

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eightieth Session
April 19, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 8:38 a.m. on Friday, April 19, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

Assemblywoman Susie Martinez (excused)
Assemblywoman Connie Munk (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Geigy Stringer, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Brittany Walker, representing Sun Valley General Improvement District
Dagny Stapleton, Executive Director, Nevada Association of Counties
Les Lee Shell, Chief Administrative Officer, Office of the County Manager, Clark County
Mary Walker, representing Carson City; Douglas County; Lyon County; and Storey County
Jamie Rodriguez, Government Affairs Manager, Office of the County Manager, Washoe County
Molly Billbray-Axelrod, Private Citizen, Las Vegas, Nevada

Chair Flores:

[Roll was called. Meeting rules and protocol were explained.] I will open the hearing on Senate Bill 10, which revises provisions governing compensation of members of a board of trustees of a general improvement district.

Senate Bill 10: Revises provisions governing compensation of members of a board of trustees of a general improvement district. (BDR 25-432)

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:

It is a pleasure to appear before you today to present Senate Bill 10. The purpose of this bill is twofold. This measure would increase the cap on the amount of compensation that a member of a board of trustees of a general improvement district (GID) can receive for service on the board. The second purpose is to define "compensation" to exclude contributions made to the Public Employees' Retirement System (PERS) on behalf of a member of a board of trustees.

General improvement districts are governed under *Nevada Revised Statutes* (NRS) Chapter 318. General improvement districts are created to provide certain services to residents of an area generally located in the unincorporated portion of a county. The types of services that a general improvement district can be authorized to provide are established in NRS 318.116. There are 21 types of services that a GID can be authorized to perform. Some GIDs are authorized to provide all 21 of the listed services while others are single-purpose districts. In 1977 the Legislature raised the cap on what a member of a board of trustees could receive as compensation from \$1,800 per year to the current cap of \$6,000. At this time this single cap applied to all general improvement districts. In 2005 the Legislature

bifurcated the limit on compensation and created a new cap for members of a board of trustees of a general improvement district that was authorized to provide sewer, water, and garbage services to \$9,000 per year. This bill seeks to increase the current \$6,000 and \$9,000 caps to \$9,000 and \$12,000, respectively. According to an inflation calculator on the Internet, \$6,000 in 1977 equals \$25,168.51 today. The same calculator converts \$9,000 in 2005 to \$11,714.38 or pretty close to the \$12,000 this measure would increase that cap to. As you can see, it is time to adjust the caps on compensation the public servants receive.

The second purpose of the bill is to provide a definition of "compensation." There is currently no definition given in NRS Chapter 318. As submitted, section 1, subsection 6, of S.B. 10 would define "compensation" as salary and wages. During the hearing on the bill in the Senate [Senate Committee on Government Affairs, February 13, 2019], Mr. Aaron Katz, a resident of Incline Village General Improvement District, opposed the bill primarily because of this subsection. Mr. Katz opined that the section was overly broad and could be abused. In subsequent discussions with Mr. Katz, we agreed to submit the amendment to this section that you all should have ([Exhibit C](#)).

The amendment changes subsection 6 of section 1 to state that compensation does not include any contributions made to the Public Employees' Retirement System on behalf of a member of a board of trustees. We believe that this amendment makes this a better bill by precluding any abuse. I would like to thank Mr. Katz for his assistance on this. This change is necessary as the current lack of a definition has caused confusion on the part of some GIDs that currently pay the members of their board of trustees the current cap of \$6,000 and contribute to PERS on their behalf. Are they compliant with current law? We are not sure.

Finally, Mr. Chair and members of the Committee, I want to make it clear that the passage of this bill would not increase the compensation of any member of a board of trustees of a general improvement district. If this bill is passed, then any GID that wishes to increase the compensation paid to individuals that serve on their board of trustees, the board of trustees would have to vote to increase the compensation at a public meeting of the board. Any increase authorized would not take effect until January 1 of the year following the next biennial election.

That concludes my presentation of the bill. I would like to thank you, Mr. Chair and members of the Committee, for being allowed to present this bill to you today. I would be happy to answer any questions.

Chair Flores:

Thank you for that presentation.

