received federal grant funding for cybersecurity-related initiatives. These grants have created dialogue with our fiscal people about our authority to do so. The LCB has suggested that specific authorization be included in our basic statute. Senate Bill 72 implements that suggestion.

Senate Bill 72 eliminates references to internal subdivisions and subordinate management staff and moves toward the objective to employ all EITS personnel at their highest and best use rather than a specific statutory organizational structure. This is necessary considering the dynamic and agile nature of the IT industry.

Senate Bill 72 also proposes modifications to the Information Technology Advisory Board. While the Advisory Board continues to consist of Legislators, Executive Branch officers and members of the private sector, major Executive Branch users will be drawn from agencies spending the largest amount of money for IT services in the preceding biennium. The Advisory Board will assist using agencies in the development of short-term and long-term plans for their information systems.

Additionally, S.B. 72 proposals include strengthening statutory provisions relating to information security by covering attempts to gain unauthorized access as well as actual compromises and clarifying that a noncompliant agency using EITS equipment or services may find itself without those services if it fails to adhere to EITS regulations, standards and policies.

Several statutory provisions not covered by previous discussion points are proposed for repeal by S.B. 72. *Nevada Revised Statute* 242.105 requires EITS to maintain a list of certain confidential documents relating to homeland security. That provision was added shortly after September 11, 2001, to keep certain documents—such as disaster recovery documents, network diagrams and server configurations—confidential. This is an important piece of legislation, that should reside with the Division of Emergency Management, DPS or the homeland security chapter, as it is not consistent with our mission.

Nevada Revised Statute 242.135 deals with the employment of IT personnel outside of EITS, and NRS 242.151 requires EITS to advise using agencies regarding policies and procedures applicable to their internal IT operations.

Chair Goicoechea:

Does this bill move security issues to another NRS chapter?

Mr. Gustafson:

It is in one of the chapters repealed by the bill. It is an important piece of legislation; however, it does not belong where it is.

Brett Kandt (Special Assistant, Office of the Attorney General):

The Office of the Attorney General (AG) opposes S.B. 72 and has proposed an amendment ([Exhibit G](#)). The proposed amendment would amend section 11, page 9, lines 25 and 26 to add the AG to the list of exempt agencies under NRS 242.131, which would reflect existing practice.

Suzie Block (Technical Operations Manager, Technology Division, Office of the Attorney General):

Our proposed amendment proposes to allow the AG to negotiate with EITS as opposed to being required to use EITS for the design of our agency's information systems.

Our amendment request pertains to section 11, page 9, lines 25 and 26 and adds our Office as one of the agencies able to negotiate for services or design assistance. We are collaborative and use the services provided by EITS on many platforms such as telecommunications, network transport, monthly participation on the Office of Information Security meetings and participation on the Information Technology Advisory Board. Our external agency Website is hosted on the State's Ektron Web services platform.

However, given our law enforcement role, we need to maintain and separate our data and some of our design activities in order to preserve the highest level of security, regulatory or court-mandated deadlines as well as maintain the appropriate chain of custody.

All technical staff have institutional knowledge and work closely with attorneys, investigators, legal researchers and administrative staff to support the AG mission. Our technology staff and investigators undergo a significant background check, which takes up to 3 months. This ensures that staff members can perform their duties and not produce a potential conflict of interest caused by an active or historical case or adverse background information that could compromise any chain of custody for active or historical cases.

All of our data centers maintain tight physical security and extensive logging of anyone who accesses these locations. It is common for technology or investigative staff to testify at a deposition or hearing regarding our technical processes. Staff are also required to sign nondisclosure agreements.

As mentioned in our proposed amendment, the AG may investigate other State Executive Branch agency officials and staff, which requires that all systems be maintained with appropriate security as well as chain of custody.

We have a large footprint of agency and custodial data housed in our environment. Securing that data is crucial. We recently implemented a

full-phased e-discovery system, which allows AG staff to review voluminous electronically stored information produced by investigative targets and defendants.

For example, our Bureau of Consumer Protection (BCP) performs investigations on persons, typically large companies, that may violate Nevada's consumer protection laws, NRS 598 and NRS 598A, and sues them as necessary for injunctive and monetary relief, such as damages, civil penalties and attorney fees and costs. To accomplish this, BCP subpoenas relevant documents and in turn comprehensively reviews those documents. Moreover, when BCP sues persons, defendants allegedly violating consumer protection laws, such lawsuits are subject to federal and Nevada Rules of Civil Procedure. These rules require the BCP to respond to document requests from the defendants. It is critical that technology staff do not have a conflict of interest that might compromise the case or influence any evidence-handling during chain of custody.

Senator Hardy:

Is this a friendly amendment? Have you spoken with the sponsor? Can any objections be overcome?

Ms. Block:

We reached out to the bill's sponsor, Mr. Gustafson, on Friday with an email, offering a follow-up call to request an amendment.

Senator Hardy:

What was the response?

Ms. Block:

Favorable.

