MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Eighty-first Session
May 3, 2021

The Senate Committee on Government Affairs was called to order by Chair Marilyn Dondero Loop at 3:30 p.m. on Monday, May 3, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Marilyn Dondero Loop, Chair
Senator James Ohrenschall, Vice Chair
Senator Dina Neal
Senator Pete Goicoechea
Senator Ira Hansen

GUEST LEGISLATORS PRESENT:

Senator Melanie Scheible, Senatorial District No. 9
Assemblyman Edgar Flores, Assembly District No. 28
Assemblywoman Susan Martinez, Assembly District No. 12
Assemblywoman Rochelle Nguyen, Assembly District No. 10
Assemblyman Howard Watts, Assembly District No. 15

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Emily Walsh, Nevada Conservation League
Janine Hansen, President, Nevada Families for Freedom; Nevada Committee for Full Statehood
Jake Tibbitts, Manager, Natural Resources, Eureka County
Charles Donohue, Administrator, Division of State Lands, State Department of Conservation and Natural Resources

Colby Prout, Natural Resources Manager, Nevada Association of Counties
Nat Hodgson, CEO, Southern Nevada Home Builders Association
Matthew Walker, Southern Nevada Home Builders Association
Lindsay Knox, Builders Association of Northern Nevada; Nevada Home Builders Association
Steve Walker, Lyon County; Douglas County
Todd Ingalsbee, President, Professional Fire Fighters of Nevada
Joanna Jacob, Clark County
Skip Daly
Mike Draper, Fingerprinting Express
Gail Anderson, Deputy for Southern Nevada, Office of the Secretary of State
Peter Krueger, Registration Services Association of Nevada
Dave Pappas, Fingerprinting Express
Karlene Johnson, Deputy Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation

CHAIR DONDERO LOOP:
We will open the hearing on Assembly Bill (A.B.) 378.

ASSEMBLY BILL 378 (1st Reprint): Revises various provisions relating to public lands. (BDR 26-718)

ASSEMBLYMAN HOWARD WATTS (Assembly District No. 15):
The movement commonly referred to as the Sagebrush Rebellion started in the 1970s in the Western United States. It objected to the federal management of public lands and sought significant, wide-scale transfers of management authority, if not outright transfer of land ownership, to State and local governments.

Nevada has had its fair share of prominent Sagebrush rebels and public lands conflicts. In the Legislature starting in 1979 with an effort by then-Assemblyman Dean A. Rhoads, a variety of policies were added that sought to establish veto power over federal management actions, assert State claims to vast swaths of public lands and set up processes to manage the lands that would soon be in the State's hands.

Ultimately, the vision of that large-scale transfer did not come to pass. Much of the language remaining in statute is constitutionally questionable in asserting the State's rights to own and manage lands forfeited early in its statehood.

Assembly Bill 378 seeks to remove some of these unused and inappropriate statutes and establish State and local governments, under law, as partners in the management of public lands. In the Assembly, we spoke with the State Department of Conservation and Natural Resources, Division of State Lands and Eureka County, and worked to address some of their concerns about the impact on their existing duties and activities at the State and local levels. The bill in its first reprint addresses those concerns.

Section 14 of the bill lists the sections of statute being repealed. The first repealed statute is a declaration that signals the intent of the State to continually seek the acquisition of any lands managed by the federal government in the State.

Nevada Revised Statutes (NRS) 321.596 through 321.599 declare federal management to be a hardship, purport the State management authority over these lands and create the Board of Review as a regulatory and appeals body for these decisions. A list of boards and commissions provided to the Sunset Subcommittee of the Legislative Commission indicated no recent meetings of the Board of Review and notes that in 2015, the Legislative Counsel Bureau (LCB) Legal Division questioned the constitutionality of those statutes.

Nevada Revised Statutes 321.601 created the Public Land Trust Fund in the State Treasury to handle Payments in Lieu of Taxes following a large land transfer from the federal government. That section has not become active since its passage 40 years ago.

Nevada Revised Statutes 321.735 gives the Division of State Lands the ability to unilaterally represent State and local interests on issues involving federal lands—roles best delegated to Governor Steve Sisolak and local governments.

Nevada Revised Statutes 321.736 requires the federal government to get State consent for its land management decisions which is constitutionally questionable.

Section 1 of the bill seeks to deprioritize the disposal of State lands making it one of many management options available.

Section 3 eliminates the definition of public lands which by process of elimination only refers to lands administered by the Bureau of Land Management (BLM).

Section 5 simplifies language regarding the State's technical assistance to local governments on land use planning and changes "shall" to "may" because that work is dependent on available resources.

Section 6 modifies language to promote local government involvement in the coordinated management of public lands.

Section 7 removes the requirement that the State includes any comments it receives, though it would not be precluded from doing so. Section 8 removes language prioritizing the acquisition of federal managed lands.

Section 10 removes another constitutionally questionable provision requiring the federal government to seek consent from the State to manage public lands.

Section 13 adds the previously deleted definition of public lands to NRS 487 where it is currently referenced in relation to abandoned vehicles.

Assembly Bill 378 seeks to streamline our statutes by removing language that is unconstitutional and eliminating entities not used. In doing so, it also modifies language to promote the responsible and collaborative management of public lands in Nevada.

I appreciate the Division of State Lands and Eureka County for working with me to address their substantial concerns with the original bill.

SENATOR GOICOECHEA:
I am concerned about some of the repealed statutes. I question why you are removing the Governor's authority to approve land management decisions? A number of things in the repealed sections were never proven to be unconstitutional or even challenged, even though in your mind they are unconstitutional. I can support the bill but not the sections that are repealed.

ASSEMBLYMAN WATTS:
I appreciate that, and I worked hard to make sure e substantive issues regarding the State Land Use Planning Agency (SLUPA) and the State Land Use Planning

Advisory Council were not negatively impacted by this bill. Frankly, we have some philosophical disagreements which are reflected in some of the provisions I am proposing to eliminate under the bill.

