

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

**Seventy-ninth Session
May 8, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:14 p.m. on Monday, May 8, 2017, 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 David R. Parks, Chair
Senator Mark A. Manendo, Vice Chair
Senator Joseph P. Hardy
Senator Pete Goicoechea

COMMITTEE MEMBERS ABSENT:

Senator Julia Ratti (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Kevin Powers, Chief Litigation Counsel
Debi Szaro, Committee Secretary

OTHERS PRESENT:

Charlie Donohue, Administrator, Division of State Lands, Department of Conservation and Natural Resources
Warren B. Hardy II, Boy Scouts of America, Las Vegas Area Council
Michael Hillerby, Pardee Homes of Nevada; KB Home

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Vinny Spotleson, Nevada Conservation League
Heather Fisher, President, Save Red Rock Canyon Community Development Corporation
Josh M. Reid, City Attorney, City of Henderson
Annette Magnus, Battle Born Progress
Justin Jones
Helen Foley, Pardee Homes of Nevada
Jared Fisher
Matt Love
Brian McAnallen, City of Las Vegas
Joshua Hicks, Southern Nevada Home Builders Association; Builders Association of Northern Nevada

CHAIR PARKS:

I have been contacted by the sponsor of Assembly Bill (A.B.) 393 and was asked to reschedule that bill for a later date. It will be heard on Friday, May 12. I will open the hearing on A.B. 34.

ASSEMBLY BILL 393 (1st Reprint): Sets forth legislative findings and declarations concerning certain changes in zoning and development standards. (BDR S-1157)

ASSEMBLY BILL 34 (2nd Reprint): Revises provisions relating to government land. (BDR 26-179)

CHARLIE DONOHUE (Administrator, Division of State Lands, Department of Conservation and Natural Resources):

Assembly Bill 34 is an agency-requested bill that is focused on cleaning up certain elements of *Nevada Revised Statutes* (NRS) 321 and 322. I will now read from my written testimony ([Exhibit C](#)).

CHAIR PARKS:

When an appraisal is required, is it put out for bid? I know it is a professional services-type contract.

MR. DONOHUE:

Yes, it is put out for bid; we solicit for proposals from a list of appraisers that we maintain. By regulation, we are required to maintain, randomize and review that list every three to four years.

SENATOR GOICOECHEA:

We are creating a new revolving account for the State Land Registrar. Where is that money coming from, is it appropriated money? Will it be held there as long as it does not fall below \$20,000?

MR. DONOHUE:

Yes, it is appropriated money. If it drops below \$5,000, our agency can go to the Interim Finance Committee (IFC) to make a contingency request. It is a nonexecutive budget account that my agency manages, budget account 4174. Those funds revolve balance forward from year to year.

SENATOR GOICOECHEA:

The funds do not revert, you balance them forward. Typically, your agency would have a new appropriation every biennium?

MR. DONOHUE:

That would be my hope.

SENATOR GOICOECHEA:

Your agency will use one appraiser, rather than two, and it has to be within six months, as I read the bill. It will have to be a recent appraisal?

MR. DONOHUE:

Yes, if it became stale and went beyond the six-month period, what we typically do is add a provision in the contract to ask the appraiser to take a fresh look. Sometimes, by the time we get to an IFC meeting, the appraisal may lapse beyond that six-month period. If we cannot anticipate that, we do a quick review and see if there have been any changes.

CHAIR PARKS:

I know what the first degree of consanguinity is. What is the third degree?

MR. DONOHUE:

I have proposed a couple of examples, anticipating that question. Let us say the State was going to dispose of approximately 100 acres of the Clear Creek property in Carson City on U.S. Highway 50. Carson City is in excess of the standard of 45,000 population. An appraiser would need to ensure neither he nor his great-grandparent, parents, uncles, aunts, brothers nor sisters had any interest in that property nor immediately adjacent to that property.

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Assemblywoman Lesley Cohen was helpful in showing me a chart depicting that from the Commission on Ethics. It is on the Website and describes the relationships as moving down and moving right.