Assemblywoman Bilbray-Axelrod:

Is this enabling language that would allow the board of trustees to take that public vote?

Wes Henderson:

Yes, this would be enabling legislation so that if the governing body or a board of trustees felt that the compensation was not sufficient, then they could vote to increase the salaries that they are being paid at a public meeting. But that would not take effect until January 1 after the next biennial election. You cannot raise your own pay, basically.

Assemblyman Ellison:

Why was this not set up by size of the GIDs? You have some GIDs that are very small; for example, strictly for road maintenance.

Wes Henderson:

I cannot speak for why the Legislature did not set it up by size of the GID. You are right, there are some GIDs that provide more services and some that provide single services. I can try to find out for you, but I am not sure that the board of trustees of all GIDs receive compensation. It is generally the larger ones that pay the members of their boards.

Assemblyman Ellison:

Based on this bill, they could go in and implement this bill and not even make that money. Is that true?

Wes Henderson:

I do not believe so. They would have to hold a public hearing at one of their regular meetings of the board of trustees. They would have to create an ordinance increasing the compensation that they receive currently. It would have to be a public meeting, and it would not take effect until January 1 of the year following the next election.

Assemblyman Hafen:

Under the current statute, do the \$6,000 and the \$9,000 per year compensation limits include PERS contributions? The way that I read it, it should.

Wes Henderson:

We are not sure, because "compensation" is not defined in that section.

Assemblyman Hafen:

But I mean as a practice. Is that being included, or is PERS being paid in addition?

Wes Henderson:

We are not sure. We do not know if that is included or not. That is partly how this bill came about. Some of our members were asking about that, and I know we have members out there currently paying the members of their boards of trustees \$6,000 per year and they are also paying PERS contributions. So the question is, are they compliant? With no definition in the NRS, we are not sure. That is one of the reasons why we brought this bill forward—to make it clear.

Assemblyman Hafen:

With this increase, the cost per member is going to go up on the high end, to roughly almost \$17,000, when you factor in PERS. I notice that there are no fiscal notes or fiscal impact. I am trying to understand how there would not be a fiscal impact with that kind of increase. Can you explain how the compensation increase would be paid for?

Wes Henderson:

This bill itself would not increase anyone's compensation. This is enabling, so that if a board of trustees felt that they needed to increase the members of the board of trustees' compensation and if they had the resources to do so, then they could take the vote at a public meeting for the increase. The bill itself does not increase anyone's compensation. It is enabling.

Assemblyman Carrillo:

I apologize for my tardiness; I missed the beginning of your presentation. Is this compensation just an increase in the cost of living allowance (COLA)? Is that what we are doing here? Because we know many people—especially teachers—have not been getting COLA. So what is the whole purpose of this?

Wes Henderson:

The purpose of the bill is twofold. One is to authorize an increase in the salary caps. As I said, the \$6,000 cap was set in 1977; the \$9,000 cap was set in 2005 when the Legislature bifurcated the process so that if a GID provides water, sewer, and garbage, they can pay at the higher rate. I cannot speak for how each GID sets the compensation for their members; I am not sure whether all of them are at the cap or not.

When we started looking at the bill, the question that came up was, are PERS contributions part of compensation? It is not defined in the NRS section. When we started looking at that, we went back and looked at when the caps were created—then we figured it is time to increase what could be allowed.

Assemblyman Carrillo:

I see that the last time they got a raise was 1977, but is this role not a part-time job, something that they do above a regular full-time job?

Wes Henderson:

This is definitely a part-time job, or it could be a retirement job. Most members of the board of trustees do have other employment or are retired.

Assemblyman Carrillo:

Yes, I do not think anybody could actually afford living on even this increase. Not that I am pushing for another increase—but I see this as, again, a part-time job. It is not their regular salary which, who knows, each trustee probably gets. I am trying to justify and understand the increase from \$6,000 to \$9,000, a 50 percent increase. I know this is not a money

committee, but obviously, this may not even go to the Assembly Committee on Ways and Means.

Wes Henderson:

The \$6,000 to \$9,000 would be a 50 percent increase; the \$9,000 to \$12,000 would be a 33 percent increase. As I stated earlier, using an inflation calculator, \$6,000 in 1977 would translate into \$25,000 today; the \$9,000 that was established in 2005 would translate to about \$300 under the \$12,000 that this bill would raise it to.