SENATOR HANSEN:
I agree with philosophical differences; however, constitutional is a little different. I was in the Sagebrush Rebellion and a fan of Dean Rhoads. My concerns are similar to Senator Goicoechea's.

People criticized the Sagebrush Rebellion. I am a big advocate for public lands access. The BLM and the National Forest Service were aggressively trying to shut things down. The Sagebrush Rebellion helped keep those areas open. You should keep that in mind when talking about the Sagebrush Rebellion.

Last Session, we had huge fights over the Navy and the Air Force expanding into parts of Nevada. Remember, the public domain in Nevada is owned by all 330 million Americans. There are only 3 million Nevadans. We are only 1 percent of the entire population, yet we want to tell the other 99 percent what they can and cannot do with their public lands when it comes to the military.

I am concerned about what is being deleted but also the philosophical things. We want to criticize the Sagebrush Rebellion, but you ought to give it credit for some of the great things the movement accomplished by fighting back on public land closures. That was a huge issue in Nevada.

What is the constitutional, philosophical question?

ASSEMBLYMAN WATTS:
I appreciate those questions and comments. Public land management has been rife with conflict on every side. As you are aware, the BLM has been given acronyms by different people. Some think it is too amenable to rural economies, extraction and agriculture; others think it too open to environmental interests. That is part of the struggle of an agency tasked with a multiple-use mission in attempting to balance that wide range of uses for future generations. Conflicts are inevitable. The input and activism of others has led to improved outcomes.

That is why I worked to modify this language to make sure we were encouraging and not getting in the way of some of the processes developed to

support collaborative land use planning and management. I want to keep access available; however, the State's early history with some of the trust lands within its control was not exactly rosy. I am a strong proponent of maintaining our public lands as a way of preserving access for future generations. I want to make sure that is done collaboratively with input from State and local governments. That is reflected in the bill.

In terms of constitutional issues, particularly with the Board of Review and those statutes, LCB legal staff had raised questions about those as early as 2015. Not being a constitutional lawyer, I will not wade too far in. However, State and local governments have a role in providing feedback and being involved in making decisions on public lands administered by the federal government. The State does not have veto power over some of those decisions and cannot be required to sign off on those decisions.

Much of what is being repealed are some of those references as well as the calls for large-scale land transfers given the State's history with some of its early lands. It is better to have a broader and well-rounded approach with management options. That is what some of the other changes in the bill seek to address.

We can have disagreements on many contentious issues. That is not to say that anyone was wrong in their decisions. This bill reflects the position of most Nevadans about the reality of where things have gone over the last 30 to 40 years and promotes a continued collaborative approach.

SENATOR NEAL:
Can you explain the deletion of "the expansion of the property tax base, including the potential for an increase in revenue by the lease and sale of those lands" in section 8, subsection 2, paragraph (b)?

ASSEMBLYMAN WATTS:
The original language contained a requirement to identify lands suitable for acquisition. The deletion of this language does not necessarily preclude the identification of lands for acquisition or disposal but broadens the statute to make that a low priority. Instead, the State Land Use Planning Agency may prepare plans or statements of policy concerning the administration of lands under federal management in cooperation with appropriate federal and State agencies and local governments. To be clear, the intent is that the

administration would include a range of management decisions and could potentially include disposal and acquisition by the State or other entities.

SENATOR NEAL:
In NRS 321.5983, when is the federal government required to get authorization from the State to use the land. I want more context because that was something I thought about also. When I looked into it, there is much history such as the equal footing doctrine and other information. Why was that in play? Was that a federalism issue? Why was there a balancing act for the State giving authorization?

ASSEMBLYMAN WATTS:
I would have to go deeper into legislative history to give you an accurate response. My understanding is that when these statutes were enacted, there was widespread dissatisfaction with the way public lands were being administered and a rejection that the federal government had the authority to do so. Many of these statutes were an attempt to assert the State's interest and authority in how those lands were managed; therefore, decisions could not be made by the federal government without signoff from the State. There has also been debate about the turning over of lands to the federal government at statehood.

SENATOR NEAL:
What remains in State control? I want to understand it. You said something that made me think the State was trying to assert its rights which it would be in a constitutional framework. If you strike this, under what law could it be challenged?

ASSEMBLYMAN WATTS:
This might be something to ask the Legal Division. There is not a simple answer. Things are complex. If the federal government wants water rights, it needs to go before the State Engineer in the Division of Water Resources. Wildlife is another interesting one because it is a public resource managed by our Department of Wildlife.

Many of the provisions of this bill deal with specific land management decisions which could be about setting the scope for grazing and agricultural activities or perhaps mining and extractive activities on public lands managed by the federal government. This bill says the federal government should be reaching out to and

engaging with State and local partners and taking their input into consideration to develop a plan for the management of those lands. That balances all the interests, but those management decisions are ultimately made by the federal government and would be challenged the same way federal decisions are challenged. The State does not have the ability to veto those unilaterally or to sign off on them before they could take effect.

EMILY WALSH (Nevada Conservation League):
The Nevada Conservation League supports A.B. 378. The bill removes several outdated and unconstitutional sections of State law relating to public lands. Nevadans overwhelmingly support our public lands and want to see them kept open to the public and conserved for future generations.

In the past, Nevada has attempted to seize federal public lands and transfer ownership to the State. The simple fact is that Nevada does not have the money or the expertise to manage these lands. The ultimate outcome would be either to bankrupt the State or sell those lands into private hands.

This bill will update State law and remove language proven to have no legal basis.

JANINE HANSEN (President, Nevada Families for Freedom; Nevada Committee for Full Statehood):
We oppose A.B. 378 and the deletions. The battle to obtain control of Nevada's land by Nevada has been going on for decades. I was a participant in the Sagebrush Rebellion. What is constitutionally questionable is for the federal government to control Nevada's lands. Article 1, section 8, clause 17 of the *Constitution of the United States* states that Congress can "exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings." No constitutional authority to control Nevada's lands exists in the U.S. Constitution. Nevada ceded our lands in our State constitution under duress, and it is invalid under the U.S. Constitution.

