

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

**Seventy-ninth Session
May 5, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 12:17 p.m. on Friday, May 5, 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 Al Kramer, Assembly District 40
Assemblywoman Robin L. Titus, Assembly District No. 38

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Angela Dykema, Director, Office of Energy, Office of the Governor
Kyle Davis, Nevada Conservation League
Stewart Bybee, Associated Builders and Contractors of Nevada
Casey Coffman, Sunworks, Inc.

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Wes Henderson, Nevada League of Cities and Municipalities
Jennifer J. Gaynor, Nevada Credit Union League
Samuel P. McMullen, Nevada Bankers Association
Scott F. Gilles, City of Reno
Cheryl Blomstrom, Nevada Taxpayers Association
Lisa A. Gianoli, Washoe County
Mary Walker, Carson City; Douglas County; Lyon County; Storey County
Joe Mortensen, Chair, Lyon County Board of Commissioners
Donald L. Cavallo, Public Administrator, Washoe County
Bob Getto, Public Administrator, Churchill County
Jeff Fontaine, Nevada Association of Counties
Pam Stuckey, Renewable Envoy

CHAIR PARKS:

We will open the hearing on Assembly Bill (A.B.) 5.

ASSEMBLY BILL 5 (1st Reprint): Provides for the creation of certain local improvement districts. (BDR 22-233)

ANGELA DYKEMA (Director, Office of Energy, Office of the Governor):
Assembly Bill 5 addresses Property Assessed Clean Energy (PACE). Last year, Governor Brian Sandoval issued an executive order to convene the New Energy Industry Task Force with a primary directive of making recommendations on the best energy policies for Nevada's future. The Task Force was asked to address policies that encourage the development of clean energy sources and integrate renewable energy technologies into Nevada's energy sector to foster the creation of a modern, resilient and cost-effective energy grid and to support distributive generation and storage with a specific focus on rooftop solar and net metering.

Assembly Bill 5 was drafted out of a unanimous recommendation by the Task Force and is one of the recommendations selected by Governor Sandoval to be introduced as legislation this Session by the Office of Energy. In addition to being one of the Task Force's recommendations selected by the Governor, this legislation also aligns closely with our agency mission of encouraging renewable energy production and energy efficiency opportunities for Nevadans.

Property Assessed Clean Energy is a financing mechanism for energy efficiency and renewable energy projects. It is a financing structure through which a

building owner repays a loan in the same way that property taxes are paid via a new lien on the building. Property Assessed Clean Energy liens typically are senior to all other nontax liens on the building, including the mortgage, which significantly reduces the repayment risk to the lender.

Property Assessed Clean Energy loans can be made by any lender. In the case of A.B. 5, a private lender would provide the capital to implement energy efficiency improvements. The tax-collecting agency would then place a new lien on the building equal to the loan repayment. That repayment is collected by the taxing agency and remitted to the lender.

Assembly Bill 5 is PACE-enabling legislation that specifically provides for the creation by a local government of a special improvement district (SID) for the purposes of financing an energy efficiency or renewable energy project on private property. Most SID improvements are done for common area improvements.

This legislation would allow for improvements unique to private property to exist by amending the SID statute, *Nevada Revised Statutes* (NRS) 271, to attach a lien to the property that is superior to the mortgage and runs with the property. It is not only advantageous for the lender, but also for the borrower because the borrower does not have to worry about paying off the loan when the property is sold or the borrower moves since it will run with the property and be paid by the next owner.

In order for a PACE program to be implemented, the local government creating the SID must adopt a resolution for the creation and administration of a PACE program for the purpose of financing energy efficiency or renewable energy projects. Assembly Bill 5 does not mandate that the local government adopt a PACE program. It is strictly voluntary, but it does require that a resolution be adopted and procedures put in place if the local government chooses to implement a PACE program. This bill also outlines provisions that require the written consent of each landowner in which a project is located.

We are often asked where the money comes from. The financing for these types of projects would come from conventional lenders, such as a bank, a credit union or a private investor. It is considered property assessed, but it is independent of the local government balance sheet. That means the local

government is not responsible for providing the capital or recovering any losses. It simply acts as a conduit issuer between the property owner and the lender.

The bill does not detail the mechanics of the loan program or require that a local government adopt a procedure for a PACE program. It is simply enabling legislation which gives the local government the ability to adopt the program if it so chooses.

As A.B. 5 was originally written, it would have allowed for both residential and commercial PACE programs; however, concerns were raised about residential PACE programs regarding the superpriority position of the lien to the mortgage and the ability of mortgage lenders to resell the loans on the secondary market.

In July 2016, the U.S. Department of Housing and Urban Development issued guidance to address a misconception with the lien position of PACE loans. The guidance clarifies that only the amount in default would cause a concern with the lien position. For example, if a property owner fails to pay a homeowners' association fee, then the lien for the amount owed would be placed in the superior position to the mortgage. A PACE lien is no different. It is always there; however, it only becomes an issue if the PACE loan becomes delinquent.

We have been working with the representatives of the Nevada Bankers Association (NBA) and Nevada Credit Union League (NCUL) about their concerns with this legislation. Even with the guidance issued from the Federal Housing Administration, it would be in the best interests of all to move forward with PACE-enabling legislation for commercial properties only at this time because of the many concerns with residential properties.

Over 30 states in the Country have active PACE programs; however, the majority of those programs are commercial only. We are aware of only a few residential PACE programs. Therefore, A.B. 5 as amended and reprinted by the Assembly allows commercial PACE only. It further addresses the concerns over the priority status of the lien by requiring lender consent with an offer for first right of refusal on issuing the PACE loan from the existing lienholder.