Assemblyman Carrillo:

And this is for a part-time job. This is not full-time employment, correct?

Wes Henderson:

That is correct.

Assemblyman Leavitt:

I do not have a huge issue with this. I want to understand what the members of a board of trustees are tasked to do. In most small municipalities, their city council—if they are paid—are right around the \$12,000-per-year mark, and they are running a city, and it is a part-time job. If anyone knows anything about city councils, it is called a part-time job but it is really a full-time job. I want to understand the need for the increase, such as if their duties have increased or if they are having to spend more time on these boards, and what exactly is encompassed in that.

Wes Henderson:

I appreciate the fact that you realize that our dedicated municipal public servants are part time but they are not part-time jobs. They work many hours for the benefit of their communities.

A general improvement district, once one is set up, is considered a quasi-municipal organization. They have the same responsibilities as would a city council, especially of a small city.

Assemblyman Leavitt:

I trust your opinion a lot in this realm. Would you say that they work a little more towards full time than part time, even though it is considered a part-time job?

Wes Henderson:

Yes, I would. Like members of a city council, members of a board of trustees live within the general improvement district where they serve on the boards. People, when they meet their local government officials in the grocery store or at the gas station or wherever, talk about their concerns. It is definitely more than just a part-time job. As things go on and some of the infrastructure ages, they probably work more than they used to. That is only an opinion—I do not have any evidence of that.

Assemblywoman Duran:

Do we know how many members of boards of trustees there are and how much impact this would have on the budgets?

Wes Henderson:

There are usually three or five members of a board of trustees. I do not know what the salary ranges are now; as I said, the smaller GIDs do not receive any compensation while some of the large ones are at their caps now.

Assemblywoman Duran:

Do we know how many board members there are in total who would be impacted by this increase?

Wes Henderson:

The short answer is no. As I said, this bill does not increase anyone's pay. It just increases the caps in the statute, so that if sometime in the future a board of trustees thinks that they should increase their pay, then they could take a vote at a public meeting. It may affect a few GIDs, or it may affect more GIDs—that is unknown. This is simply enabling language.

Assemblywoman Duran:

Is there any way we can get a count of how many GIDs there are and approximately how many members there are in total?

Wes Henderson:

I can certainly try.

Assemblyman Assefa:

How is the board of trustees selected? Are they appointed or elected?

Wes Henderson:

When a GID is created, the initial board of trustees is appointed by the county commission and then they are elected.

Assemblyman Assefa:

Where do they get their funding from?

Wes Henderson:

There are various ways that they get funds. Some are through enterprise funds, such as if they are providing a garbage service they charge the residents for the service. I do believe they get some ad valorem revenue, but it is usually from fees and assessments.

Assemblyman Carrillo:

As you said, this is originally an appointed position—so this is something they volunteered for to begin with, and then they decided to actually go and get elected after that. This is something that they are doing at their leisure. This is not something, again, that they have

been forced to do. If you say, Hey we are going to cap it out, and even if you cap it out that just says, Hey we can go up to \$9,000 or \$12,000, as the case may be. I am trying to wrap my brain around this part, because for somebody who decides to run for office like all the people in here—we do not do it for the pay. I am just trying to understand—oh, we get special privileges so we can become appointed or elected to a board of trustees. Help me understand why these people, whoever might be appointed, or who decided to do this when they were not called on to do this are not just volunteering to become elected. I am trying to understand it—get me there.

Wes Henderson:

The reason GIDs come into existence is there are people who live in neighborhoods, typically the unincorporated area of a county. These neighborhoods, for example Indian Hills or Incline Village, want more services than what the county is providing for them, so they go together to form a GID. They go to the county commission; they say we want to do this; and we want to form a GID to provide these services. There is a laundry list of up to 21 services that a GID can be authorized to provide. When the county commission agrees, they pass an ordinance and they appoint the original members of the GID—sometimes the people who organize the thing. After the original appointment, then they are elected like any other public official.

Our standpoint is, these are public officials' duties deserving of some sort of compensation. I know you only get paid for half of the 120 days. I do not think anyone is getting rich serving on a city council or on a board of trustees of a GID. They are just trying to improve their neighborhoods.