CHAIR PARKS:

We will close the hearing on A.B. 34. We will now open the hearing on A.B. 277.

ASSEMBLY BILL 277 (1st Reprint): Revises provisions governing land use planning. (BDR 22-954)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):

Joining me here and in Las Vegas are people who have fought against encroaching development in many of our State's conservation areas over the years. I come today with this bill because I believe we have an obligation to protect our public lands and conservation areas, so that future generations have the same opportunities we have had to enjoy these beautiful and awe-inspiring lands. This is more than just about the land itself, it is about the air, the water, and the wildlife that are found in and around these areas. Protecting these precious resources requires a collaborative approach of many regions within our State.

Throughout the last couple of decades, there have been various efforts in developing and altering these iconic lands, including the Red Rock Canyon National Conservation Area and Adjacent Lands Act and the Spring Mountains National Recreation Area Act of 2003 and 2009 respectively. Those acts were attempted because of unusual beauty and rapidly increasing population and growth in the region around both areas. As the Committee may know, the Red Rock Canyon National Conservation Area and Adjacent Lands Act was actually found unconstitutional by our Nevada Supreme Court. The court found it was a local or special law that was crafted too narrowly because it only applied to particular parcels of land.

Assembly Bill 277 seeks to address the problems that were found by the Nevada Supreme Court in striking down the Red Rock Canyon National Conservation Area and Adjacent Lands Act. It does that in the following ways. It includes any land located in a national conservation area (NCA) or a half-mile perimeter around those areas, recognizing the necessity to protect all the land in the Silver State.

These areas have been designated by the Bureau of Land Management (BLM) as containing some of the West's most spectacular landscapes. We have three NCAs in the State. We have two in southern Nevada, Red Rock NCA and Sloan Canyon NCA. In northern Nevada, we have the Black Rock Desert-High Rock Canyon Emigrant Trails NCA. Those are the three areas that are covered by A.B. 277. I would like to take the Committee through the bill in its first reprint.

The issue that A.B. 277 seeks to address is not a partisan issue. In the Assembly, this bill did receive bipartisan support both out of Committee and on the Assembly Floor.

Assembly Bill 277 is an act relating to land use planning and provides for uniform statewide standards that local governments must strictly comply with when regulating the use of lands in the NCA or within a one-half-mile buffer zone on the edges. In the bill, that one-half-mile buffer zone is known as natural resources overlay land. The real meat of the bill can be found in section 1.65 at the end of page 7. This requires that a developer must prepare an environmental impact statement (EIS) that will be posted at least 15 calendar days before a public hearing when it comes to debating a project in those lands. What the EIS must contain is noted in the next section of the bill, section 1.7, which starts about midway down on page 8. Skipping to the next section, section 1.75 contains the factors that a local government must consider and weigh before making a decision on a proposed development. That is located about midway down on page 9. Section 1.8, which starts at the beginning of page 10, specifies the judicial review process for any aggrieved party.

Essentially, what A.B. 277 seeks to do is leave the decision-making in the hands of the local government, where it is now. However, when it comes to a conservation area or a one-half-mile zone around those areas, the local government must consider some additional factors that are laid out in the bill and must have an EIS. There are exceptions listed in the bill. They are in the bill because it was unfair to change the rules midway through the game for those who had already obtained development agreements. Thus in section 1.25, subsection 2, on page 5, existing development agreements, even if amended, do not fall within the purview of this bill. The impact is that if you already have a development agreement, you would not have to comply with the requirements of A.B. 277, even if you seek to amend that development agreement. You will find that same exception throughout the bill. It is also found in section 1.45,

subsection 3, and section 4.5. A friendly amendment ([Exhibit D](#)) further clarifies what section 1.45 means. What also will be exempted from the bill are large parcels of land where the only part of land to be developed falls outside of the overlay land that we are discussing, outside of the half-mile boundary. That overlay is found in section 1.45, subsection 1, paragraph (b).

