

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS  
Seventy-ninth Session  
February 17, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 11:04 a.m. on Friday, February 17, 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 Julia Ratti  
Senator Joseph P. Hardy  
Senator Pete Goicoechea

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Policy Analyst  
Heidi Chlarson, Counsel  
Debi Szaro, Committee Secretary

**OTHERS PRESENT:**

Jim French, Commissioner, Board of Commissioners, Humboldt County  
Gustavo Nunez, Professional Engineer/Administrator, State Public Works Division  
Rob Loveberg, Fire Chief, Smith Valley Fire Protection District  
Frank Carbone, Nye County  
Vance Payne, Director, Department of Emergency Management, Nye County  
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities  
John Koenig, Commissioner, Nye County Board of Commissioners

CHAIR PARKS:

I would like the Committee to introduce two bill draft requests (BDRs), BDR S-493 and BDR S-494, from the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. We can introduce both in one motion.

**BILL DRAFT REQUEST S-493:** Extends the authority to issue bonds for environmental improvement projects in the Lake Tahoe Basin. (Later introduced as [Senate Bill 197](#).)

**BILL DRAFT REQUEST S-494:** Provides authority for the issuance of general obligation bonds for the Conservation and Resource Protection Grant Program. (Later introduced as [Senate Bill 198](#).)

SENATOR MANENDO MOVED TO INTRODUCE BDR S-493 AND BDR S-494.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

Pursuant to Joint Standing Rule No. 14, a majority of members must vote to submit seven BDRs on behalf of the Committee to approve for drafting by the Legal Division. We can approve the drafting of these seven BDRs in one motion.

SENATOR MANENDO MOVED TO INITIATE SEVEN BILL DRAFT REQUESTS: THREE REVISE PROVISIONS RELATING TO STATE EMPLOYEES, ONE REVISES PROVISIONS RELATING TO LOCAL GOVERNMENT EMPLOYEES, ONE REVISES PROVISIONS RELATING TO PUBLIC EMPLOYEES, ONE REVISES PROVISIONS RELATING TO CHARTER CITIES AND ONE REVISES PROVISIONS RELATING TO CONVENTION CENTERS.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

I would like to start the work session and have Jennifer Ruedy, Policy Analyst, address the work session bills. The first is Senate Bill (S.B.) 23.

**SENATE BILL 23**: Clarifies requirements relating to a petition for judicial review of a final administrative decision in a contested case. (BDR 18-374)

JENNIFER RUEDY (Policy Analyst):

Senate Bill 23, heard on February 13, clarifies the State agency that renders the final administrative decision in a contested case must be named as a respondent in the petition for judicial review. The measure further clarifies that respondents to the petition, other than the Attorney General and the administrative head of the agency, must be served in the matter provided by Rule 4 of the Nevada Rules of Civil Procedure, except in the matter of a petition for judicial review filed pursuant to industrial insurance benefits for injuries or death that must be served upon the Appeals Officer.

As noted in the work session document ([Exhibit C](#)), there were no amendments or testimony in opposition to the bill or fiscal notes.

SENATOR GOICOECHEA MOVED TO DO PASS S.B. 23.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. RUEDY:

The next bill in work session is S.B. 44 ([Exhibit D](#)).

**SENATE BILL 44**: Authorizes the State Public Works Division to issue certain permits. (BDR 28-238)

Senate Bill 44 was heard on February 15. One fiscal note was turned in with zero impact. The bill authorizes the Deputy Administrator of the Public Works Compliance and Code Enforcement Section of the State Public Works Division to issue to a person certain permits for the planning, maintenance or

construction of buildings and structures on property of the State or held in trust for the State.

SENATOR RATTI:

I appreciate the comprehensive answers to my questions from the State Public Works Division.

SENATOR GOICOECHEA:

I hope Public Works would contact officials at the entity with jurisdiction as they move forward and notify them that a building permit was issued on State lands.