Assemblyman Carrillo:

But they do not do it for the pay, so why is this about pay?

Wes Henderson:

This is not just about pay. The fact is they are entitled to compensation now. But the caps on this compensation have not been changed since 1977 and 2005. We put this forth as enabling legislation so that if a GID desired to pay their board of trustees more and had the resources to do so, they could. That is the whole purpose of this bill, and to make it clear that PERS contributions do not count under that cap.

Assemblyman Leavitt:

How are these offices paid for during the formation? After the appointment of members, which would probably be the first step to forming a GID, how are they paid when they are not collecting trash, dues, or any assessments or fees at that point?

Wes Henderson:

I do not believe they are paid during the formation.

Assemblyman Leavitt:

Now that they are paid and there is a potential for an increase in salary, is there any point where this group would come to either the state or the county asking for money to pay that increase in salary?

Wes Henderson:

I do not believe they would come to the Legislature. I do not believe they would go to the county. In the situation where the GID is initially set up and is authorized to provide services A, B, C, and D, and later on they want to provide services E, F, and G, then they would have to go back to the county commission to get the county commission to authorize them to provide those additional services. As I said earlier, most of the compensation comes from dues and assessments, and they may get a small piece of ad valorem.

Chair Flores:

We are good with questions for now; please sit back. I would like to invite forward those wishing to speak in support of Senate Bill 10.

Brittany Walker, representing Sun Valley General Improvement District:

Sun Valley General Improvement District was established in 1967 and provides water, sewer, garbage, and recreation services to the over-20,000 residents of Sun Valley. They are in support of the bill.

Assemblywoman Bilbray-Axelrod:

How many members are in the Sun Valley General Improvement District?

Brittany Walker:

There are five members on the board of trustees.

Assemblyman Assefa:

How often do they meet?

Brittany Walker:

I would have to check, but I believe they meet once a month.

Assemblyman Carrillo:

How many members are on the board again?

Brittany Walker:

There are five members.

Assemblyman Carrillo:

How many of those members have term limits—or do they serve for as long as they please?

Brittany Walker:

I do not know the answer to that. I would have to look that up for you. I believe term limits do apply to them. Committee counsel is nodding his head, "yes."

Assemblyman Carrillo:

Again, these individuals decided to do it because of big hearts and they decided they wanted to help their community, right? We cannot base it on pay; we have to base it on how much we love our community and how much we want to volunteer and help our community, correct?

Brittany Walker:

I would echo Mr. Henderson's comments in saying that the Sun Valley board of trustees works very hard and they do what they do for their community.

Chair Flores:

Members, are there any additional questions? Seeing none, thank you for your testimony. Is there anybody else wishing to testify in support of Senate Bill 10? Seeing no one, is there anyone wishing to testify in opposition to Senate Bill 10? Seeing no one, is there anyone wishing to testify in the neutral position for Senate Bill 10? Seeing no one, we are ready for any closing remarks you may have.

Wes Henderson:

I just want to add that members of the board of trustees are subject to term limits, and I want to thank you and the Committee for your time this morning.

Chair Flores:

Thank you. We are going to go ahead and close the hearing on Senate Bill 10. I would like to open it up for Senate Bill 13 (1st Reprint), which authorizes the board of county commissioners of a county to form a nonprofit corporation to aid the county in providing certain governmental services.

Senate Bill 13 (1st Reprint): Authorizes the board of county commissioners of a county to form a nonprofit corporation to aid the county in providing certain governmental services. (BDR 20-483)

Dagny Stapleton, Executive Director, Nevada Association of Counties:

Our members are all 17 of Nevada's counties. I want to thank you, Chair Flores and members of the Committee, for allowing us to present this bill today. The idea for Senate Bill 13 (1st Reprint) was originally brought to Nevada Association of Counties (NACO) by Clark County. After the events of October 1, 2017, they found that this policy change was a priority. We brought the idea to the NACO board of directors. We discovered that this proposed mechanism is one that all of Nevada's counties thought was important, especially when they thought about the, hopefully, unlikely event of a very serious emergency or a mass-casualty event taking place in their communities.