We also offered a few other amendments that were adopted by the Assembly in an effort to address the concerns raised by the NCUL and the NBA. That included a clarification that any property backed by federally guaranteed financing, which does not allow federal loans to be subordinated, would not be

eligible for a PACE loan. In addition, an energy audit would be performed prior to the issuance of any PACE loan, which is standard practice with most PACE programs. It establishes additional consistency with guidelines.

I have provided a section-by-section explanation of the bill as amended ([Exhibit C](#)), but I will summarize it.

The bill allows the governing body of a municipality to create a district to finance one or more energy efficiency or renewable energy projects for qualifying commercial or industrial property. It requires an energy audit prior to the issuance of a loan for the project in order to establish uniformity in the requirements.

It states that a bond or interim warrant issued for a district created pursuant to section 1.1, subsection 2 must not be secured by a pledge of the general credit or taxing power of the municipality. That section clarifies that the local municipality does not back it. Whether it is budget revenue or general obligation, it prohibits that concern from happening at all.

The improvements or installations are considered property of the owner, which is an important distinction between how SIDs function and how a PACE program works. It is a distinction between public and private.

The governing body would have to adopt a resolution that sets forth all the procedures for the creation and administration of the district if it chooses to do so. Section 1.2 outlines the requirements for the written consent from each property owner in the district.

All liens recorded on the property prior to the PACE lien cannot exceed 90 percent of the fair market value of the property. That is to protect against causing the property to be underwater.

We spoke with the NCUL and the NBA and learned that they were not comfortable with the language in the Legislative Counsel Bureau amendment. It includes the word "senior" before the lien. Therefore, the NCUL offers a minor friendly amendment that eliminates the word "senior" in section 1.2, subsection 1, paragraph (e) ([Exhibit D](#)). We are fine with that because it does not change the intent to require lender consent. It provides greater clarification.

The bill also requires the liens to be recorded in the office of the county recorder in which the SID is located.

The local municipality can create the district at any time for tracts which have recorded consents pursuant to section 1.1 of the bill. Section 1.2, subsection 4 defines the lender as the primary mortgage holder.

The bill requires that all contractors be licensed in Nevada. Section 1.6, subsection 1 lists the powers that the issuing municipality has the discretion to determine through the resolution. Sections 2 and 3 contain definitions of energy efficiency and improvement projects. More than one energy efficiency improvement can be in one project on a single tract.

Any person within the SID would have to be notified of the project. That is important for commercial projects because often there is a primary user of the property and an investment partner or party listed on the deed who is not engaged in daily activities.

Section 5, subsection 3 requires that payment and reimbursement for the issuance of a bond be clearly evidenced either in writing that the installation is complete or verified through an inspection. That establishes additional guidelines for consistency.

CHAIR PARKS:

The parallel to that is a SID. As you indicated, SIDs are paid for by property owners but are an offsite improvement to the local government.

SENATOR GOICOECHEA:

As I read this, a district can be as small as one parcel, one building. In the amendment offered by the NCUL, [Exhibit D](#), the removal of the word "senior" means failure to have the consent of a second mortgage holder would negate the process. It could not go forward.

MS. DYKEMA:

That is correct. Any of the existing lenders have to give consent.

KYLE DAVIS (Nevada Conservation League):

The Nevada Conservation League supports this legislation. We have discussed this concept in past Sessions. I am happy to see that we have gotten the

language to a point where this bill will become an effective tool for allowing commercial properties to install these kinds of energy efficiency and renewable energy projects.

I appreciate the Office of Energy bringing this forward. I had the opportunity to serve on the Governor's New Energy Industry Task Force over the Interim. I was a part of forwarding this recommendation to the Legislature; therefore, I urge you to support A.B. 5.

STEWART BYBEE (Associated Builders and Contractors of Nevada):

The Associated Builders and Contractors of Nevada support A.B. 5. It is an innovative way to finance retrofitting of old commercial buildings to bring them up to a standard for energy efficiency.

CASEY COFFMAN (Sunworks, Inc.)

My responsibilities include agricultural, commercial and industrial solar sales covering all of Nevada. I am here to support A.B. 5 and the potential help it would provide not just my industry but also any industry that helps consumers lower their energy bills and reduce their carbon footprints.

Nevada businesses work hard to reduce overhead to stay competitive and employ more Nevadans. Energy bills are a significant part of a business's overhead. My colleagues and I work in an industry that can make a significant impact in a business's overhead costs and therefore keep businesses competitive in their industry. However, we need the available financing options to make these projects work for interested parties.

One of the issues with financing commercial solar projects is the difference in how power bills versus loan payments appear on a balance sheet. On a cash flow basis, loans for renewables are an easy sell because energy cost savings generally are larger than project payments. The loan payments are treated differently than power bills because they appear on a balance sheet, which can hurt a business's ability to finance its operations or growth.

Many people cannot afford to leverage against their businesses with a traditional loan for a renewable project. Most businesses have the cash flow to pay for a renewable project afforded by the energy savings, but many projects are stalled out due to a business's need to keep credit open for its operations.

Property Assessed Clean Energy financing can fix this problem by providing the off-balance sheet financing these businesses need to be able to invest in renewable projects. This means that customers are able to invest in energy saving measures at their businesses, providing good paying jobs for the local economy and continuing Nevada's commitment to renewable energy. Property Assessed Clean Energy financing is another piece of the puzzle that solves many of the issues faced by Nevadans.

WES HENDERSON (Nevada League of Cities and Municipalities):

The Nevada League of Cities and Municipalities supports this bill because it is enabling, and it is another tool for redeveloping buildings within our cities.