This bill has generated a lot of interest as it has moved through the process. People are still reaching out to me with particular questions or concerns about the bill. I am committed to working with them to see if we can find common ground. I know time is short but want to let the Committee know that I am willing to meet with anyone and make myself available any time to listen to those concerns. There may be some additional amendments forthcoming.

Finally, section 5 of the bill, which is at the end, repeals the act regarding the Red Rock Canyon NCA and Adjacent Lands Act that was found unconstitutional. That would be stricken from the statutes as well as the Spring Mountains NCA Act, which has not yet been found unconstitutional but is very similar to the piece of legislation to the Red Rock Canyon NCA and Adjacent Lands Act that was found unconstitutional.

Assembly Bill 277 represents our commitment as Nevadans to protect these stunning and pristine public lands. Allowing unchecked development of these lands would leave our State's natural heritage open to careless and irreversible exploitation that would deny public access to these lands. Outdoor recreation in Nevada accounts for over \$14 billion of consumer spending, \$1 billion in State and local tax revenue, and thousands of direct local and good-paying jobs. Why would anyone want to risk damaging an important part of our State's economy? I certainly do not want to do that, and that is why I have A.B. 277 in front of you.

SENATOR HARDY:

There are other places, such as Gold Butte National Monument and Great Basin National Park. How do those fit into this bill?

ASSEMBLYMAN YEAGER:

The bill was drafted as narrowly as we could to achieve, what we are trying to achieve, which is State conservation land. The bill does not speak to national monuments or to recreation areas, it is simply limited to the three NCAs, two in southern Nevada, and one in northern Nevada.

SENATOR HARDY:

This bill will relate to the three areas, and it will not relate to anything in the future that becomes a conservation area?

ASSEMBLYMAN YEAGER:

The bill, if passed today, would apply to those three areas. However, if the federal government were to designate additional NCAs within our State boundaries in the future, this bill would then apply to those that were designated as such in the future.

SENATOR HARDY:

Is there a five-mile rule for Great Basin and Gold Butte?

ASSEMBLYMAN YEAGER:

I do not believe there are any rules currently. It would just be the normal process. I do not think you can develop within the national monuments. I do not believe there is any perimeter around the national monuments. That would be up to the local government, pursuant to what already exists in NRS.

SENATOR HARDY:

This bill would be more stringent than what is around the national parks?

ASSEMBLYMAN YEAGER:

Correct. At least with respect to those three conservation areas, this is more stringent than what is on the books for development on the perimeter of national monuments.

SENATOR HARDY:

Do you have a map that shows everything that is overlayed?

ASSEMBLYMAN YEAGER:

I do have a number of maps in my office; I did not bring them with me today but would be happy to share them with you. The maps show the half-mile zone around each of those areas.

SENATOR GOICOECHEA:

I have concerns about the bill. I do not know if it will stand the legal challenge if that becomes a constitutional taking when you move outside the actual designated boundaries if you happen to be a property owner there. It could and

would affect those land values. Clearly, it should have been named in the NCA description or in the boundary itself, and we cannot cover the whole State. Will this be ethical with the takings?

ASSEMBLYMAN YEAGER:

The initial version of the bill in the Assembly would have created a five-mile buffer and it was an absolute freeze, no change in zoning could have happened. I think where we are now is constitutionally sound because there is no freeze of zoning. All we are doing with this bill is building in some additional protections that the landowner must go through before the local governments would approve the development. In contrast to a freeze, there is no impact in the sense that you can move forward with the project, you just have to make sure you provide an EIS that is available to the public for 15 days and that the local government takes a harder look in those areas.

It takes us out of the "taking" analysis because there is really no taking. Of course, if a local government were to either approve or deny an application, an aggrieved party does have the ability to go to court and challenge that decision. There are judicial remedies there as well. In working with the Legislative Counsel Bureau (LCB), we have come up with something we believe is constitutional. We have Kevin Powers from LCB here. He was the one who worked with me on this bill to make sure we got into a good place.