Senate Bill 13 (1st Reprint) would authorize a county to create a nonprofit corporation, tax-exempt under Internal Revenue Code section 501(c)(3), for the limited purpose of assisting the county in accepting donations and providing assistance and services to residents and visitors in times of emergency. In the aftermath of the October 1 tragedy in Clark County, the county realized they needed the ability to establish a 501(c)(3) in order to accept and disburse donations from those who wanted to help. Currently, under Nevada state law, however, counties are not enabled to establish such funds. Senate Bill 13 (1st Reprint) would change that so that counties can provide oversight and donations by establishing a 501(c)(3) in an efficient and fair manner to assist victims.

Les Lee Shell, Clark County's Chief Administrative Officer, is here with me today to provide a little more background on what led to the request for S.B. 13 (R1). Before that, Mr. Chair, I would be happy to walk through the specific provisions of the bill by section.

Beginning with section 2 of the bill: this addresses the powers of a county 501(c)(3). *Nevada Revised Statutes* (NRS) Chapter 82 outlines the powers of 501(c)(3)s in Nevada. This section states that the county emergency 501(c)(3) would have all those powers, with some limitations that are further outlined in later sections of the bill.

Section 3 allows counties to create a 501(c)(3) for the purpose that we mentioned.

Section 3, subsection 2, requires the board of county commissioners to be the ones that write and approve the articles of incorporation as well as the bylaws. It also requires that those bylaws state that the county 501(c)(3) shall serve only the purpose of providing emergency assistance and that the nonprofit can only operate after a declaration of emergency by the county. The bylaws also must state that all money received by the nonprofit shall be used to benefit the victims of the emergency.

Section 3, subsection 3, states that the county commission shall appoint the initial members of the board.

Section 3, subsection 4, includes language requested by the ethics commissioner, which clarifies that appointment to this board does not deem someone a public officer unless they already are one.

Section 3, subsection 5, requires that the board of a county 501(c)(3) shall report annually to the county commission and include in that annual report a summary of their activities over the past year as well as a financial statement and a list of the names of the current board members.

Section 4 limits the powers of the county 501(c)(3), specifically that they will not be able to borrow money, contract debt, issue bonds of any kind, and levy dues, assessments, or fees. The county 501(c)(3) is essentially more limited than a conventional 501(c)(3) in those ways.

Section 5 does give board members of the 501(c)(3), because of their appointment by elected officials and because of their limited purpose and service to county government, the same type of legal immunities granted to any public employee or public officer under NRS Chapter 41. Only for that purpose shall the 501(c)(3) be deemed a political subdivision.

Finally, section 6 says that if a 501(c)(3) is dissolved, any assets return to the county and must still be used for a purpose consistent with that for which the nonprofit was founded. With that, Mr. Chair, I would like to turn it over to Ms. Shell.

Les Lee Shell, Chief Administrative Officer, Office of the County Manager, Clark County:

As Ms. Stapleton stated, this bill was born out of our experience post-October 1. On the morning after the incident, we received calls from both the City of Boston and the City of Orlando. In addition to offering their support to us and sharing their experiences and any assistance that we might need in getting through the next days, months, years, they asked us if we were prepared for the financial donations and the people from across the world who were going to want to help. They asked if we had this mechanism in place and we indicated that we did not. After further research, we found that we actually did not have the authority ourselves to create a mechanism.

During the next few weeks, we reached out to various members of the community to try to figure out a mechanism that would allow us to take in these donations under the auspices of a nonprofit. As you all may remember, a GoFundMe site was set up by our then-County Commissioner Steve Sisolak and our current sheriff the day after the event. An administrative cost was being charged on those donations, and we wanted to make sure that 100 percent of the monies that were being donated were eventually going to the victims and survivors of this event. We wanted to try to find a way to get those into a different mechanism.

We were eventually able to find some folks who were willing to step up. The Nevada Resorts Association offered to establish a nonprofit for us and we had some community members who were willing to sit as board members on that nonprofit. As you might imagine, this was a difficult task. The protocol that we had to devise made it difficult; some folks did not want to participate in it; the nonprofit itself would basically act as a claims type of processing, so that became complicated. Other agencies that offered to participate wanted to use the funds in different ways. We wanted to make sure that 100 percent of those funds went to the victims and survivors of the event.