Nevada counties suffer without a decent tax base because so much of our land is under federal control. Lincoln County has self-identified as a welfare county because of the incredible amount of land in the county controlled by the feds. This harms the people in our counties.

Nevada has an extraordinary burden, more than any other state, with some 87 percent of its land controlled by the feds. No state east of the Mississippi has more than 4 percent of its lands controlled by the feds.

Federal management of Nevada's lands has been a disaster. Wildfires have devastated and destroyed wildlife, habitat and rangelands by the millions of acres. This is apparent if one lives in a rural county. My home in rural Elko County has been repeatedly threatened by wildfires. Several fires came within a mile of my home during the last 15 years.

The feds ignore local people and their representatives, the county commissioners. When the BLM and the U.S. Forest Service were planning to close many of the roads which had been open in Elko County for over 100 years, the feds listened to the objections of the County and the people. They then did exactly what they wanted, completely ignoring the concerns of the local county commissioners and the people.

We in Nevada are not the subjects of the federal government. We need to assert our control over our lands and not acquiesce to the unelected bureaucrats of the BLM and the National Forest Service. Oppose A.B. 378.

JAKE TIBBITTS (Manager, Natural Resources, Eureka County):
Eureka County is neutral on A.B. 378. We acknowledge and support the vast improvements of the bill from its first draft. We thank Assemblyman Watts for working with us to address a large number of our previous concerns that are reflected in the first reprint of the bill.

Eureka County directs the Committee to its written testimony and a proposed amendment on the legislative website when the bill was heard in the Assembly. That testimony and proposed amendment contain the language and the concepts not accepted and adopted in the current version of the bill.

The bill would be improved and would move Eureka County to support if some of the statutes identified for repeal were amended instead. It is important to at least endorse State and county coordination and engagement on public land use planning, management and administration as a replacement for the transfer and control language being removed.

Federal law and regulations require federal land management agencies to coordinate their planning and management activities with State, local and tribal governments and to reach consistency with State and local plans and policies to the maximum extent possible. The Legislature should ensure Nevada law has better policy in place recognizing this.

As the State with the largest federal landholding in the U.S., it is crucial that the State continues to have strong policy in place to ensure State and county voices in public land use planning and management are not diminished.

CHARLES DONOHUE (Administrator, Division of State Lands, State Department of Conservation and Natural Resources):
I am neutral on A.B. 378. I thank Assemblyman Watts for his willingness to work with the Division of State Lands in addressing many of its concerns with the initial bill language.

COLBY PROUT (Natural Resources Manager, Nevada Association of Counties):
The Nevada Association of Counties (NACO) is neutral on A.B. 378 in its first reprint. I thank Assemblyman Watts for taking the time to work with us and address some of our concerns after the bill's presentation in the Assembly.

The first reprint of the bill retains some of the important roles of SLUPA in supporting and giving voice to Nevada's counties. Specifically, we are pleased that A.B. 378 as currently written permits SLUPA to include comments from counties and its own comments on realty action by federal agencies, and retains the administrator's role in creating programs to increase county involvement in coordinated management of federally managed lands.

The SLUPA has been an important asset for many Nevada counties by helping elevate their needs and voices. Despite mandates under federal law, federal agencies almost never adequately coordinate or consult with county governments on significant federal land management decisions—decisions that often affect critical county functions such as roads and other infrastructure, natural resources, local economy and the livelihoods of those living within their boundaries.

The NACO would have preferred that A.B. 378 retain mandating language in section 7 to require county comments be advanced to federal agencies in the future regardless of changes to SLUPA staff or its perspective. But NACO is

pleased to see that SLUPA will still be required to create programs to increase county involvement in federal land management decisions, something for which NACO always strongly advocates.

We also appreciate that A.B. 378 will still allow SLUPA to elevate county needs to federal management agencies and give counties a seat at the table in federal decision-making.

CHAIR DONDERO LOOP:
We will close the hearing on A.B. 378 and open the hearing on A.B. 87.

ASSEMBLY BILL 87 (1st Reprint): Makes various changes to provisions governing the vacation or abandonment of certain easements. (BDR 22-460)

ASSEMBLYWOMAN ROCHELLE NGUYEN (Assembly District No. 10):
Assembly Bill 87 allows local governments to enact provisions for the vacation of easements. It does not require them to adopt these provisions. It is meant to increase efficiency for local governments, increase speed to the market for developments and provide key protections for property owners and the public.

As I was sitting through six hours of hearings in Las Vegas City planning and council meetings to get special use permits for my casita, I became aware that other people have to go through this bureaucratic mess. Is there anything we can do to streamline the process but also maintain protections for the public and property owners adjacent to easements?

In working with homebuilders, we came up with provisions that have now made their way into A.B. 87.

NAT HODGSON (CEO, Southern Nevada Home Builders Association):
Assembly Bill 87 is enabling legislation that allows local governments to adopt ordinances to streamline procedures for the vacation or abandonment of certain publicly owned or controlled easements not eligible for administrative vacation.

People often ask me about affordable housing. I have to remind them that housing prices are the result of a simple mathematical problem—the price of land, the price of material, the price of labor, regulatory costs, carry costs and time. Assembly Bill 87 will speed product to market, save time and ultimately

money for homebuyers. This bill saves local government employees time and allows their time to be spent on areas of greater public concern.

This bill is the result of a working group with Clark County Commission Chair Marilyn Kirkpatrick and other representatives to identify ways to increase efficiencies with the application process. Like many local governments, the County has had many retirements and less experienced hands make it more difficult to keep up with the increase in the number of applications.

The working group identified a handful of changes. One would be an administrative process of technical easement applications in which all relevant parties agree. These applications have historically been approved 100 percent of the time, so it made perfect sense.