SENATOR RATTI MOVED TO DO PASS SENATE BILL 44.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. RUEDY:

The next bill in work session is S.B. 45 ([Exhibit E](#)).

**SENATE BILL 45**: Revises provisions relating to the State Public Works Division of the Department of Administration. (BDR 28-128)

Senate Bill 45 was heard on February 15. It eliminates the requirement that the State Public Works Division, Department of Administration, periodically inspects all State university buildings. It specifically exempts all buildings and physical plant facilities owned by any part of the Nevada System of Higher Education (NSHE) from the requirement of periodic inspections by the Division. The testimony indicated that NSHE has had its own personnel perform this work on all campuses since 1995. There were no fiscal notes.

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SENATOR RATTI:

Did we hear from people at NSHE? Are they aware of the bill, and have they signed off on it?

CHAIR PARKS:

They were not in attendance.

GUS NUNEZ (Professional Engineer/Administrator, State Public Works Division):  
I do know that the Chancellor's Office is aware of this bill.

CHAIR PARKS:

That is the Chief Administrative Officer for the system.

SENATOR MANENDO MOVED TO DO PASS SENATE BILL 45.

SENATOR RATTI SECONDED MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. REUDY:

The final bill in work session today is S.B. 111 ([Exhibit F](#)):

**SENATE BILL 111**: Revises provisions relating to the auditing of agencies of the Executive Department of the State Government. (BDR 31-552)

Senate Bill 111 was heard on February 13. This bill was requested by the Sunset Subcommittee of the Legislative Commission to authorize the Chair of the Executive Branch Audit Committee, without the approval of the committee, to direct the Administrator of the Division of Internal Audits, Office of Finance, to audit an agency that is not included in its annual plan for auditing agencies of the Executive Branch. I provided further background on the Executive Branch Audit Committee in special notes. There were no amendments.

SENATOR HARDY MOVED TO DO PASS SENATE BILL 111.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

Our work session is concluded for today's agenda. I will open the hearing on Senate Bill 127.

**SENATE BILL 127**: Revises provisions relating to the election of members of certain local governing bodies. (BDR 20-786)

SENATOR PETE GOICOECHEA (Senatorial District No. 19):

The intent of S.B. 127 is to provide a board of county commissioners the ability to appoint members to local governing body vacancies rather than hold elections when elected board positions term out in 12 years. The board of county commissioners, by ordinance, can appoint a member to the vacant elected position, which requires two public hearings. The board can establish that the vacant elected board seat now becomes an appointed board seat. The appointed board member has an indefinite term and may be entitled to annual compensation of less than \$6,000. Members who have termed out, but are interested in filling the vacancy, can be appointed. The vacancies may change an elected board to a complete appointed board, which is not the intent. We are trying to figure out how to fill some of the vacancies when no one is interested in running for the position. A quorum of an elected board can opt out of becoming an appointed board. We are looking for amendment language to address concerns about filling vacant board positions.

SENATOR HARDY:

I have been affiliated with approximately five to ten town boards in Clark County. I am not aware board members get compensation, let alone \$6,000. We passed S.B. No. 115 of the 78th Session that would allow boards to be elected in Clark County. Are you amenable to an amendment that preserves those boards to continue to be elected unless the term limit challenge would motivate them to become an appointed board?

SENATOR GOICOECHEA:

Correct, as long as the board is in place, if board members are elected and they are happy with their terms. For the boards we talked about in the 2015 Session, 12 years down the road, those elected boards might approach the board of county commissioners asking to continue serving their communities. There would be no other way to accomplish that other than make them appointed boards.

SENATOR RATTI:

Would you be amenable to an amendment that requires the consent of that board if there is a quorum of that board?

SENATOR GOICOECHEA:

That would be my amendment, as long as there was a quorum in place for that board. That is why we chose the \$6,000 limit. It is the statutory rate.