JENNIFER J. GAYNOR (Nevada Credit Union League):

Because of the issues we have seen with residential PACE programs in other states, we were initially opposed to the bill as it was drafted. However, the Governor's Office of Energy has spent much time working with us on our concerns and amended the bill in a number of ways that alleviated them, such as requiring lender consent before a PACE project could be assessed against the tract and making it commercial only.

However, as Ms. Dykema noted, we have a friendly amendment, [Exhibit D](#). This is a minor fix to change the language in the lender consent section in [A.B. 5](#). This is needed because the word "senior" was added before the word "lien" in section 1.2, subsection 1, paragraph (e).

We appreciate the intent. It was along the lines that we had discussed with the Governor's Office of Energy. The term "senior lien" is a term of art in the lending industry. It has a very specific meaning that was not intended. A senior lien or a senior loan is a debt-financing obligation issued by a financial institution that holds legal claim to the borrower's assets above all other debt obligations. The loan is considered senior to all other claims against a borrower. Therefore, to use the term "senior lien" in the lender consent section would limit the liens that would require lender consent. We know that it was intended that all liens that a lender might have on the property would require lender consent. We appreciate your consideration of our friendly amendment.

SAMUEL P. MCMULLEN (Nevada Bankers Association):

I would like to commend the Governor's Office on Energy because the Office held a number of meetings with the NBA. It had many concerns about this bill; however, many were assuaged by the removal of the residential PACE program.

The Nevada Bankers Association also appreciates the removal of the superpriority aspect of the bill. An amendment was agreed to that ensured lender consent was in a recordable document. This amendment, [Exhibit D](#), makes clear that all lenders have to consent. The theory is that the loan structure on a property cannot be changed. You must ensure that all the other lenders understand that their priority is changing.

The NBA's neutrality comes from the lack of standardization. Provisions concerning energy audits were added to the bill for the NBA and for the credit unions. That is excellent. Theoretically, the SID is being used to overlay what is probably an energy improvement financing district.

What it was going to look like and other things concerned us because we heard that SIDs would go county by county, local government by local government. We thought there ought to be some standardization. The bottom line is that this will be a work in progress. We will look at it because the concept of standardizing a special improvement district is new. Not enough thought went into that. We will work with it, but we do not support it fully. We appreciate how far the sponsors have come and the corrections they have made.

The Office of Energy's ability to ensure that all of these issues are resolved and that the guidelines going forward are free of problems are strong positives.

SENATOR GOICOECHEA:

These districts can be as small as one building. We are not talking about a countywide district. Could a countywide district be created under the bill?

MR. MCMULLEN:

It could be. No one knows SIDs better than you; however, the theory is that the only properties that would enter into the SID would be the property of the owner of the tract as described in [A.B. 5](#). That person could get a PACE loan and go from there.

You are right. I am not going to disagree with you. If it were done parcel by parcel, there would be many SID amendments at the county government level. The explanation given at first was the flexible model. The local governments are not going to do it property by property and amend the district all the time. They will figure that out. That is Government 101. We will see when they look at it and offer it to the public. These used to be municipal funding subsidized districts. This model has changed them. Much is still being developed.

SENATOR GOICOECHEA:

I do not see where this is done by ordinance. It is done by resolution. It would not be that hard to do. You could do it on a parcel-by-parcel basis by resolution as long as you had the mechanism in place. I am satisfied with that.

MR. McMULLEN:

That is not a liability if the local governments are willing to do it.

MS. DYKEMA:

Thank you for considering this bill. Mr. McMullen's comments are correct. It could be done on a parcel-by-parcel basis. That will be the responsibility of the governing agency.

CHAIR PARKS:

Could one parcel have multiple PACE loans?

MS. DYKEMA:

I believe so. It would be left to the issuing municipality to establish all of the rules and procedures. There could be multiple improvement projects on one parcel.

CHAIR PARKS:

We will close the hearing on A.B. 5 and open the hearing on A.B. 80.

ASSEMBLY BILL 80 (1st Reprint): Revises provisions governing redevelopment in certain cities. (BDR 22-416)

SCOTT F. GILLES (City of Reno):

Assembly Bill 80 applies to one city, the City of Reno, and one redevelopment district within the City, the downtown redevelopment district. It is the Reno

Development Area 1 referred to as RDA 1. There is one other redevelopment district, RDA 2, which is a more sprawling district throughout the City.

A thriving downtown is a strategic priority for the Reno City Council. The Council has memorialized that in its vision and mission statement. More important, the citizens of Reno and Washoe County have told the Council that revitalizing downtown is a priority for them. We learned this through our ongoing master plan update process. We conducted what is, by any measure, the largest outreach effort the City of Reno has ever been a part of called Reimagine Reno. This was done to obtain feedback from members of the public about what they would like.

Over 6,000 people participated in that process. Almost all the individuals in every focus group identified revitalizing downtown as a priority on which the City of Reno should focus. If allowed to be extended by A.B. 80, RDA 1 would be a tool for that type of revitalization going forward.

The RDA 1 was created under statute in 1983 with a lifespan of 45 years. Since its creation, tax increment from the district has been used to finance a number of projects in downtown Reno. The slide presentation shows some of the projects that RDA 1 has helped to finance ([Exhibit E](#)).

Slides two and three are the Greater Nevada Field. Slide two shows the construction, and slide three shows what it looks like today. This is where the Reno Aces, a Triple-A Minor League Baseball team, plays and more recently, the Reno 1868 Football Club has started playing there.