When planning department attorneys reviewed this process many years ago, they encountered statutory obstacles. *Nevada Revised Statutes* 354 only allows public utility easements to be vacated administratively, not traffic easements and other specific types of easements.

When identifying commonsense vacation types for this bill, it was important to protect property rights and public participation when an easement is not appropriate for administrative action.

This bill does not apply to the vacation or abandonment of any streets; the vacation of easements not supported by all neighboring owners and impacted utilities—that means it would go through the current process; and the vacation of easements not supported by the local government that owns or controls the easement. It is important to understand that the owner of an adjacent property or the controller of the easement would have to agree to the vacation, or it would go through the current process.

This enabling legislation can save 12 to 20 weeks in the approval process and save many hours of the city's or county's time. This bill still has key protections for property owners and the public.

MATTHEW WALKER (Southern Nevada Home Builders Association):
Section 1, subsection 6 of the bill clarifies that when a street is vacated by a local government, it must ensure that necessary utility easements are recorded prior to the vacation or abandonment becoming effective. To clarify, this bill

would not authorize any change to the way streets are vacated under statute. This is simply cleanup language at the request of our utility partners that codifies existing best practices for street vacations.

Section 1, subsection 11 clarifies that this new enabling language does not in any way limit the existing authority of NRS 278.480 for local governments to administratively vacate easements for public utilities it owns or controls. It also requires that any local government seeking to use the enabling language of A.B. 87 adopt its own process by ordinance at an open hearing. This feature will allow local governments to customize the process to the unique needs of their community in an open forum.

Section 1, subsection 11 outlines key guardrails to protect property owners, utilities and the public when local governments adopt an ordinance pursuant to this bill. Section 1, subsection 11, paragraph (a) mandates local governments that adopt an ordinance pursuant to this bill require all applicants provide proof of support from adjacent property owners and utilities.

Section 1, subsection 11, paragraph (b) requires local governments that adopt an ordinance pursuant to this bill ensure the easement is in the public interest before processing administratively

Section 1, subsection 11, paragraph (c) requires the administrative process adopted pursuant to A.B. 87 includes a process by which an aggrieved party can appeal an administrative decision.

Section 1, subsection 11, paragraph (d) clarifies that this administrative vacation ordinance cannot authorize the administrative vacation of a street, drainage easement, sidewalk or other pedestrian right of way.

I thank Assemblywoman Nguyen for helping lead this important public safety conversation by sponsoring A.B. 87. Representatives of the Clark County Laborers Union, Clark County, the City of Las Vegas, the City of Henderson, the City of North Las Vegas, NACO, the Nevada League of Cities, NV Energy, Southwest Gas, Cox Communications and AT&T, all important easement stakeholders, provided feedback to improve this concept.

One party in opposition today was concerned that a local government might be able to vacate an easement owned and controlled by another local government

under the provisions of this bill. When we provided clarification in the Assembly, the LCB Legal Division could not draft language to address that because both the statute and the bill read that way.

HEIDI CHLARSON (Counsel):
I have not spoken to the opposition; therefore, I would need to determine what the opposition is. If the opposition is based on a question as to whether the governing body of a local government could vacate or abandon an easement it does not own or control, the language in subsection 11 of section 1 is clear that we are only allowing the simplified procedure for the vacation or abandonment of an easement owned or controlled by the governing body.

If the easement is not owned or controlled by the governing body, it does not appear to me that the plain language of this bill would allow the governing body to vacate someone else's easement. However, if there is opposition, perhaps they could explain the issue or point to some ambiguity. I would be happy to address that when the time comes.

SENATOR HANSEN:
My concern has been about people blocking access to the public domain when an easement crosses private property. The easement starts on public land, crosses private land, then goes back to public land. Does this bill affect anything like that?

MR. WALKER:
Certain easements like streets and pedestrian right-of-ways cannot be vacated through an administrative ordinance adopted pursuant to A.B. 87. An easement type that provides access from one parcel to another may be impacted by this bill. That is why it is important that local governments adopt their ordinances, customizing them to their needs. The requirements that all neighboring utilities and property owners agree that the easement is appropriate for administrative vacation is a critical protection for property owners and people who otherwise enjoy the property.

SENATOR HANSEN:
That is my concern. A single property owner might go to a county commission and ask for a road to be closed that crosses his or her property. No one else is involved because it involves public domain crossing private property then back to public domain. Do we need to add some checks to keep this limited to the

urban issues Mr. Hodgson is addressing? This may have broader implications in rural areas simply because the check you are talking about, private property owners protecting themselves from other private property owners, is not appropriate in many cases in rural Nevada.

MR. WALKER:
I reiterate that pedestrian rights-of-way, including sidewalks but not limited to sidewalks and roads, cannot be vacated through the administrative procedure adopted pursuant to this bill. We would certainly be interested in learning about the other recreational easement types located in your district should there be a need for additional clarification.

SENATOR HANSEN:
I understood your initial point. My point is that this may have consequences bigger than simply pedestrian rights-of-way and existing roads. The federal government owns 87 percent of the State and many people own little blocks of land in rural areas. They might use those little blocks to deny access to everybody else in the State from their own public domain.

I would like you to look into that and make sure if we need to clean that up, we try to do that.

SENATOR NEAL:
The notice provision in section 1, subsection 11 says,

> The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of an easement owned or controlled by the governing body without conducting a hearing on the vacation or abandonment. Unless the vacation or abandonment of an easement is for a public utility ... .

Why is there no hearing and why would a public utility get a higher standing than anyone else?

MR. WALKER:
You are pointing out an important item and giving me an opportunity to clarify. Statute allows a local government to vacate or abandon, through an administrative process, a public utility easement in which the local government owns or controls not just the easement but also the utility being vacated. In the

instance of the City of Henderson where it owned its own water utility, it can already execute this administrative process and vacate easements in this manner. This awkward lead in to section 1, subsection 11 indicates that we are not interfering with that existing statutory authority. In fact, we are copying this tried and true process and applying it to additional types of easements.