JIM FRENCH (County Commissioner, Board of Commissioners, Humboldt County): Humboldt County has witnessed a loss of membership to local town boards. Our Denio TV, Quinn River TV, Golconda Water, McDermott General Improvement Sewer and Water and Paradise Valley Sewer Districts have all five of the board positions vacant. The Orovada General Improvement District, Pueblo Fire, McDermott Fire, Kings River Fire and Paradise Valley Fire Protection Districts are one member away from losing their quorum. Ten boards in Humboldt County are entirely vacant, requiring the county to provide services for districts 70 to 80 miles away. One plan incorporated duties of the road department employees to read meters. The County is burdened to hire additional paid staff to manage districts from a distance. The opportunity for the County to appoint vacancies caused by term limits would close the gap to provide services.

ROBERT LOVEBERG (Fire Chief, Smith Valley Fire Protection District):

I am not in opposition to the legislation, but I have concerns regarding the inclusion of the county fire protection districts established by NRS 474, known as 474 districts. Elected 474 districts were formed by the citizens of Smith Valley in 1945. A process for filling vacancies for elected 474 county fire protection district positions is provided in NRS 474.145. The statute provides the ability of the sitting board to appoint someone to a vacancy. We are aware of challenges finding people to serve; however, there is an effective

process both in Smith Valley and other 474 districts. I am concerned the language in the bill would be detrimental to this process that is already in place.

SENATOR HARDY:

Can we change term limits for a specific group who are struggling to maintain an elective board?

HEIDI CHLARSON (LEGAL COUNSEL):

The term limit provision is in the Nevada Constitution. Unless the Committee wants to request a constitutional amendment to change the term limit, you cannot do it by statute. The intent of this bill is to provide a statutory mechanism to get around the term limits for local government bodies. If the board is elected, the term limit provision would still apply, but if you go to an appointed board then it removes you from the term limit issue.

SENATOR HARDY:

This statute is necessary. Depending how it is amended, things can be carved out for the town boards.

Ms. CHLARSON:

The Committee has the ability to change this bill if you want to remove the 474 fire districts. You can add a population cap to eliminate local governing bodies within a certain county, and there is flexibility in what the committee decides to do. However, eliminating the term limit for these governing bodies would require a constitutional amendment.

SENATOR HARDY:

There is hope that we can do something for the Smith Valley 474 District.

SENATOR RATTI:

An existing statute allows for the appointment during a vacancy, but the term limit for the position will not be until the next election cycle. Systematically, this is not successful. It does not allow board members to say we want to get away from elections. The existing statute allows us to fill a vacancy, but it does not allow us to eliminate a structural problem.

Ms. CHLARSON:

For most of the local governing bodies, there are specific statutes that provide a mechanism for filling a vacancy in an elected position. It probably would be



unique to every type of local governing body in the existing statute. There is no requirement that the board of county commissioners makes some type of finding or that the only limitation is the members of the local governing board have to receive annual compensation of less than \$6,000 for serving on the local governing body. In that case, the board of county commissioners could then decide that, rather than have the local governing body continue to be elected per specific statutes, it could be changed to an appointed board.

SENATOR RATTI:

It is not just one statute but a series of statutes that gives all the counties and town boards and cities instructions on how to fill a vacancy, which does not necessarily solve a problem if you have an entire board. A board is not sustainable when there are only 200 people in town and the board cannot get people to run for office. The burden is on the county, along with the cost of running an election each cycle that is not necessarily needed or effective in filling the board. Since we are a Dillon's Law State where most local governments are products of the State or a charter, does this enable the county commission to execute an appointment, or does it have to come back to the Legislature for consent?

MS. CHLARSON:

No. The way the bill is currently drafted, it would be a decision by the board of county commissioners. It is not something that would request a bill draft in a subsequent Session to change the term. If the Legislature wanted to take a local governing body in this bill and note, going forward, this board should always be appointed and should never be elected, the Legislature would be able to do that. I think this bill is a way to not have to go through all of the statutes and make that change. It would just provide an option for certain local governing bodies in certain circumstances.