Julie Butler (Administrator, General Services Division, Department of Public Safety):

I have a friendly amendment to S.B. 72 ([Exhibit H](#)). I have spoken with the sponsor of the bill and he is aware of this amendment. Section 12 of the bill indicates that all equipment of an agency or an elected State officer, which is owned or leased by the State, must be under the managerial control of EITS. Our amendment would exempt the DPS for operating the FBI CJIS Systems Agency (CSA) and complying with the FBI's CJIS Division's security policy.

Every state that has electronic access to the CJIS of the FBI is required to establish one central agency that serves as the hub for electronic access to FBI systems. All criminal justice agencies in the State access those FBI systems through the designated State hub known as the FBI CJIS Systems Agency. For Nevada, the State hub is the DPS. The General Services Division of the DPS provides day-to-day management control of the CSA.

We seek recognition for that CSA operation and compliance with the FBI CJIS Security Policy. The equipment used to operate those systems remains under the managerial control of the DPS. That is required by FBI CJIS Security Policy as a condition of our continued access to those systems.

Chair Goicoechea:

I was expecting you wanted to be back in as one of those divisions that could negotiate because you deleted it in the statute.

Ms. Butler:

As Mr. Gustafson said, in the 77th Session, all the IT services, personnel and equipment were transferred from the DPS to the management of EITS. We are not seeking to undo that. Language in section 12 of the bill says computer equipment of any State agency is under the managerial control of EITS. According to the FBI CJIS Security Policy, DPS has to retain managerial control of all personnel, equipment and systems in order to remain compliant with our CJIS Security Policy. We seek a special carveout under that section of the bill.

Chair Goicoechea:

It is a strange list of who negotiates and who does not. It appears that the bill may need a conceptual amendment for everyone to agree. If the sponsor is agreeable, that should not be a problem. Do you have any problems with the proposed amendments?

Mr. Gustafson:

The Department of Administration position is neutral; however, the amendments are unnecessary. Regarding the AG's amendment to NRS 242.131, in S.B. 72, subsection 4 of section 11 allows EITS the flexibility to meet specific needs of agencies using our services. The FBI, Social Security Administration (SSA), IRS and the Department of Health and Human Services routinely audit us for compliance with their security requirements, which increase every day.

Our last SSA audit, which was completed last fall, came back with no findings and no recommendations. We have the knowledge and ability to ensure that we meet whatever special requirements the agencies might have.

The DPS amendment is also unnecessary. I do not know the specifics of the FBI policy requirement statute. We executed a management control agreement with the DPS which requires us to give them managerial control of all of the DPS systems. Therefore, at any time, Ms. Butler could ask us to pull the plug on the systems, and we would have to do that as required by FBI policy.

Chair Goicoechea:

We want both sides to be happy. If you could get together, work this out and bring it back to us we would appreciate it.

I will close the hearing on S.B. 72 and open the hearing on S.B. 109.

SENATE BILL 109: Revises provisions relating to the sale or lease of a county-owned telephone system. (BDR 58-603)

Senator James A. Settlemeyer (Senatorial District No. 17):

Churchill County has the only county-operated telephone company in the State. Churchill County wants to determine if the private sector could operate the telephone company more efficiently than the government. That is why this bill has been brought before you. The company has more knowledge about telecommunications. We have been discussing this with community members to address their issues and concerns.

Mark Feest (General Manager, C C Communications):

Churchill County telephone system operates as C C Communications. By statute, the Churchill County Commissioners make up the board of directors that convenes in a separate, public meeting to conduct phone company business.

In 1889, Western Union owned a telegraph line between Virginia City and the Lovelock area that serviced Churchill County with telegraphic services. At that time, Western Union decided it was not in its best interest to continue in that telegraph business, but no private buyers were available. The Churchill County Board of Commissioners decided to purchase the telegraph system for \$900.

In the 1890s, the Board began to upgrade the telegraph system to a telephone system. It was about 1897 when the State Legislature provided a statute authorizing the Board to do this.

Prior to the Telecommunications Act of 1996, this telephone company was run as a regulated monopoly given no competition. The nature of running the business became different after 1996.

Due to population density in rural areas such as Churchill County, it took a while for the industry to change that market. Around 2003 and 2004, we started to see a shift in how the company was operated. Risk increased, subsidies for serving rural areas decreased and it started to become like any other private entity operation.

I worked there for 14 years and became the general manager a little over 2 years ago. One of the first things I looked at was to project 5 years and 10 years into the future—with the changing telecommunications environment—what this rural phone company would look like and its options. I want to provide the Churchill County Board of Commissioners those fully disclosed options and give them the facts about operating a telephone company in a competitive environment versus the previous operation in the first 100 years of its existence. This may or may not align with what a government is good at doing. No conclusion has been made.

This is the only county-owned telephone company in the United States. Tax dollars do not flow to C C Communications. It runs separately on revenues from users and subsidies from the federal universal service program for low-density areas.

Chair Goicoechea:

Are any dollars returned to the County coffers?

Mr. Feest:

Dollars are returned to the County coffers. We calculate what a private entity would pay in taxes, and we move that amount to the County. In addition, the profits that would have gone to a shareholder or a limited liability company member can also be moved to the County. That is not a firm number and can change from year to year.