SENATOR NEAL:
I understand what you are saying. Maybe I am saying it wrong. For entities that are not public utilities, why will the governing body not have to conduct a hearing? That cannot be the normal process because this is the insertion of new language.

MR. WALKER:
That is because all pertinent stakeholders already agree. We are not capturing the 100 percent here. We are capturing the 80 percent where everybody, the county or city staff who are processing the application, agrees this application is in the public interest. They have verified, through notarized signatures, that all property owners adjacent to the easement agree the abandonment or vacation is appropriate and acceptable. All the dry and wet utilities that may be impacted by this vacation also agree. This is the way some easements are already administratively processed. We are trying, for purposes of clearing agendas, to focus public conversation on items in the public interest. This will reduce and make more efficient the number of hours staff needs to spend on each application as it makes its way through the process. It will also benefit developers in an infill situation by helping them get their product to market and get people working faster. Those are all reasons why an administrative process is appropriate in which all parties agree.

SENATOR NEAL:
Although NRS 278.480 crosses over redevelopment, I need an understanding of the application of this because you are talking about infill development. These provisions affect redevelopment as well. In cities that are doing redevelopment or changing environments or neighborhoods, there could be older areas where people want a say in what happens. I know that developers can agree, but that does not mean the citizens agree. Even though you are going to move that through, that does not mean the people affected agree. That is another concern because redevelopment areas are particular. There is a higher interest in what happens in infill developments than any other area. I want you to address that.

MR. WALKER:
For example, a four-way traffic stop at the intersection of Linq Lane and Las Vegas Boulevard is no longer there and never will be, but the traffic easement for that signal remained. The property owners wanted to expand their investment in that parcel with new development and move the sidewalk to accommodate that new development. They first had to apply to vacate the traffic easement. They waited for an application appointment. They then went to the town board, then to the planning commission and then the county commission. If everyone agrees to the vacation of the easement in that scenario, let us remove this intermediary step, focus the public conversation on the actual project and get those men and women back to work faster in that infill development scenario.

We are striking a balance by not allowing administrative vacation of streets or pedestrian rights-of-way. We are striking that balance by focusing the conversation on the actual project, while eliminating some of the more technical steps that clog up agendas.

If you have ever waited at the City of Las Vegas Planning Commission or another planning commission until four in the morning for your item to come up, it is hard to say there is meaningful public openness and input at that point. When you are there past midnight, it feels like there has got to be a better way to do that. That is what sparked these conversations. How do we eliminate some of these more technical items and get the conversation focused on the actual development?

ASSEMBLYWOMAN NGUYEN:
That is what I was looking at. I sat in a meeting until 12:30 a.m. for my special use permit. In the meantime, multiple agenda items came up; instead of discussing the purpose behind the redevelopment project or impact on the community, time was dedicated to things that could have been done administratively when all the parties agree. That was the idea behind the bill.

Mr. Walker illustrated the intent behind this bill and that there are still protections for bigger policy concerns by maintaining some level of efficiency on things all parties can agree on.

SENATOR NEAL:
I understand the experience you had. I have been in a planning meeting where all parties did agree, the developer and the city, but the residents did not. They were not on board with what was happening to them in the notice they received. That notice triggered them to be participants in that planning meeting and to have their voices heard. These notices, although administrative, are sometimes the trigger that something is happening in your area that you are not aware of because no one sits and watches a planning commission all day. It is something that either shows up on a fence or a gate that triggers you to pay attention to that planning meeting because it is affecting you and your neighborhood.

If you are saying that protections exist, section 1, subsection 11 would open the door for someone to do an activity I would have actively fought against. They would be in agreement and would have pushed it through to the council meeting. We would not have had a say at the planning stage. It is important to watch the stages of an issue when we are not in agreement.

I understand what you are saying. You want to get the rest of the business done, but some things go on that people should be aware of. I may be extending this out, but I want notification and I want a hearing because that means something to someone else. It does not mean anything to someone who has a particular agenda to just get their project through. I encountered this just last year where if the residents were sitting on the sidelines, a huge building would have been built, and the residents would be saying, "Oh, so they all agreed."

MR. WALKER:
I sympathize with you. I happen to record every planning commission meeting. We want to clear agendas in planning commissions and town boards for the critical conversations about changing land use and approving individual projects through a design review. The community member who has to wait until midnight for an item to come up impedes his or her ability to meaningfully participate in the process. The appropriate balance is taking sewer privatizations, vacations of traffic easements and those small more technical steps in the process off the table and filling agendas with meaningful conversation about zoning changes, projects and other issues.

SENATOR OHRENSCHALL:
How do you get notarized signatures? I have a neighbor who is retired. I see him maybe a month in the spring and a month in the fall because he tries to avoid the hot months. We get along pretty well. If I needed a vacation of an easement, he would probably be supportive. However, tracking him down to get a notarized signature could be a challenge. If the bill passes, my concern is if I cannot find my neighbor who travels a lot, would the lack of that signature veto the vacation or abandonment? Could you explain the process? You told me there could be a public hearing.

MR. WALKER:
Whether your neighbors, or maybe staff do not agree it is a good idea to vacate this easement, or if you just simply cannot find your neighbor, you would be left with the status quo. That would be the full public hearing process for your vacation request. No one would be barred from seeking an easement abandonment. Someone just may not be eligible for the kind of common sense that everybody can agree on for the administrative vacation process under the bill.

SENATOR OHRENSCHALL:
Thank you, that gives me more comfort. Let us say the easement I am trying to have vacated goes 20 houses down the hill. Would I need agreement from every neighbor who is touched by the easement I am seeking to vacate?

MR. WALKER:
Everyone who is adjacent to the easement, including those underlying the easement or utilities impacted by the easement, must agree in order for an applicant to take advantage of this administrative process, should the local government adopt an administrative process by an ordinance. Key protections are important. In a large-scale easement situation, that may mean it is simply not worth the trouble to find all these people. We recognize there may be some limited value because of that important property protection; however, this might be the appropriate balance.