SENATOR RATTI:

There are two problems: one is filling a vacancy and one is for these smaller communities where it is not sustainable even if the local governing board considering being changed from elected to appointed consents. If the county and the town board agree on something, it is most likely a practical thing that needs to happen. Would that give you comfort if that were the case?

MR. LOVEBERG:

Certainly that would alleviate concerns if there was consent. Some concerns are there may not be boards in place to consent, which then will cause other problems if you are requiring consent. The 474 provision allows the sitting board to appoint to a vacancy should no one run for the office at the end of a term. If a vacancy occurs, the board can appoint for that term and then that person needs to stand for election, or the board would then have to appoint again when the position becomes vacant. We have experienced vacancies and appointed, which is certainly a challenge, so I am not opposed to including 474 districts in those places where there is a systematic problem. It does present some conflict between the existing statute and the board of county commissioners' ability, should they choose to exercise it. Potential revisions in language have possibility. I hope we preserve the existing procedure to the greatest extent so the local citizens have the power involved in their political subdivisions.

SENATOR RATTI:

Do you have a challenge with your 474 District? Would carving them out make sense in your situation?

MR. FRENCH:

Yes, we do. The Orovada Fire Protection District and Paradise Valley Fire Protection District both are below quorum. We have spent time and effort in those communities trying to get folks to step forward to take on this responsibility but without success.

WES HENDERSON (Executive Director, Nevada League of Cities and Municipalities):

I am in a neutral position but do support the concept and understand the problem that Senator Goicoechea has addressed, but sideboards are needed on the bill. We are willing to draft an amendment to cover boards that are unpopulated or boards that decide it is in the best interest for the county commissioners to take action to appoint. We would like to see that board go to the county commission and ask and not to have to ratify a county commission decision.

CHAIR PARKS:

A proposed amendment was not germane to this bill. If the proponents want to pursue another avenue, we will work with them.

SENATOR GOICOECHEA:

I will work with the neutral and opposition proponents. I recognize 474 districts are different because those boards have the ability to reappoint themselves, but they must have a quorum of the board to consent or say no to the action. For in-place boards that have a quorum, they can say no. The regular process is required. In the event there is no quorum, then the board may not appoint. The intent is to make the members who have termed out available for appointment. It is not a power grab. It is consent to be an elected or appointed board. We will work on the amendment for next week.

CHAIR PARKS:

I will close the hearing on Senate Bill 127 and open the hearing on S.B 128.

**SENATE BILL 128**: Revises provisions relating to the requirements to levy taxes to support certain fire districts. (BDR 20-454)

SENATOR GOICOECHEA:

Nye County is struggling with revenue. The language in NRS 244.2967 states "a board of county commissioners which creates a district for a county fire department shall levy a tax for its support and for the payment of the interest and principal on any indebtedness incurred for its buildings or equipment." The request is to change the language from "shall" to "may."

SENATOR HARDY:

Changing the "shall" to "may" means they may not levy a tax and the county still may not get enough revenue. Is that possible?

SENATOR GOICOECHEA:

Yes. It is a tough place to be, but sometimes there is not enough revenue. The "shall" is a constraint on some places where the revenue is needed.

FRANK CARBONE (Nye County):

I am turning my testimony over to Vance Payne and will answer questions.

VANCE PAYNE (Director, Emergency Management, Nye County):

The appointed town boards in Nye County include the towns of Crystal, Gabbs, Manhattan, Belmont and Railroad Valley. They have had a reduction in personnel and a decrease in population in their communities. The tax load has decreased considerably. The Division of Emergency Management has been

asked for funds, and the Board of County Commissioners has provided limited funds, but we provide all the funding to keep the doors open. We have no control over the management of the funds or the use of them within the towns. We pay for utilities, diesel fuel, equipment replacement and equipment repair. If the bill is approved and the Board is able to create a county fire department or fire protection district, this would give oversight and direction to the communities. Nye County's population is low with large distances in between communities. Consolidation of effort is important to Nye County.