Chair Goicoechea:

Payments in lieu of Taxes as well as profits are placed into an enterprise fund or into the County general fund.

Mr. Feest:

That goes into the County general fund.

The Board oversees the company much like a co-op board would oversee a company. However, we are public employees who are in PERS.

The actions contained within S.B. 109 are procedural changes. When looking at the idea of possibly exiting the business—short of any decisions and real conversations—it occurred to me that the statute is outdated. It was written before we were in a deregulated and competitive environment. It would not work today.

My concern is that if in the future the County determines it needs to look at this, it may only do so in an open meeting. One portion is similar to a real property appraisal or to strategizing for a collective-bargaining agreement. We know it is important to discuss strategy or what we are willing to receive for a piece of property in a closed meeting.

The other item is outdated language and a process inconsistent with exiting the phone business nowadays by selling to another rural company or a company that aggregates rural companies. We would not receive fair and adequate compensation for the company and protect the taxpayers, residents and community as a whole.

Senator Atkinson:

Is this a private phone company? Page 3, lines 2 and 3 of the bill do not require a sale or lease to be completed by the board of county commissioners. Who would approve this?

Mr. Feest:

This company is owned by Churchill County as an enterprise fund operation; however, it is run separately from an accounting and financial standpoint. At the end of the year, our financial statements are rolled up as an enterprise fund operation into Churchill County's statement.

Specifically, page 3, lines 2 and 3 of the bill were the adoption of a resolution. The statute provides two ways that a county could sell a phone company. The first is by petition of the voters, which is referred to as 25 percent of the free holders. The second is a resolution by the Board of County Commissioners.

The language on page 3, lines 2 and 3 states " ... does not require a sale or lease to be completed by the board of county commissioners." The intent is to ensure that if an evaluation is made and bids are solicited, if the bids are not adequate to recover a past investment or the bid is from a company that aggregates multiple small companies, the Commissioners would be able to determine the total impact and not just the cash offer. A company that aggregates multiple small companies would pull everything out of the company except local maintenance and installation employees. You would lose 75 percent of your employees. The Commissioners would not be required to accept the highest bid. We want to make sure that is clear in the statute because it was not clear before.

Chair Goicoechea:

Why do you not want the appraisal to be public?

Mr. Feest:

The appraisal can be public after the agreement of the sale. We do not want the appraisal to be public at the time it happens because consultants and management members will be discussing the appraisal with the Churchill County Commissioners. As in a real property appraisal, you get the appraisal, hold it back and look for a bid in excess of that appraisal. After the sale, when you ensure the government did everything aboveboard, the appraisal is released.

Chair Goicoechea:

Although you do not want to release it, the purchaser or leaser will do an appraisal. The company will not sell unless the value is known.

Senator Settlemeyer:

After discussion, the County wants to make sure it does not accept anything lower than the appraisal.

Chair Goicoechea:

The bill would exempt you from having to take appraised value or 5 percent or 10 percent of appraised value. With this exemption, the appraisal does not

matter, you receive whatever you determine is the value. I question why you would not want the appraisal to be public. It is not a deal breaker.

Mike Eifert (Executive Director, Nevada Telecommunications Association):

The Nevada Telecommunications Association (NTA) supports S.B. 46. The point is that this is a telecommunications company. If it were a water company, we would not be having this discussion. I am here to emphasize the competitive nature of the industry. It is a wise move by C C Communications to get itself in a position if at some point in the future, competitiveness would facilitate a discussion on the sale. It gives them the opportunity to have the confidentiality necessary to negotiate the best bargain for the citizens of Churchill County. Sometimes the best bargain is not necessarily the money but what benefits community. That is especially important in dealing with a county-owned utility. Therefore, the NTA supports the changes to the policy.

Chair Goicoechea:

I will close the hearing on S.B. 109 and accept public comment.

Mr. Voltz:

After what we heard about S.B. 46 and the budget hearings before that, it seems as if the missing piece in oversight of the various State agencies has to do with operational efficiencies. I want to talk about the missing element and the review process of agencies in the biennium that deals with productivity and operating improvements.

The internal audit function in the Department of Administration and the LCB, just looks at debits, credits and payments to set parties. The appropriate thing to do is to have those agencies describe what they have done and what initiatives they have undertaken to improve agency operations and what they intend to do in the next biennium.

In listening to a number of budget presentations, I have not heard that from anybody. I suggest that be considered and somehow melded in, perhaps under the LCB or elsewhere. Though it seems to be missing, this is necessary to get the taxpayers the best value for their money.

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Chair Goicoechea:

Having no further business, this meeting of the Senate Committee on Government Affairs is adjourned at 3:36 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	8		Attendance Roster
S.B. 46	C	3	Colorado River Commission of Nevada	Written Testimony
S.B. 46	D	9	Public Utilities Commission	Presentation
S.B. 46	E	5	Fred Voltz	Written Testimony
S.B. 46	F	6	Angel De Fazio	Written Testimony
S.B. 72	G	1	Office of the Attorney General	Proposed Amendment
S.B. 72	H	2	Department of Public Safety	Proposed Amendment