CHAIR DONDERO LOOP:
I live by a dead golf course. I would like that addressed.

MR. WALKER:
That is a great example of an area in which the developers' and the neighboring property owners' rights need to be respected and not preempted by any legislation. We worked diligently with representatives of the Queensridge Owners Association and Yohan Lowie of EHB Companies to ensure the language of the bill did not benefit either party in that scenario or any other contentious development scenario. This is the 80 percent where everyone agrees. The other parties who do not agree will be at the status quo which is going before their local governing body and having those important discussions.

Drainage easements and pedestrian rights-of-way were specifically taken out of the bill to avoid any overlap with an ordinance that may be adopted by a local government in that particular scenario.

ASSEMBLYWOMAN NGUYEN:
Some concerns came to our attention that this was an intentional decision to insert ourselves or the Legislative Body into potential litigation. That is not our intent. We have made specific attempts to make sure this is narrowly tailored to strike a balance between maintaining public notice and efficiency in the process.

SENATOR GOICOECHEA:
How does a person aggrieved of a decision bring that grievance forward? At what point would someone raise a grievance? How would it be done and with whom?

MR. WALKER:
A person can bring forward a grievance when the notice of final action records. That is standard procedure for administrative processes across southern Nevada. For example, if I wanted to change my sign that is still within the square footage approved by the commission, the notice of final action records, and is publically available. Mayors or other parties could petition the county commission or city council at that point to take a public look at that administrative decision because it was improperly decided. Similarly, when someone's application is rejected for an administrative request, such as the ones contemplated under this bill, the person can petition the county commission.

SENATOR GOICOECHEA:
Would that trigger a public hearing? I am concerned that after that point, someone may say "I missed that," and now it is already a recorded document. We know how tough it is to get back up the hill. I am concerned about that.

MR. WALKER:
That is an important component. Anytime you have an administrative process, it is important that the appeals process is clear. We anticipate local governments define the number of days in their ordinances adopted under the provisions of this bill. I wish I could tell you if there is a rule of thumb whether it is 30 days, 60 days or 10 days. Various administrative actions as adopted by local governments have different notice provisions and number of days associated with them. That is something, as a representative of people who own property, I would be tracking closely as I participate with local governments as they adopt this ordinance.

LINDSAY KNOX (Builders Association of Northern Nevada; Nevada Home Builders Association):
In the construction industry, time is money. The Builders Association of Northern Nevada and the Nevada Home Builders Association consistently call for improved efficiencies and expedited processes with our local governments.

The vacation or abandonment of an old and unneeded easement can take weeks or months even when there is no disagreement or dispute. This bill proposes an expedited and simplified procedure to vacate or abandon uncontroversial and unnecessary easements allowing construction to progress without undue delays.

We thank our colleagues at Southern Nevada Home Builders Association and the bill's sponsors for bringing this bill forward and view it as a common sense and useful tool in the development and construction process.

STEVE WALKER (Lyon County; Douglas County):
Lyon County and Douglas County support A.B. 87.

Simplifying a common procedure and enabling efficiencies by allowing the adoption of an ordinance to deal with easement abandonment makes good sense.

CHAIR DONDERO LOOP:
We will close the hearing on A.B. 87 and open the hearing on A.B. 139.

ASSEMBLY BILL 139 (2nd Reprint): Revises provisions relating to local governments. (BDR 31-524)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
Assembly Bill 139 is near and dear to my heart because a Public Facilities Needs Assessment (PFNA) was conducted in 2000 by Clark County for the southwestern portion of the Las Vegas Valley. Clark County found that two additional fire stations are necessary to maintain the four-minute response time throughout the southwestern Las Vegas Valley, including my district. However, the fee revenue collected in the area for this purpose was not adequate to meet the need.

Therefore, Clark County Commissioner Justin Jones, Assemblyman Steve Yeager and I were happy to partner with the development community and first responders to bring you A.B. 139 which will accelerate the development of fire stations in the rapidly growing southwestern Las Vegas Valley.

The bill is a creative solution that will increase public safety, create prevailing wage construction jobs to support our economic recovery and help all of those who live in the southwest part of Las Vegas Valley.

MR. HODGSON:
As Senator Scheible outlined, 20 years ago a PFNA zeroed in on the southwest part of Las Vegas Valley that showed there was a need for 2 fire stations.

In 2019, under Clark County Commission Chair Marilyn Kirkpatrick's and Commissioner Justin Jones's leadership, a group of stakeholders got together supporting a 100 percent increase of the PFNA index. The Southern Nevada Home Builders Association supported it also. These dollars still cannot fill the more than 20-year gap. The good news is that we indexed it for inflation. The goal is to not be in this position again. This bill fills the 20-year gap.

All developer fees for permits and plans are paid into the Clark County Building Enterprise Fund. The Building Enterprise Fund Advisory Committee, made up of county staff and industry representatives, oversees the fund. As the custodian of these funds and an industry member committed to funding targeted service

levels, a healthy balance in these funds is critical. I or a member of my staff sits on all the advisory committees of Clark County, the City of Henderson and the City of Las Vegas. I have served on the Building Enterprise Fund Advisory Committee, which this bill is aimed at, for over eight years and still serve as the residential home building representative.

The Committee is comprised of developers from the largest sectors that pay into the Fund, including residential, commercial and gaming resort associations. It is frequently briefed by County management and building officials, has meaningful dialogue on ongoing challenges faced by the industry and has a finger on the pulse of large budget items, staffing levels and needed infrastructure.

TODD INGALSBEE (President, Professional Fire Fighters of Nevada):
As Nevada has grown and continues to grow, it is vital to have infrastructure in place to provide essential safety services. We are behind in southwest Las Vegas Valley and in southern Nevada. However, this is an issue for the entire State.