The next two slides are the Century Riverside movie theatre, which is right on the Truckee River. It is one of the first newer projects built along the river. Over the years, it has brought many new restaurants and bars. It is a popular spot.

The parking gallery, shown in the next two slides, is a project owned by the Redevelopment Agency District. It provides parking, a few retail spaces and a popular restaurant, the Silver Peak Brewery and Restaurant.

The RDA 1 tax increment has been used to build the Riverwalk along the river as shown in Slides 8 and 9. The tax increment has also been used in various other projects within the district. It includes the Freight House District adjacent

to the ballpark, the West Street Market and the various sidewalk and lighting upgrades in downtown Reno.

Slide 10 shows the map of Redevelopment Area 1. It is centrally located downtown. This is an urban area along the Truckee River that barely goes north of Interstate 80 in the one section at the top of the map.

While the district has resulted in many positives over the years, the property tax revenues in the district have not kept up with the debt the redevelopment agency has incurred for these projects. This is primarily due to the dip in property values during the recession years, which have been compounded by the inability to recover fully through the collection of the tax revenues due to the existing caps. As of July 1, 2016, approximately \$23.4 million in bond debt is owed by the redevelopment agency for RDA 1. That number is going to be reduced to between \$20 million and \$21 million by the end of this fiscal year.

In an effort to be fiscally responsible in dealing with this debt, the Reno City Council has requested this enabling legislation that would allow it to extend the life of this redevelopment tool and give it the ability to properly deal with and restructure the debt.

Section 1 of the bill adds the City of Reno into an existing enabling section of law that applies only to redevelopment districts created prior to 1991. The change as would be incorporated into that section applies only to Reno's RDA 1. It would allow the City to use RDA 1 through 2043 if we took full advantage of the available years and if that was desired by future City Councils. As laid out in the bill, extending the life of RDA 1 would require the adoption of an ordinance by the Reno City Council. Therefore, this legislation is enabling.

The additional years added on to the redevelopment district would give the City's finance team the flexibility to refinance and restructure the debt under better terms. This would provide short-term savings in debt expenditures in exchange for more time to exhaust existing obligations while revenues grow, presumably, within the downtown redevelopment district.

Extending the life of the district will allow the City to add years to the back end of the redevelopment plan in order to realize positive tax increment for potential future redevelopment projects. We cannot say with much certainty what that will be or how future City Councils would choose to use that future tax

increment. It depends on actual growth of property tax revenues within that district. However, we expect those revenues will increase and allow us to use this tool in the future.

The last section of the bill states the effective date, which is upon passage and approval. We would then go through the process of extending the redevelopment district by ordinance, which expires by law in 2028. The bill would allow the City to extend the redevelopment district to 2043, giving it additional years to restructure and refinance the existing debt.

SENATOR GOICOECHEA:

I support what you are doing in downtown Reno. We understand if it takes you 15 more years because no one had control over the recession. I am supportive of the bill.

CHAIR PARKS:

No one had control over the effects created not only by the recession but also by our actions in this Body in 2005 when we put the property tax caps on.

You mentioned RDA 1 and RDA 2. Is there any overlap by the two? Are they totally geographically separated from each other?

MR. GILLES:

They are adjacent at certain points but they are geographically and financially separate.

I have spoken to Senators Hardy and Manendo about the bill, and I will speak with Senator Ratti to give her a full explanation of the bill.

MR. HENDERSON:

We normally do not testify on a bill that affects only one city; however, we support this bill and appreciate anything that this body can do to assist all of the cities with redevelopment in their downtown areas.

CHERYL BLOMSTROM (Nevada Taxpayers Association):

The redevelopment area in downtown Reno is an important component of what they are doing; however, at this point it is a debt-servicing organization only. It is not doing any other work beyond servicing its debt, which expires in 2027.

Its RDA 1 expires in 2028, which would give it time to sufficiently finish the debt and dissolve the district in good order.

Our concern with 60 years is that things that were redeveloped will need to be redeveloped again. Some buildings' lifespans will be finished and improvements will need redeveloping again. There will be no money to do it. The City of Reno will need different ways to look at this and different spending priorities.

As an analogy, in 2000 to 2006 when we were coming into to the housing bubble and then the housing bust, there was much refinancing. People refinanced their houses. They went to Europe or they bought a boat or a shiny new car. This feels like that. This feels like we are going to extend the debt. The taxpayers in that district are going to pay more interest for the same asset, and there will be nothing to show for it at the end.

Based on that, we are opposed to A.B. 80.

SENATOR GOICOECHEA:

I understand what you are talking about; however, we are extending this 15 years. Many of these projects have barely come to completion. It is as if we are completing them and then the 60-year clock starts right now. We have 20 years or more of it behind us.

The RDA 1 has done a good job with what it has invested. I understand you are concerned about interest payments. I hope this is not the end of the improvements occurring in downtown Reno from this redevelopment district.

MS. BLOMSTROM:

I do agree. I have sympathy for the position the City of Reno is in. All local governments are in the same position with respect to property tax caps, the tank in our economy, and with the way the law is structured so that residential and commercial properties are taxed the same.

When commercial property values fell, residential properties had to match. I understand that. However, I am not sure that this is the answer to those problems. I hope that we do something in the Interim. We need a serious, public and bright sunshiny day to look at what we are doing with property taxes in this State. Everyone should be brought together to have a good, grownup conversation about how we do property taxes in Nevada.

CHAIR PARKS:

I echo your sentiments as to where we are going with this and how far out we are stepping on the edge of the cliff.