KEVIN POWERS (Chief Litigation Counsel):

About the takings issue, there are two types of takings. There is the physical taking where the government physically appropriates or takes part of a property; this bill does not do that. The other type of takings is a regulatory takings, where the government regulation can have an effect on the value of the property. A regulatory taking occurs and is unconstitutional only when it deprives a property owner of all economically viable use of the property. In this case, A.B. 277 does not deprive the owners the use of their property. Instead, it requires the property owner to go through a series of steps to establish the particular use and get approval by the local government and follow the standards in the legislation. However, the developers ultimately could still develop their property, it just might not be to the fullest extent the developers would want it to be. That is not a regulatory taking as unconstitutional because the owner would still have a certain use of the property and would not be deprived of all economically viable use of the property. The developer could still

develop the property, it just would not be to the fullest extent the developer may desire.

SENATOR GOICOECHEA:

The property owner does an EIS and then petitions it to the county. If the county in fact did not make the zoning change or did not allow it to move forward, would the county now be on the hook? Are we just passing this off and ultimately the local government becomes responsible? The developer says, "I am going to sue you. You failed to change my zoning. I cannot develop this." It becomes a regulatory taking as you stated.

MR. POWERS:

If a developer were to challenge a certain zoning decision about the land, the developer ultimately would sue the local government because the local government would be the entity that makes the final land use planning decision. However, under any challenge to local government land use planning, as long as the local government's decision does not deprive that owner of all economically viable use of the property, then there is no unconstitutional taking.

A local government can deprive a landowner of a particular use of a property, for example, a density. The local government can say you cannot develop this land at a high-density use, but you can still develop the property at a lower-density use. Therefore, that developer would still have an economically viable use of the property. Even though the local government would be the one that was sued in court, I believe that the actions would be constitutionally defensible as long the developer can still use that property for some economic purpose.

SENATOR GOICOECHEA:

In the Black Rock Desert-High Rock Canyon Emigrant Trails NCA, we clearly have inholdings. There must be some inholders in the Red Rock Canyon NCA of people who own properties. How does it affect them? Technically, when they had the designation, it pretty much took their zoning requirements or benefits away at that point because they were an inholding. I am concerned about the Black Rock Desert-High Rock Canyon Emigrant Trails NCA. It is significantly larger, and there are people with inholdings there. Does this do anything to them? Because this says in and within the half-mile buffer, are we going to put the same requirements on the people presently in the NCA who will now have

to come with an EIS and meet those requirements, just because they happened to be in there when it got designated?

ASSEMBLYMAN YEAGER:

You are correct in your analysis in the respect that A.B. 277 includes land within the conservation area, now that it has been designated. If the developers are in the zone that is within that half mile, before getting approval for a project, they would have to come forward with the EIS, provide it to the local government and make a case at a public hearing as would any other landholder. To answer your question, yes, it would affect people who have land inside.

SENATOR HARDY:

Will this bill affect things that are going on right now, for instance, say the Hardy Mine is interested in doing something, this will probably affect the Hardy Mine?

ASSEMBLYMAN YEAGER:

There is an exception for existing development agreements, If this bill were enacted it is effective upon passage and approval as stated in the bill, but there are exceptions. One of those is section 1.25, on page 5 about halfway down, you will see in the definition of development agreement. There is an exception at line 33 that says this term does not include any development agreement that was approved and recorded. Essentially, if you have an existing development agreement and the development agreement happens before the zoning change, this bill would not apply to you. That includes if you went back to make some changes to the development agreement in conjunction with the local government. That was important in talking to stakeholders on this bill because I believe it was unfair to change the rules midstream. Anyone who has that agreement is not subject to the bill; it would just be if you do not have an agreement.

SENATOR HARDY:

Does the Hardy Mine then get affected by this, or do the mine owners have a development agreement?

ASSEMBLYMAN YEAGER:

I am not sure they do or do not have an agreement. I can tell you I have not been contacted by anyone. Let me put it this way, I have been contacted by many people about this bill, and everyone has come to me about concerns. I

have done my best to try to address those where possible and sometimes not. However, that particular concern has not been brought to me.