The Professional Fire Fighters of Nevada is here asking for your help for this bill. The bill will help current and future residents and the millions of visitors we hope to have back in our State soon. The lack of fire stations and personnel creates a safety concern when we are not able to meet the national standard of a four-minute response. That means when you call 911 in an emergency, you should have fire personnel at your location within four minutes. If your mom, dad, brother or sister is having a heart attack or drowning, four minutes is a long time. Imagine if it was six, eight or ten minutes before fire department personnel are at your door to start initiating care.

I am not sure if any of you have had to call 911 before, but four minutes can seem like an eternity. Everything we do is about getting to the emergency as fast as possible for the best outcome. We are taught early in our careers to treat every person as if he or she is family. When considering this bill, think about your mother, daughter, son, father or wife having a heart attack, drowning or seeing their house on fire. What would you want for them, a four-minute response or a ten-minute response?

The State has and continues to see massive growth, especially in our large master-planned communities. When buying a dream home, people think about the school districts and the proximity of work and grocery stores. However,

what is often forgotten is where the closest fire station is. Most people assume the city or the county is ensuring all those homes are only built if the basic safety infrastructure is in place. Unfortunately, that is not the case. If the closest fire station is ten minutes away with lights and sirens, that can be detrimental to a person's health, home and safety. That also assumes when you call 911, the closest station is not already out on another call in the area. We wish we could get to every call quicker than four minutes. Anything more than that is unacceptable.

MR. WALKER:
In 2001, Clark County adopted a PFNA fee for the southwest Las Vegas Valley specifically for fire infrastructure. When the Great Recession hit, that fee was never increased. By the time growth caught up in the southwest and those two fire stations were needed, as evidenced by the PFNA adopted in 2019, the cupboards were bare.

Homebuilders and other developers stepped up to the table to double that fee The fee was indexed to inflation going forward to make sure we never ended up in this situation again with such a meaningful gap between the fire needs and the funding available for capital improvements. This bill is about bridging that temporary gap.

Section 1, subsection 1, paragraph (a) makes it clear that this bill is targeting money in the Building Enterprise Fund over and above the statutory cap set by NRS 354.59891.

Section 1, subsection 1, paragraph (b), states that the local government must adopt the findings of a PFNA pursuant to NRS 278.02591 within the dates specified in the bill.

Section 1, subsection 3, makes it clear that the funds transferred for this purpose are exempt from the cap in NRS 354.59891 in recognition that this temporary authority is being granted to local governments with the intent that they act quickly to address the identified needs for fire stations.

Section 1, subsection 4, sets timelines for a specific transfer of funds and the return of all unused funds. Section 5, subsection 2 sets the expiration date for this temporary enabling act on June 30, 2024.

I thank the Nevada Resort Association, the MGM, Red Rock Resort, NAIOP and all the important enterprise fund stakeholders that allowed this conversation to progress. I also thank Jerry Stueve, Director, Department of Building and Fire Prevention, and Commissioners Marilyn Kirkpatrick and Justin Jones in Clark County for their leadership and open communication on this proposal. I thank Assemblyman Steve Yeager, Assemblywoman Michelle Gorelow and Senator Melanie Scheible for leading this informed public safety conversation. This bill is about the southern Nevada development industry stepping up during a challenging fiscal time for Clark County and finding an innovative solution to bridge this important safety infrastructure gap.

This bill does not necessarily steer this money toward any particular area. It authorizes a local government that has conducted a PFNA and has reserves over and above the statutory cap in their Building Enterprise Fund to use those funds for public safety infrastructure.

The intent is to put those funds to use in the areas with the most population in Clark County not covered by four-minute emergency response times. That is focused in the southwest portion of Clark County.

SENATOR NEAL:
How are fire stations normally paid for? Why is this not coming out of capital improvement funds or a special assessment bond? There are other ways to pay for this rather than changing the structure of an enterprise fund.

MR. WALKER:
Fire stations are typically funded in two ways in Clark County and southern Nevada. One is in a master-planned development. The developer often directly supplies funds for the fire station. In a couple of large master-planned communities in the western part of southern Nevada, developers have either constructed or directly funded the construction of all the fire stations necessary to serve the new units associated with that planned community.

In the case of an area like the southwest where it is developed in smaller pieces with 10- or 40-acre parcels, the local government will anticipate the future need for the fire station and then assess an impact fee as developments come in.

Because the fee was not adjusted from 2001 to 2019, it was no longer reflective of the true cost of constructing a fire station today. That is what leads us to the gap addressed with Assembly Bill 139.

SENATOR NEAL:
I am still not clear on why this is not a part of capital improvement. I knew this bill was coming forward. I looked through the Clark County budgets to get an idea of the fire districts and how much revenue was operating. It could be paid for through the Clark County Fire Service District capital fund.

I am confused because I saw a transfer that came from the Clark County general fund into the Clark County Fire District capital fund. Why are we not just asking for a transfer from the general fund into that capital fund? Even in the circumstance of 2020 where all budgets were hit, Clark County got a buffer to offset some of its losses. It got a large amount that allowed it to maneuver and do some other things in 2020.

I need to be clear about why this is the necessary pathway. I have seen enterprise funds used before, and this one has an expiration date. In another hearing a long time ago, an enterprise fund with an expiration date was used, but it never expired. It came back in another session, and the expiration date was removed so it could continue to be used. The money has never returned to the fund for its intended use. It is still in play 11 years later.

I am not a fan of this bill. I am not against fire stations, but I do not like enterprise funds being shifted and replayed for other uses.

MR. WALKER:
This is different from other enterprise fund use because we are asking for permission before the transfer happens, not after the fact. Nonetheless, this is the product of two key dynamics that would allow general funds use in a county that has many needs for that general fund, now more than ever, for vital community services.