MR. CARBONE:

The funds we use to support the fire district or fire departments as they are today comes out of the general fund.

SENATOR RATTI:

This bill states that you can levy the tax or not levy the tax. I see no language in the bill regarding consolidating. Is there something in the bill that enables the Nye County Commission to force consolidation?

MR. PAYNE:

The intent is not to force consolidation, but to give the Nye County Commission control of where the money goes and provide oversight from one source for the district. We cannot create a fire protection district without levying a tax.

SENATOR RATTI:

The county is mandated to levy this tax? They have levied that tax and now there are all these districts?

MR. CARBONE

We do not have a fire district. The areas mentioned are volunteer fire areas so there is not a district. We are asking to have a district and not have the tax.

SENATOR RATTI:

The bill is broader than your personal situation. It speaks to any county fire district. I need reassurance the language in this bill does not shift power from one jurisdiction to another jurisdiction by technically forcing a consolidation or forcing a consolidation because only the county has control over the money. Do we have the information we need today to get there? I have a significant concern.

SENATOR HARDY:

The county would create a fire district, and the county would have to spend money. If a fire district is created, it can levy a property tax so it can be funded. The county gets the money, not the fire district. The county collects the tax and puts the money where it should be, which is why the fire district does not have control of the money. The county that levied the tax has the control of the money if it does levy a tax. Is that right?

JOHN KOENIG (Commissioner, Board of County Commissioners, Nye County):

We have many volunteer fire departments which are all financed by the general fund. The desire is to create a fire district to consolidate, to have a fire chief and to become certified with the State. If we create a fire district now, as the bill is written, we would have to levy an additional tax. We are already paying for fire protection out of the general fund. We want a fire district without levying an additional tax.

MS. CHLARSON:

The intent of the bill does not change any existing statutes that relate to how a fire protection district is organized or consolidated, merged or eliminated. The bill is a funding mechanism for the fire protection district or for a county district. If the county forms a district under NRS 244 or 474 in order to fund the fire protection district, the county is required to impose a tax. The tax then goes to fund the fire protection district. The intent is to allow a 474 fire protection district or a 244 fire protection district to be formed and then authorize, rather than require, that a tax be imposed to fund the district. If a tax was not to be imposed, then the county would have to find another way to fund the fire protection district. I do not see where this bill is trying to merge any existing fire protection districts or consolidate or eliminate them. The intent is they want to form one, but they want to fund it in a way other than imposing the tax required in NRS.

SENATOR GOICOECHEA:

I thought Nye County had a fire district. I need to have further research and get this bill written to where we need to be.

CHAIR PARKS:

In 2007, I amended into a bill the provision that Nye County could, with the vote of the people, impose a supplemental sales tax. Was that approved and put

in place, and is that potential funding that was intended to be used for funding a 474 district?

MR. CARBONE:

Yes, the bill passed and was approved. It was put into place in 2013. We are in conversations with the Attorney General to incorporate that into our process but, in this case, the funds are not supporting all the volunteer fire departments. We are researching how that money can be used in some of the areas with this fire district.

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CHAIR PARKS:

I close the hearing on S.B. 128 with further investigation required. The meeting is adjourned at 12:07 pm.

RESPECTFULLY SUBMITTED:

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Debi Szaro,  
Committee Secretary

APPROVED BY:

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Senator David R. Parks, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	7		Attendance Roster
S.B. 23	C	1	Jennifer Reudy	Work session document
S.B. 44	D	1	Jennifer Reudy	Work session document
S.B. 45	E	1	Jennifer Reudy	Work session document
S.B. 111	F	1	Jennifer Reudy	Work session document