MR. POWERS:

To further answer the question, as Assemblyman Yeager said, there is an exception for existing development agreements. In section 4.5 of the bill, there is also an exception for projects that received approval before the effective date of this bill. If the mine you are discussing received approval to conduct its mining operations before the effective date of the bill, then it would not be subject to provisions of this bill.

CHAIR PARKS:

I know there have been some required developer impact statements and some proposals, especially with the Hardy Mine. It seems to me they may have expired. If some approval was granted but was stipulated with a time element and meeting certain milestones, and if that does not take place, then would section 4.5 still have an effect?

MR. POWERS:

If an existing development agreement expired before the effective date of the bill, then it would not be exempted from this bill under section 4.5. If an existing development agreement, on the effective date of the bill, were to expire after the effective date of the bill, at the expiration of that development agreement the exemption would no longer apply. If the developers wanted to develop the land further and get a new development agreement, they would have to go through the procedures set forth in the bill.

SENATOR HARDY:

For the record, I am a Hardy, but I do not own the Hardy Mine and am not within the third degree of consanguinity, of which I am aware.

CHAIR PARKS:

I understand there is a proposed amendment that we are considering today?

ASSEMBLYMAN YEAGER:

I will let the proposer come forward and explain it, but I want to let the Committee know that I do consider the proposed amendment as a friendly amendment. It is tied in with the existing development agreement language.

WARREN B. HARDY II (Boy Scouts of America, Las Vegas Area Council):

I am not comfortable coming up in opposition or neutral on this bill because I believe most of us agree with the intent. The Boy Scouts of America, Las Vegas Area Council is one of the groups that are continuing to meet with Assemblyman Yeager and appreciate all the work he has done. It is a much-better bill than before, from our perspective, but we do have some additional concerns. Kimball Scout Reservation, which is in the Potosi Mountain area, would be impacted by this overlay. We are working with Assemblyman Yeager to figure out a legally acceptable exemption for a nonprofit that would otherwise be impacted by this legislation. We want to inform the Committee we are continuing to work with the Assemblyman, and when he says he has been available to and willing to work with everyone, that is not an understatement. He has been exceptionally available and willing to consider our amendments, and we will continue to work with him.

SENATOR HARDY:

Going back to the map: Camp Kimball is on the other side of the road. Obviously, Red Rock Canyon NCA and Adjacent Lands goes to the other side of the road.

MR. HARDY:

Our property is in the buffer zone. It is not in the conservation area, but it is directly adjacent to the property. It will fall in whatever the buffer zone is, whether it is a half mile, five miles or five feet. It would affect the Boy Scouts. It is a current application, and it is an asset for the Council. We would like to see it unaffected by this bill. Also for the record, I am not a proprietor of the Hardy Mine.

MICHAEL HILLERBY (Pardee Homes of Nevada; KB Home):

The proposed amendment, [Exhibit D](#), is presented by our firm on behalf of Pardee Homes and KB Home. It would amend section 1.45, subsection 3; in the bill, it is page 6, line 37. We represent The Villages at Tule Springs, which is located in North Las Vegas and has a development agreement with the City of North Las Vegas. Inspirada, which is located in Henderson, also has a development agreement with the City of Henderson.

With regard to Inspirada, pursuant to the recorded development agreement, the developer is required to install public improvements, such as roads, utilities, drainage facilities and water reservoirs within a half mile of the Sloan Canyon

National Conservation Area. These improvements will be located on BLM land. We have asked the sponsor of the bill to amend the definition of the development agreement to add the words "or land developed pursuant to" which you see in the amendment. The purpose is to ensure all parcels that are subject to the development agreement entered into prior to the effective date are exempt, even if the agreement is not specifically recorded against those parcels.

We have worked with the City of Henderson and the sponsor of the bill that are both supportive of the language. I want to thank Assemblyman Yeager for his willingness to meet and talk about the issues and deal with those concerns. With this amendment, we are happy to support A.B. 277. It makes clear the property that is located over the half-mile boundary of an NCA, as designated by Congress, or property that has an existing development agreement in place prior to the effective date of this act, even if there are subsequent amendments or modifications to the development agreement, is not subject to the provisions of the bill.