LISA A. GIANOLI (Washoe County):

Washoe County is neutral on this bill. Traditionally, as a county we would oppose this because the money is diverted from the counties and the schools. However, we understand the issue with the debt. That is the only reason we are neutral on the bill.

We put some language in the bill in the Assembly to address issues we were concerned about with base adjustments.

MR. GILLES:

Thank you to the Committee for hearing this bill. I appreciate Washoe County working with us, not being opposed to the bill and understanding our plight.

CHAIR PARKS:

We will close the hearing on A.B. 80 and open the hearing on A.B. 246.

ASSEMBLY BILL 246 (1st Reprint): Revises provisions relating to the creation of a local improvement district and tax increment area. (BDR 22-705)

ASSEMBLYMAN AL KRAMER (Assembly District 40):

Law does not allow tax increment districts or special districts to cross county lines. This has a negative effect because it puts the full financial responsibility on a county that shares a road with an adjacent county. One county does the work and bears full responsibility, and one county gets the benefit of the work but has no financial responsibility for it.

Assembly Bill 246 solves that problem by allowing two or more counties or municipalities where boundaries border each other to enter into an interlocal or cooperative agreement to undertake projects in all or part of each county or municipality. This would allow two different counties or municipalities to be enhanced by means of a tax increment district.

Allowing this tax district makes sense where land is not being used effectively or at all because the two counties or municipalities share the responsibilities.

Similarly, it has the potential to increase property values of both counties or both municipalities spurring economic development between these two areas.

If a city has an unincorporated area next to it and it wants to improve that portion that might be merging on both cities, this bill will allow this to happen. That is probably more common than the example of a road that zig zags between two counties. If something like that occurs, the burden falls on one of the entities, and not all of the property will increase in value by the work that is done.

CHAIR PARK:

Since local governments can enter into interlocal cooperative agreements and the like, I am surprised that what is in your bill is not allowable.

ASSEMBLYMAN KRAMER:

Let us talk about bonding. When you enter into bond covenants, someone is responsible for paying back that bond. The only way to have a bond for all of the property involved, if it is in multiple counties, is to have one entity legally able to bind for that bond. If one county does it, it can only encumber the property in that county. If one municipality does it, it is only the property in its municipality. This bill will allow bonding to take place.

CHAIR PARKS:

Cooperative agreements are more operational than for infrastructure or capital. Do you know if this is done in other states?

ASSEMBLYMAN KRAMER:

I did not research that. I do not know.

CHAIR PARKS:

Regarding the mechanics of this, each entity's share would have to be identified, such as a 60/40 split.

ASSEMBLYMAN KRAMER:

You hit on it right there. This is enabling legislation that would be available for multiple entities to enter into if they so desired. Then the issue would be if two counties wanted to do this, they would form a board for the tax increment district. The district would have directors, probably made up of county

commissioners or anyone else it wants. The directors would draw boundaries around the properties that would be part of the increment district.

The assessor would set the tax base. The directors would determine revenue, costs and when property values would increase. They would enter into bond covenants, create reserves, sell bonds and complete the project. Then, as the property value increases, the tax increment would be used to pay off the bond.

You are right. Decisions have to be made, starting with whether both counties or entities want to do this and whether they want to sacrifice the income to their general funds from that tax increment for the next couple of years to pay for the contemplated project.

CHAIR PARKS:

My experience has been to move the county line. One county as opposed to the other can do this.

ASSEMBLYMAN KRAMER:

Moving a county line is not easy.

CHAIR PARKS:

We have only done it a few times. It is hard work.

MARY WALKER (Carson City; Douglas County; Lyon County; Storey County):

We support A.B. 246. It is a creative and practical way to solve some of our problems. It is another tool in our toolbox that we do not have.

This could apply to a road between Carson City and Douglas County. I know that for the 40 years I have lived in Carson City, that road has been a problem. It is Clear Creek Road.

This is a potential solution; however, many things have to be worked out. I appreciate the thought, care and creativity of Assemblyman Kramer in bringing this forward.

JOE MORTENSEN (Chair, Lyon County Board of Commissioners):

I support this bill. As an elected official, you learn what you cannot do. There are so many little things. If we could get some of the wrinkles straightened out, our jobs would be easier. I would like your consideration and support of this bill.

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MR. HENDERSON:

We support this bill. It is another tool that local governments can use to work together to solve problems.

CHAIR PARKS:

We will close the hearing on A.B. 246 and open the hearing on A.B. 310.

ASSEMBLY BILL 310 (1st Reprint): Revises provisions governing public administrators. (BDR 20-103)

ASSEMBLYWOMAN ROBIN L. TITUS (Assembly District No. 38):

I have submitted my written comments regarding A.B. 310 ([Exhibit F](#)).

SENATOR GOICOECHEA:

Section 1, subsection 2 says that district attorneys may retain all fees provided by law received by them. Is there anything in statute that allows district attorneys or county clerks to hold those fees?

DONALD L. CAVALLO (Public Administrator, Washoe County):

A provision in NRS 253 allows district attorneys and the Carson City Clerk to retain those fees independently.

ASSEMBLYWOMAN TITUS:

Nevada Revised Statutes 253.050, subsection 2 says they "may retain all fees provided by law received by them as public administrators." This bill does not change that.

SENATOR GOICOECHEA:

Yes. However, a district attorney, by law, cannot have a private practice. I am not sure if that would be considered as such. I am playing the devil's advocate. After looking at that in the bill, I became concerned. Eureka County is functioning with the county clerk as the public administrator even though it is not listed in statute. Is that ability in this bill, or is it found in statute?

A county could determine that it is easier to use its clerk or district attorney rather than having a public administrator. Would it do that by ordinance?