It took about five months for us to get from October 1 to the actual distribution of those funds. During that time, the families and survivors were confused about what was happening. They knew these donations were coming in. They wanted to know when they could access them for very important things that they needed. We believe that this bill, S.B. 13 (R1), by allowing us to proactively establish this nonprofit should we need it, would allow that nonprofit to be available to us when we have to declare an emergency and we

would be able to immediately respond to those generous donations from people in the community.

Thank you for your time. I am able to answer any questions.

Assemblyman Ellison:

This is a great thing to do. This is going to be a nonprofit; will this be held in a private interest-bearing account, or will this go into the general fund in every county that is going to do this?

Les Lee Shell:

We established it for October 1 as a separate account from the general fund. I would anticipate, for financial authority purposes, you would want to keep it separate.

Assemblyman Carrillo:

Section 3, subsection 2(c), where it requires all money received by the nonprofit corporation must be used to benefit victims of the emergency—what if it is not money donations but donations other than cash? Would this apply to those as well, or would they have to say, We cannot receive any type of equipment or something other than money.

Dagny Stapleton:

This 501(c)(3) would be bound by all the laws governing other 501(c)(3)s, except for the ones we mentioned. It includes in there that they can also accept donations that do not have to be financial to benefit their purpose in the course of their duties.

Assemblyman Smith:

Referring to section 3, subsection 3, "appoint the initial members of the board," how many would be on the board? In the first go-round, if three were appointed for the year, then following that, it says "subsequent members . . . must be appointed as provided in the bylaws." How many would be on that board?

Dagny Stapleton:

There are certain provisions governing boards of 501(c)(3)s that are already set out in statute. Any board established by the county would have to follow those. It would be up to the county commission to establish, within law, the number of seats on that board and how those would be elected or appointed, going forward, after the initial appointment.

Assemblyman Smith:

You get through the initial part and beyond that, if you are going to appoint someone, they are not to be a public officer. I am assuming they are private citizens at that point; non-elected, not employed by government.

Dagny Stapleton:

Yes. That is the intent of that. By virtue of serving on this board, they do not become a public official. The ethics commissioner wanted that language in there to clarify.

Chair Flores:

Section 3, subsection 5, paragraphs (a), (b), and (c) of the bill explain that we have to have a summary of the activities of the nonprofit corporation, a statement of the finances, and the names of the current members. One of the other things that most people and I would appreciate putting in there, which I hope you will consider, is a very detailed report of how every single dollar is spent. I understand that there was a GoFundMe account and there were a host of things that needed to be done after the horrible 1 October event. There were many questions about where the money was being used; people were asking questions. For the purpose of transparency, in any type of emergency where we have to follow this model, it would be prudent for us to allow the public to see how every single dollar is spent—How much are we paying the board members? Are we compensating any employees?—disclose all that is authorized and allowed under this type of structure. It will be important that we say that we are not abusing any of those dollars, that we are not paying somebody \$100,000 to help with an emergency. I remember seeing something like that in the media, where numbers were being distorted and the media was saying that we had hired some expert from out of state to help manage a lot of the funds that were being donated. A lot of money was paid. I remember that strong criticism. I do not know if any of that was factually true, but for the purposes of instilling confidence in all those individuals who step up in a moment of a disaster like that—where everybody was donating blood, everybody was putting all of their resources on the table—we need to make it very clear: Here is how every single penny is being spent. Not only that, if somebody donates a vehicle we say, Here is how it is being used—whatever that donation may be—to instill confidence in the community.

Dagny Stapleton:

That was actually the intent of adding these sections to make sure that the public did not lose sight of this nonprofit. The nonprofit had to come back and report to the county commission. That is exactly why we included section 3, subsection 5(b) there, to include a statement of the finances. That is the intent. If there is interest in adding more details in there, we are surely open to that. The county commission, when they set the bylaws, would be able to set compensation for the board. Compensation for the board is not something that would be immediately considered, but that would be up to the commission too. All of that would be done in a commission meeting subject to the Open Meeting Law.