VINNY SPOTLESON (Nevada Conservation League):

The Nevada Conservation League is in favor of the proposed amendments that have come across so far. We think it is important to protect our NCAs. Speaking from the southern Nevada perspective for those of you who have attended public meetings for Red Rock Canyon or Sloan Canyon, you see there is an intense passion in the local communities surrounding these two conservation areas and protecting them. When Congress actually acted to designate these areas as protected in both cases, it was to protect them from urban sprawl. We think the steps being taken to further protect these conservation areas from dense urban development are strong. It will help protect those areas and protect our tourism, economy and the quality of life for all the locals who love to come visit and use these areas for recreation. We hope you will support A.B. 277.

HEATHER FISHER (President, Save Red Rock Canyon Community Development Corporation):

The bill has been carefully worded to avoid having takings. The thing we need to think about is the takings from the public if we do not pass this bill. The NCAs belong to everyone, and this bill does not take away anybody's right to develop, it just adds commonsense language. Please consider that you are sitting next to a sensitive area and you need to take extra precautions for the

conservation area so it will not be ruined. Save Red Rock has a lot of support, with over 50,000 signatures of people who are trying to keep Red Rock rural and protect it from urban sprawl and the negative effects of high-density development. This bill helps us address those effects before it is too late.

We would appreciate if you would pass this bill. I have petitions from online, senior centers and high school students. I have a statement that a high school student wanted me to read to you. It says, "We the students of Las Vegas are the future of Las Vegas, and the future wants to keep Red Rock rural. So I am saying this for my little brother, for my nephews and for all the generations to come: keep Red Rock rural." This bill also addresses all the NCAs in the State, and we want make sure we consider those for the public and not only consider the developers.

JOSH M. REID (City Attorney, City of Henderson):

I am speaking on behalf of the City of Henderson in support of A.B. 277. As you may know, the City of Henderson surrounds the northern border of Sloan Canyon NCA. We have neighborhoods to the east of Sloan Canyon NCA. To the north, we have MacDonald Highlands and Green Valley Ranch area. To the west, there is the Anthem Homes area, and then to the north the Inspirada masterplan community.

The City of Henderson sees Sloan Canyon NCA as an amenity, as a benefit to the City. The City has spent a lot of money, time and resources improving access to Sloan Canyon NCA. The City has built many miles of trails, not just surrounding the NCA but in partnership with BLM, building many miles of trail within Sloan Canyon NCA. The City has leased five trailheads that create access into Sloan Canyon NCA. There are plans to build additional trailheads into Sloan Canyon.

We support A.B. 277 because we want to protect this resource for the residents of the City. We believe this bill provides the City some additional tools. The City already has some measures in its planning code that are stricter in some areas bordering Sloan Canyon NCA. For example, near the petroglyph area, we have an overlay that protects that area from development completely, except for trails and those types of projects. This will provide additional tools authorized by the Legislature to look at the impacts on the NCA as projects are presented before the City for approval. This will create an additional burden on the City, but it is a burden we are willing to take.

There are dozens of parcels within this half-mile border around the City that do not have development agreements and do not have entitlements, and we realize we are going to have to go through these environmental reviews, but it is something that we are willing to take on. I just want to point out that the City supports the amendment that was presented earlier by Mr. Hillerby, [Exhibit D](#). We worked with his firm on that language, and it is nearly to belts and suspenders to clarify the protections against existing development agreements. We appreciate what Assemblyman Yeager has done to put this bill together and try to bring all the interested parties together and for something that is acceptable.

SENATOR GOICOECHEA:

With your interpretation of the bill, the City would not have to do an EIS if it were going to build some of the trailheads that were in the buffer zone?

MR. REID:

It depends. In the bill, there is a definition of project. It exempts from the term project public parks, trailheads or other public recreational facilities that are constructed by a local government or by a developer, pursuant to any development agreement. My understanding is no.