ASSEMBLYWOMAN TITUS:

The public administrator is an elected constitutional position. We looked at changing the concept of a public administrator from an elected position to an appointed position. That is in the Nevada Constitution. It would mean changing the Constitution. That would take two Legislative Sessions and then it would be a ballot question. We decided the best way to fix some of the problems in the counties not specifically listed in statute is to make sure that public administrators are paid a salary.

Originally, I wanted it to be a minimum \$12,000. However, it was pointed out that counties such as Storey County may have only three cases a year involving the public administrator. The county paying that kind of money would find it difficult to justify. We hope to allow the counties to determine a reasonable reimbursement based on their costs.

MR. CAVALLO:

Under NRS 253, a board of county commissioners is allowed to appoint a public administrator when a vacancy occurs. Whether it is someone from a county department or an elected official, that call is made by a board of county commissioners in each county.

SENATOR GOICOECHEA:

By statute, Humboldt, Lander, Lincoln, Storey and White Pine Counties are the only ones that can have an ex officio public administrator. However, I know other counties have appointed their county clerks as the public administrators. It is on the ballot every election cycle. I am going to have to get some clarification.

I knew Assemblywoman Titus had been working on this. I had a conversation with Bob Getto in Fallon a few weeks ago. It is an issue out there. I represent Nye County, which is one of the problem areas. The more we see, the uglier it gets.

The bill says that public administrators retain their fees and the counties can determine the salaries. I assume that would be negotiated. It would be in place. Someone would run for election for the position; however, if the salary were not enough, no one would run. That is where we are.

ASSEMBLYWOMAN TITUS:

That is what we are trying to solve. People are not there because there is no income once they run for the office. There is a cost to running for an elected office, as all of us know.

A public administrator, by definition, administers the estate of someone who otherwise has not spelled out his or her final wishes. There is no will or family. To do the job of public administrator, someone has to die. By the nature of the beast, it comes with some hazards. It has been brought up many times over the years to try to correct that without going through a change in our Constitution. We hope that bringing a salary to the table, which can be negotiated based on the work, people will be willing to run for the office.

SENATOR GOICOECHEA:

I am going to play the devil's advocate. I am a county commissioner in Elko County, so I am not going offer a salary. I am going to pay \$1 a year plus fees to perform this function. There are not enough fees to do the job. Then the board of county commissioners can appoint any elected or other person to fill that position. Is that how you read the bill?

As the bill is written, that would be allowable. No one would run for the office, so the board of county commissioners could appoint someone. It could appoint anybody elected or otherwise to fill the position of public administrator. However, you are telling me that at that point, the clerk to the dogcatcher or whoever is appointed, would be in charge and could collect the fees from an estate.

BOB GETTO (Public Administrator, Churchill County):

The issue is that with some of these estates, when a person passes away, he or she may not have any more than \$1,000 or \$2,000 in assets. Whether the estate is \$1,000 or \$2,000 or \$50,000 or \$60,000, the amount of effort and time is the same on every single case. It takes time to meet with banks and lawyers and get things taken care of.

The way I envision this is that on the estates that carry their own weight, if the public administrator is keeping track of the records, accounting, bookkeeping and notes, the problem is not there. There is no percentage by statute on what this personal representative can make. However, on the estates where the money is not there, the public administrators need to be able to talk with their

county commissioners and say for these rock bottom estates maybe \$1,000 or \$2,000 is needed to handle them correctly.

I do not envision it happening. If some county commissioners say we are only going to pay you \$1 a year, although I know that is a possibility, no legitimate county commission would want that to happen. Nothing is better than having a public administrator who wants to do the job and is willing to do it correctly. That is a godsend. There is more to the job than someone thinking he or she is going to run for the office because he or she gets to manage garage sales and that is going to be fun.

The percentages that a public administrator is paid are 4 percent for the first \$15,000 that an estate is valued at, then it is 3 percent of the next \$85,000 and then it is 2 percent for every \$100,000 thereafter. However, there are many estates that we work with in rural Nevada where \$15,000 is not there. Therefore, if we use our formula where \$2,000 or \$3,000 is in the checking account, 4 percent of \$2,000 is not a good way to get that done. That is why I hope that all of these public administrators, if we go this route, will negotiate with each county and determine how many deaths occur per year on average and be able to figure out what to do about the estates that cannot carry their own weight.

SENATOR GOICOECHEA:

Do not get me wrong. I am not trying to poke holes in this. It is great. We have to bring something forward. We have to do something. I know about the problems we face in some of these jurisdictions. I am trying to take it apart and figure out if this is going to work or if it is going to be adequate.

In the case of Washoe County, I assume that they have a salary set that is significantly higher than the \$50 stipend in Churchill County.

MR. GETTO:

Churchill County pays a monthly stipend of \$500. I pay my lease on my copy machine, my telephone and my cellphone with that \$500. I have staff who answers the phone when the sheriff's department calls. It also pays for stationery. Postage is an amazing number. You would not think that it is. Notifying 20 or 25 people by certified letter on each estate costs approximately \$200. My stipend of \$500 per month does not cover my rent.

MR. CAVALLO:

I agree with Mr. Getto. This also gives the board of county commissioners in these areas the ability to negotiate with the incoming public administrator to be able to send mail through the county. That would be a cost savings. In addition, the county might have extra office space or any of those other things that help support the function of an office. That would be a minimal cost if the counties were able to do that.

In Washoe and Clark Counties, department head salaries are set by the Legislature. I am in a group along with other seven elected officials such as the clerks, the recorder, the district attorney and the sheriff. I am fortunate to have a staff in Washoe County. Besides myself, there are ten other employees in the department with a budget over \$1 million per year.