Les Lee Shell:

For our purposes and for the management of funds for 1 October, all of the services that were rendered were performed pro bono. We did not pay anyone for his or her expertise. The intent for us moving forward would be that any administrative cost, we would hope, would be donated to the purpose for which it was meant. We would expect to move forward with that concept that any dollar that comes in goes out to the victims and survivors.

Assemblywoman Gorelow:

Do you anticipate needing paid staff to help with the running of the nonprofit?

Les Lee Shell:

It is hard to know what a future event may look like, but to speak on behalf of Clark County, we anticipate that we would run it the same way we did in 1 October, when everything was donated. Folks in the community just stepped up and wanted to help. The county did support that internally through some of our staff. I would say no, given our scenario, but it would be dependent on the emergency and the situation.

Assemblywoman Gorelow:

Hopefully there would not be multiple disasters that we would have to set up. Would you anticipate having several nonprofits then; one for each different disaster?

Les Lee Shell:

For Clark County, what we anticipate doing is transitioning the existing nonprofit that we have, from the Las Vegas Victims' Fund to our nonprofit, and it would sit dormant—for lack of a better term—until we would need it. We would increase it for just that emergency purpose, and in accordance with the bylaws and the reporting requirements, close it down once those funds were distributed. That is how I expect we would do that.

Dagny Stapleton:

To Assemblywoman Gorelow regarding how paid staff would work: Part of the vision of this is that because this is a 501(c)(3) that is established through a county, county staff would be able to provide support as part of their regular duties. We would be able to use county staff and resources also to support this effort.

Chair Flores:

I am going to ask our committee counsel to join the conversation. We know that a 501(c)(3) designation is determined at the federal level. As a state, we do not know that we can force that designation to be recognized; that would be up to the federal government. It will be good for our committee counsel to explain that, so we have it clear for the record.

Asher Killian, Committee Counsel:

That general description is accurate. What this bill would do is direct the creation of a nonprofit under state law. A 501(c)(3) status is a matter of federal law, and under state law we cannot direct the federal government to treat this organization as a 501(c)(3). Based on how this nonprofit entity is being contemplated in the bill, where a local government would have control over the articles of incorporation and bylaws and would have control over the appointment of the members of the board of directors, the nonprofit entity would be deemed by state law to be a part of the local government for certain purposes. It is likely that under federal law, the Internal Revenue Service would consider the entity to be a government instrumentality rather than a 501(c)(3). A government instrumentality is also tax exempt for the purpose of donation, so there would be no distinction between a government instrumentality and a 501(c)(3) for that purpose. For the Committee's information, it is likely that the ultimate entities created by this, while nonprofits under state law, would not be 501(c)(3) organizations under federal law.

Chair Flores:

For clarification, members, the state is very comfortable and familiar with this process. With regard to government instrumentalities, we have such structures already in place. The Legal Division within the Legislative Counsel Bureau is very confident that what this bill contemplates can be accomplished and done as it has been done in the past.

Assemblyman Hafen:

This is a great bill, and it is something that I wish we did not need, but clearly we do.

There has been a lot of conversation about compensation of board members and employees. I think the first reprint clears that up. I am hoping you can confirm for me that section 3, subsection 2(c), requires that all money received by the nonprofit corporation must be used to the benefit for the victims of an emergency—that is in the reprint. I think that is very clear that money is not to be used to pay extravagant board salaries and things of that nature.

We also clearly added in a new subsection 5 to section 3 that we will submit financial disclosures. Could you touch on that and confirm that what I am reading is accurate?

Dagny Stapleton:

We are looking at the reprint here. Section 3, subsection 2(c), was added by amendment at the other house. You are absolutely right; we had not received that question yet about compensation of the board members, but I cannot imagine that the board of county commissioners would want to provide a substantial compensation for these folks. It does appear they would be prohibited from doing so under that subsection anyway, because all of the dollars encumbered would have to go to victims.

Regarding the reporting requirements, that was also a conversation we had at the other house, exactly to the same intent as the Chair mentioned, to make sure that there is transparency and that there is reporting via the commission to the public about the finances and activities of the 501(c)(3). That would be required through those paragraphs added under section 3, subsection 5.