ANNETTE MAGNUS (Battle Born Progress):

We are a progressive communications nonprofit and work very hard to preserve and protect our public lands all across Nevada. We support A.B. 277. We testified on this bill in the Assembly as well. We know from all of our different research that Nevadans overwhelmingly support our public lands. They overwhelmingly support politicians who support our public lands, and they want to see our public lands protected, including places like Red Rock, Sloan Canyon, and Black Rock Desert. We encourage you to vote yes on this bill. This is a great bill for us. As a native Nevadan, I want to see these special places protected. In addition, as somebody who lives in the Mountains Edge community, I am concerned with the potential growth that could happen around Red Rock Canyon. This bill is near and dear to my heart. It is something that I worked on when I worked for Congresswoman Dina Titus. It is something we need here in Nevada.

JUSTIN JONES:

I feel very personal about this bill; it is something I have worked on for many years. Protecting Red Rock and other conservation areas is near and dear to my

heart. You have heard from Mr. Reid the perspective of the one forward-thinking jurisdiction. Unfortunately, not all of the local jurisdictions are as forward-thinking in terms of environmental and conservation issues in our community. What this bill really does is encourage local jurisdictions to consider the conservation value of lands that are in and around conservation areas and create uniformity. It is great that the City of Henderson has expressed its support for making sure these lands receive protection, but we want the same type of commitment from the other jurisdictions in southern Nevada, as I am sure that the jurisdictions in northern Nevada that border the Black Rock NCA would like more uniformity. I encourage you to vote in favor of A.B. 277.

HELEN FOLEY (Pardee Homes of Nevada):

Pardee is one of the builders within the Inspirada area. I want to thank Assemblyman Yeager and his staff and Mr. Powers for working with us to find the right blend so we do not interrupt the development that is going on, especially in communities like Inspirada that take great pride in Sloan Canyon. We have helped the Friends of Sloan Canyon with their marketing materials and trying to promote the trailheads. We see it as a valuable amenity for our community. We especially like the amendment that was proposed by Mr. Hillerby and strongly support it.

I will disclose, my maternal grandmother was a Hardy, but I have no interest in the Hardy Mines.

JARED FISHER:

I want to support A.B. 277. We need to protect the NCAs. The most important thing we need to consider, when we do things like this, is set an example for the rest of the USA. Nevada is so unique and such a great place. We want to see people come to our State and invest in our State. People cherish the great outdoors more than you will ever know. When we keep these and show people how important these NCAs are, people see that. They see Nevada as a State that actually cares. When you have buffer zones between conservation areas and development, you have a place where people feel they have peace of mind. They can go and experience things and get away from life. It is a big value.

MATT LOVE:

I just moved to Las Vegas from Utah. I support A.B. 277. Red Rock is a great place for photographers to take pictures. It helps people escape from the City and enjoy the beauty of the outdoors.

BRIAN MCANALLEN (City of Las Vegas):

The City of Las Vegas's position in opposition is as the bill is written right now. We appreciate the amendment that was brought forward by Mr. Hillerby and think it does address some of the concerns we had about existing development and existing development agreements. I would like to thank the sponsor for continuously working with all the stakeholders on this issue.

Our opposition still hinges on an issue that Senator Goicoechea brought up regarding the EIS and the triggers. We think within we are still required to do an EIS for City projects within that area, public works projects, etc. We would note that the definition of project and qualifying aspects of that does not include public parks, trailheads, etc. There are still a number of other public works projects that could fall into that category and that concerns us, especially since that EIS could take as much as two years as many have previously taken. That would certainly slow things down.

To make sure it is on the record, the City of Las Vegas certainly is a strong proponent of the great outdoors and all of our national treasures. We consider Red Rock to be one of those assets that so many of our neighbors and residents and visitors come to enjoy. It is no secret that the City of Las Vegas from a local government perspective was one of the leading local government entities to fight for the national monument, Tule Springs, with over a decade worth of work. Some who have worked in Congressional Offices have been our counterparts and colleagues in achieving success. I think the City of Las Vegas's record for wanting to preserve those national treasures and find the balance between development and growth has existed in the City for a long time. We think there are still some things in this bill that are a little ambiguous and need to be addressed.