HEIDI CHLARSON (Counsel):

I need clarification on the intent of this bill. Some public administrators are elected and some can be ex officio such as district attorneys. There are also provisions that allow a board of county commissioners to combine offices. By ordinance, smaller counties may have combined, for instance, the office of the county clerk with the office of the public administrator. I do not know for sure.

However, regarding salaries, certain public administrators' salaries are set forth in statute. Section 1, subsection 2 of A.B. 310 allows district attorneys to retain fees. Then section 1, subsection 4 of the bill creates a new payment structure for public administrators who do not otherwise receive a salary. I would read this new language in section 1, subsection 4 as applying to those elected public administrators whose salaries are not otherwise set out in NRS 245.043. However, it seems to get confusing when another elected or appointed public officer is serving and whether those officers would also be entitled to the fees.

Therefore, I read this new language in section 1, subsection 4 of the bill to set forth a salary structure for only those public administrators who are elected but whose salary is not otherwise provided for in statute. However, I may be misunderstanding the intent.

SENATOR GOICOECHEA:

So if a district attorney or a county clerk is being paid a salary by that county, does section 1, subsection 4 of the bill apply, because he or she is receiving a salary, but not pursuant to NRS 245?

MS. CHLARSON:

In NRS 245.043, the person is receiving a salary for being the district attorney or the clerk or the recorder. Subsection 2 of NRS 253.050 allows the district attorneys of these counties to retain fees. However, the statute does not answer your question about county clerks or other officers serving in that role and whether they are entitled to receive the new fees that are in section 1, subsection 4. Clarifying the intent would be helpful.

SENATOR GOICOECHEA:

I do not want to get that deep into Assemblywoman Titus's bill. We do not want to jeopardize it in any way, but it is a question.

ASSEMBLYWOMAN TITUS:

It is important to clarify that. It is important to know the intent because it is hard to go back once it is in statute. The reason it is addressed in section 1, subsection 4 of the bill, which says "who does not receive a salary pursuant to NRS 245.043," is that it refers to section 1, subsections 2 and 3 where everybody else was included. The reason we even address that is because we want to make sure that we did not change whatever the structure is in those counties that are already listed and how they are doing it. The intent of this is for those counties that are not otherwise specified, which would be Washoe and Clark Counties and then the ones listed in section 1, subsection 2 of the bill, and whatever their structure is that is not mentioned anywhere in statute. This is to clarify that the public administrators need to be paid a salary, and that it is to be determined what that salary is.

We did not intentionally jeopardize what is going on in section 1, subsection 2 of the bill. That is why we called it an "otherwise" section. Maybe it is not clear enough, but the intent is only for those counties that are not otherwise specified.

SENATOR GOICOECHEA:

It is not required by statute, but Eureka, Elko and Pershing Counties appoint their district attorneys to the vacant elected public administrator positions. They

do not offer enough salary for anyone to run for it. That would meet the criteria of this bill, and they would not have to pay any salary. The counties would be able to avoid the salaries we are talking about in section 1, subsection 2 of the bill because district attorneys are receiving compensation under NRS 245.

I am looking at all the holes in this. That is the way I see it. They could retain all fees allowed by statute.

MR. GETTO:

From my research, I know that in Humboldt, Lander, Lincoln, Storey and White Pine Counties, the district attorney is the public administrator. This was changed some years ago because of the very problem we were having. Ideally, it would be great to have the district attorney act as the public administrator in all the counties. However, in some of these counties, such as Churchill County, if the district attorney were to become the public administrator, the County would have to hire staff to handle the caseload. That is when the Public Employees' Retirement System gets involved with salaries and insurance. By the time that gets going, you are talking about \$50,000, \$60,000 or \$70,000 a year salary with all the expenses of payroll. This bill addresses just these counties that are not specifically mentioned in NRS 253.050, subsection 2.

SENATOR GOICOECHEA:

I am addressing those also. I want to see how they could escape this. I know in a number of these counties the county commissioners told their district attorneys they would be the public administrators. Some of them said no. Those are the ones in statute.

Some of the other counties that are not in statute still do not have to pay a salary. The public administrator is elected. No one runs for it. In that instance, the commissioners have to appoint someone. They would appoint an elected official to fill that position because it is required to have one. Either that or if the drought gets long enough, then they will eventually pay the salary. I understand what you are saying, but that is where we are.

ASSEMBLYWOMAN TITUS:

All of those points are valid. The reality is that it does not matter to me if they appoint someone. What I am trying to achieve is accountability and to discourage not having a public administrator. The people who run for the office can get into someone's estate. What is best for the public? What is best for the

estate and the citizens of Nevada? Are they harmed if the county appoints someone who is already an elected official? I think not, because there is still accountability. We are trying to bring everyone in under some scrutiny and some accountability. The way it stands now, people are not being reimbursed at all, so they use that as justification to skim off some of the estate. We are trying to achieve a pathway to accountability with this bill.

Maybe Eureka County will go around, appoint somebody that is already an elected official, and say here, you get this hat too. If that person accepts that, I do not see that there is a loss to the public if that happens. I am not saying it will but at the end of the day, we are trying to protect Nevadans and their estates and people from less than scrupulous practices. If that is how this gets resolved, then I see no fault with that.

SENATOR GOICOECHEA:

I represent Nye County where some of the problems were. It appointed people to act as public administrators. They were not elected officials and they were not bonded. I remember one public administrator who was not even 21 years of age. He was not even in the electorate, but he was functioning as a public administrator. I know where you are headed. Maybe I know more about it than I should.