Chair Flores:

Going back to my statement regarding the transparency of how every dollar is being used: Anybody that plays with words in this building—which is every single human being in here—knows that we could easily say that compensating a board member to help victims is in fact utilizing the money as intended by this bill. You could easily make that argument. That is why, for the purposes of transparency, I insist that we explain how every single dollar is used.

Assemblyman Smith:

I am going to go back to board appointments. It is a county body that you will be overseeing; I am concerned that you would not have a county commissioner on that board of trustees. It would be most prudent that you would want at least one county commissioner on it. The way it is written in section 3, subsection 4, you have painted yourself in a bit of a corner by saying "not otherwise a public officer." I am concerned about that, because if the entity is under the county's purview, that would be important to me.

Dagny Stapleton:

The way that we read it, the board could appoint a commissioner if they chose. The way that we read that section—and this is the section we worked on with the ethics commissioner—is that if a private citizen was appointed to that board, they would not become a public officer by virtue of that appointment. But if a public officer was appointed to that board, they would still be deemed a public officer while they were serving on that board. That section is not to prohibit a public official from serving.

Assemblyman Smith:

That is the way I first interpreted it. Thank you for clearing that up.

Assemblyman Hafen:

In theory, the board of county commissioners could be the board itself—they could appoint themselves? For the record, the presenters are nodding their heads, "yes." Okay, because in some of the smaller communities and counties, that might be beneficial.

Dagny Stapleton:

The way we read the bill, we think that might be all right. The only caveat would be if it is precluded under NRS Chapter 82 as well as the federal rules regarding 501(c)-like entities that the federal government would grant to a county. But the way we read the bill, you would be able to do that.

Chair Flores:

Members, are there any additional questions? Thank you, both, for your presentation and for bringing this important bill forward. I hope that we never have to use it. I would like to invite forward anyone wishing to speak in support of Senate Bill 13 (1st Reprint).

Mary Walker, representing Carson City; Douglas County; Lyon County; and Storey County:

After these types of tragedies and emergencies, it is standard protocol that people involved in those emergencies step back and look backward, like Monday morning quarterbacking—How did we respond? What were the things we did right and what are the things we did wrong? What are the things we can improve upon during these emergencies? That is where

S.B. 13 (R1) came from. That is why it is here today, from stepping back and looking at where we could have done better. I really do appreciate Clark County and NACO for bringing this forward because this will directly affect and improve our response and the help we give to the victims. That is probably the most important thing that we can do in emergencies.

Jamie Rodriguez, Government Affairs Manager, Office of the County Manager, Washoe County:

We are here in full support of S.B. 13 (R1). While we always hope that no such emergencies occur within our jurisdictions, having tools like this is extremely beneficial to help our victims and our residents. We all feel that it is very helpful. Unfortunately, there seems to be a trend, whenever emergencies are occurring, where we are finding fraudulent donation locations set up by people who are profiting from them. Putting donations under the purview of the county and giving donors the confidence that the money is going to go towards the victims and those people impacted by such emergencies, we feel is very helpful and beneficial. Putting it under the county, we hope, helps give that transparency and confidence to those individuals.

Chair Flores:

Is there anybody else wishing to speak in support of Senate Bill 13 (1st Reprint)? Seeing no one, is there anyone wishing to speak in opposition to Senate Bill 13 (1st Reprint)? Seeing no one, is there anyone wishing to speak in the neutral position on Senate Bill 13 (1st Reprint)? Seeing no one, thank you again for the presentation. We will go ahead and close the hearing on Senate Bill 13 (1st Reprint) and open it up for public comment.

We have a superstar in Government Affairs today, welcome.

Molly Bilbray-Axelrod, Private Citizen, Las Vegas, Nevada:

Hi, I am the daughter of and intern for Assemblywoman Bilbray-Axelrod. I was not expecting to come up so I did not prepare anything, but I just wanted to say that I agree on both bills.

Chair Flores:

We appreciate you. Our committee manager, Ms. Judi Bishop, has this gift for you. [The Committee schedule for the following week was reviewed.]

This meeting is adjourned [at 9:37 a.m.].

RESPECTFULLY SUBMITTED:

Geigy Stringer
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to [Senate Bill 10](#), submitted by Wes Henderson, Executive Director, Nevada League of Cities and Municipalities.