SENATOR HARDY:

The map that I am looking for probably has the borders of Las Vegas and how it overlays?

MR. MCANALLEN:

I will get you a map that now goes from a five-mile buffer to a half-mile buffer from our perspective.

CHAIR PARKS:

You have had ongoing discussions with the author of this piece of legislation?

MR. MCANALLEN:

We have had discussions and also through other parties have raised the big issues which have been addressed by the path this bill has taken from the beginning. Certainly, this amendment offered today helps address that issue. Our Public Works Department has recently raised the proposed amendment that I discussed, and I will continue to meet with Assemblyman Yeager over this issue. We have had conversations where he has offered to continue to work with the parties. We are going to try to figure out how to address that concern and see if there is anyone receptive to that.

JOSHUA HICKS (Southern Nevada Home Builders Association; Builders Association of Northern Nevada):

We do appreciate some of the changes, but our opposition is because the bill has moved into a different direction. The five-mile radius has gone down to a half mile; the development agreements have been excluded. The amendment today about land that was added is good as well, but our membership still just cannot quite support this bill. It comes down to the impact on property rights and the impact on property right owners who happen to be in the area. What they have to go through now to deal with this is a concern.

We are worried that there is an expense to that, there is a delay to that, and there is potential litigation over certain aspects of those EISs that have to go through views, for example, that are codified in this bill which do not exist in other areas. There could be some potential issues and other unintended consequences. Our membership feels that the local process has worked in a lot of these developments that are close to the NCAs. We have seen these projects be modified and slowed down.

SENATOR GOICOECHEA:

If you are an inholder presently, whether it is in Sloan, Red Rock or the Black Rock, what requirements are in place? Clearly, you would not have to do an EIS. I know in the Black Rock, we have significant acreage. That is why I am asking if someone is going to supply a map and show me one of the Black Rock. Are you required to do an EIS if you are an inholder?

MR. HICKS:

I do not know the exact answer to that. I suspect that is probably governed by federal law in a national recreation area for what you can and cannot do, but I will be happy to look at that and get you answer.

SENATOR GOICOECHEA:

I was unsure what landowners would have to do if they are inside because it is pretty much the same thing if they are within the half mile now.

MR. POWERS:

I would agree with Mr. Hick's statement. A parcel of land that is within the boundaries of an NCA is going to be subject to the requirements of the federal law to the extent that the federal law allows the local government to regulate that as well. The parcel would also be subject to any requirements of the local government. This bill adds a layer of local government which would have to comply with the requirements of this bill in addition to their local regulations plus whatever requirements are already in place under federal law. It is going to turn on a specific federal law for each of the NCAs; there is a separate federal law that applies to each of the NCAs. If you are within the boundaries of the NCA, your project is going to be subject to federal requirements, state requirements and local requirements.

ASSEMBLYMAN YEAGER:

I have worked on this bill and am aware that there is still work to be done before next Friday's deadline. I appreciate that multiple people have come to me on this bill and have not just come with a "no" but have come with ideas and solutions. I think we are almost there, and I am going to work with those stakeholders. I would be remiss if I did not give credit to Mr. Powers who has worked hard on this as well. He has been working a couple of late nights at my request, and I want to say that I appreciate it.

SENATOR PARKS:

One or more of us are interested in looking at the maps just to satisfy our interests.

ASSEMBLYMAN YEAGER:

I believe I have the maps in my office with the half-mile perimeter. I will have copies of those made and distributed to Committee members.

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CHAIR PARKS:

We are going to close the hearing on A.B. 277. We did postpone A.B. 393 at the request of the sponsor of that bill. Seeing no further business to come before the Committee, the meeting is adjourned at 2:19 p.m.

RESPECTFULLY SUBMITTED:

Debbie Shope,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	7		Attendance Roster
A.B. 34	C	2	Charlie Donohue / Division of State Lands	Testimony
A.B. 277	D	1	Michael Hillerby	Proposed Amendment