MR. GETTO:

The questions you are asking are helpful because we need to bring this to the public and to protect them. People run for public administrator not knowing what they are getting into. There is no accountability formally set aside. You have to know some bookkeeping and have a good work ethic to be able to move when you have to in order to get things done. Just because people run for the office does not make them good public administrators. I hope we can get people in these small, rural counties who will rise to the top. Then in future Sessions, we will determine how to get things more standardized.

SENATOR GOICOECHEA:

I am fine with that.

CHAIR PARKS:

We have been talking about the problems in some of the other counties. I know that Clark County has had more than its share of problems with public administrators. It is a major area. I have worked as executor on several estates,

and I put in more than I got out. I spent much time sitting in probate court and shaking my head saying I cannot believe this.

I hope we can find a good solution for what we need to do. When you open up elected office with a salary of \$1, you know it is likely that the people who apply for it are thinking about their own interests rather than the public's interests.

MARY WALKER (Douglas County; Lyon County):

Assembly Bill 310 affects Douglas and Lyon Counties. We thank Assemblywoman Titus for working with us and addressing some of our concerns. We definitely support this bill.

This is a complicated subject. Senator Goicoechea brought out some of the intricacies of this field. We have a large problem. We are simply taking one step at a time to address the biggest problem with public administrators.

Assemblywoman Titus stated that we have to get these people some compensation so they do not steal. As we know, offices are vacant because people will not apply and they do not want to go on the ballot. They are not going to run for this office because they make no money. This bill is trying to address that. Maybe we can get some good people to run for this office if they are compensated appropriately.

I like the word "compensation" in the bill. Because some of these smaller rural counties only have a couple cases a year, perhaps an hourly rate is appropriate or a monthly amount or a stipend. It is up to the county commissioners to decide because one of these counties only has 900 people in it and others have 55,000 people. The boards of county commissioners should be allowed to determine that compensation.

Lyon County tried to get the district attorney to take over as public administrator and he absolutely would not. That avenue has been tried. In Carson City, the clerk gets her normal salary as an elected official; the only reason she keeps the public administrator position is the fees. She already has two jobs. She is the clerk and the recorder and now she is the public administrator, and she only is paid once.

It is complicated, and each entity has a different problem. However, this bill can go farther to resolve in a simple manner many of the problems that need to be addressed.

I appreciate the years of work that Assemblywoman Titus has spent on this.

MR. MORTENSEN:

I thank Assemblywoman Titus for her work on this bill on behalf of Lyon County. I would also like to thank Bob Getto for helping us. People will not run for the office, or if they did, they find out that it is not what they would like to be involved with so they quit. Then we cannot find a replacement or anyone willing to be appointed to that office and it snowballs. Adjusting the salary based on the amount of work required to do the job would be the best possible scenario. This bill provides that enabling ability.

We looked at the district attorney and the sheriff's office as a place to put the public administrator. I thought the sheriff's office was a place to have that done. Who would question law enforcement? However, in Lyon County, because we still have not replaced all of those positions we lost, our district attorney's office and our sheriff's office are understaffed. There is no way that they would be able to take on the duty of public administrator even if you could talk them into it. They would not have the work force and the ability to do so.

It was covered well and I would appreciate your support of A.B. 310.

SENATOR GOICOECHEA:

As I am looking at compensation, including benefits and retirement, it would depend on the county and whatever collective bargaining it has in place. It takes me back to when we paid constables \$1 a year salary because we were trying to do away with them. People ran for the office because they wanted access to the health care package. I guess there is flexibility in this bill regarding compensation from the board of county commissioners. They could negotiate that also.

JEFF FONTAINE (Nevada Association of Counties):

We are neutral on A.B. 310. We want to extend our appreciation to Assemblywoman Titus for this bill. It is not a cure-all for the public administrator issues, especially in the rural counties. However, it is a step in the right direction.

We usually oppose bills with unfunded mandates; however, this one provides much flexibility for us to ameliorate any concerns we would have with a significant fiscal impact or any impact on our counties.

The way the bill is written, a county with a small population and a small number of these cases in any year could set its salary at a level deemed appropriate. I appreciate the concerns raised by Senator Goicoechea regarding ancillary costs and other issues.

This is a way to incentivize those who are qualified and dedicated to public service and who are interested in applying for and performing the duties of a public administrator.

ASSEMBLYWOMAN TITUS:

I appreciate you hearing this bill. As you can hear from the testimony, many moving parts and effort went into this. We have been working on this bill for a few years. Many renditions of this bill came out and were sent back to try to make it positive and as painless as possible as you heard from the counties. I hope we move in the right direction and that you support this bill.

CHAIR PARKS:

We will open the meeting to public comments.

PAM STUCKEY (Renewable Envoy):

I am here to offer my support for A.B. 5. It is an opportunity to create new jobs, clean air, clean water and economic development.

I have submitted written testimony supporting A.B. 5 ([Exhibit G](#)).

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CHAIR PARKS:

Having no further business to come before the Senate Committee on Government Affairs, we are adjourned at 1:50 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	3		Attendance Roster
A.B. 5	C	2	Angela Dykema / Office of Energy, Office of the Governor	Explanation of Bill Language
A.B. 5	D	2	Jennifer Gaynor	Nevada Credit Union League Proposed Amendment
A.B. 80	E	11	Scott Gilles / City of Reno	Presentation on Reno Redevelopment Area 1
A.B. 310	F	2	Assemblywoman Robin L. Titus	Written Testimony
A.B. 5	G	3	Pam Stuckey / Renewable Envoy	Written Testimony