There is a need and a fee that did not catch up with inflation that has now been solved and indexed. We are trying to fund the gap. The other scenario in which those fees pay for the fire station means an increase in those fees for the southwest and then a delay of maybe years before that project can finally go to design. The other key dynamic is an extremely healthy fund balance in the

Clark County Building Enterprise Fund reserves because we have run through several large projects: the Raiders Stadium, the Las Vegas Convention and Visitors Authority and resort growth. We are meeting our needs for the service levels at the County and reprioritizing money for public safety that would otherwise be returned or spent on other less critical capital expenditures.

The stakeholders that would be hit with the additional impact fee are the same stakeholders that paid into this Fund. Instead of reducing the existing Fund balance through additional capital expenditures or returning that money, a large group of development stakeholders is willing to see it put to better use within the limitations of the bill and with appropriate oversight and transparency.

This will build the fire stations three or four years faster instead of allowing those fees to accrue. This is a benefit for people like myself who live in the southwest part of the valley.

SENATOR NEAL:
Just because there is an excess does not mean you can change the statute to reprioritize funds for another use. Funds are set aside for an exact purpose. This is not the precedent we would like to continue. That is my personal opinion. I do not want to continue that in this building because there are other ways to fund that.

Clark County has been hit. However, when I was looking at its tentative final budget, there is potential to rearrange other funds and not go into the enterprise fund. Excess does not mean raid. Just because stakeholders agree to go into that fund, you can't change its legal purpose. There are many outstanding questions on why it did not reduce the levy, knowing it was increasing. There is an excess because the County allowed the fund to grow. The County knew it did not need the money. It could have lowered that rate, but it did not. That question has not been answered. I have questions about the County pulling this kind of act in the Legislature on enterprise funds.

I will not be persuaded because I have seen this in play before. I understand what is out there, but there are at least three other ways to get that money. Those need to be engaged before I even think about giving my vote on this bill.

MR. WALKER:
We are supportive of protecting these funds and keeping a healthy fund balance. When it was initially proposed that fees be reduced, stakeholders on the Building Enterprise Fund Advisory Committee agreed not to reduce the fees. This is simply excess revenue caused by several large projects that came through the system. Reducing fees would put the County on a trajectory to then not meet the needs and service levels associated with the Building Enterprise Fund. The Committee wants to see a healthy fund transparently managed. This is the confluence of two circumstances in which this one-time deviation from protocols is not just good for the community but also for the development community at large.

SENATOR HANSEN:
You mentioned that big developers will frequently pay the expenses to build a fire station. Is that correct?

MR. WALKER:
Yes, that is correct. Not only large residential developers, but also people developing a casino or other large projects of regional significance will often contribute in full or in part for the construction of additional fire stations.

SENATOR HANSEN:
If we shift the cost to the enterprise fund, that means developers get to pocket the difference, correct?

If a big developer has to build a fire station that costs $5 million and now the enterprise fund picks up that $5 million cost, that means the developer does not spend $5 million.

MR. WALKER:
That is a good question; however, because of the way the southwest is uniquely developed, there simply are no large enough parcels to have a master plan development. The remaining parcels are 10 acres or 40 acres. A project of regional significance will never come into this area being served by these fire stations. Developers are not avoiding their responsibilities under this bill.

If you look at the maps of remaining undeveloped land in this portion of the Valley and where these fire stations are proposed to be located, it is clear that no developer is swooping in with a project of regional significance to save the

day. We are not targeting any developers for relief from their requirements under existing development agreements.

Some large developers in that area have stepped up and followed through with their commitments under their development agreements to make fire stations available. That is specifically Southern Highlands and The Howard Hughes Corporation.

CHAIR DONDERO LOOP:
Does this relate to any other municipalities in the State, or is it just this specific area we are talking about in Clark County?

MR. WALKER:
Section 1, subsection 1, paragraph (b) calls out NRS 278.02591. This planning process can only be undertaken by jurisdictions and counties that are larger than 700,000 in population. We are capturing jurisdictions that have established a building enterprise fund in Clark County with this population and have a fund that is over and above the statutory reserve caps in NRS 354. Under those confluence of factors, Clark County is the only local government at the moment that can take advantage of this bill.

SENATOR OHRENSCHALL:
I represent an area on the opposite end of the valley in the northeast and a lot of incorporated Clark County. That area is constrained on growth but if it was to have a similar growth explosion, would something like this help? It is not just limited to the southwest part of Clark County. It could be used in other parts of the City and the County if growth were to explode. Even though it will immediately help the southwest area, it could be applicable in other parts of Clark County or the State.

SENATOR SCHEIBLE:
That is correct. There is also an expiration on these provisions, so that would have to happen in a timely fashion. We have seen growth in Las Vegas at astounding rates in the past. It is not limited by statute to any particular area.

MR. WALKER:
In response to Senator Neal's questions, Joanna Jacob from Clark County would be better able to answer how the transfers would take place.

SENATOR NEAL:
Why is Clark County's annual capital program not being used to fund this effort?

JOANNA JACOB (Clark County):
You are correct, Senator Neal. There are a multitude of ways to fund fire stations. One of them is through the County's general fund, which is its capital program. There is a second way through the Clark County Fire District which is funded through property tax and Nevada's Consolidated Tax (CTX) Distribution. The CTX especially took a hit during the pandemic, but it is returning. Fire stations are also funded through development agreements.

The County was approached by the stakeholders with this idea as an opportunity to fund fire stations in a quicker way than usual. The County allocates funds from that capital fund through the Clark County Fire District, but that is not only for the capital costs of constructing a fire station. It also goes toward fire equipment, fire trucks and other equipment it needs. That is in the definition of capital that goes through that fund.

Clark County Real Property Management manages a large capital program. The County has quite a volume to maintain. Fire stations can be paid through the County's capital fund, but they may be delayed. This is always subject to board oversight and approval. I cannot speak for the board and say when it reviews a capital program what it may choose to fund.

SENATOR NEAL:
If the County knows it is rebounding in terms of revenues, especially CTX, then why not just wait? Why is this bill necessary?

This was discussed in 2020. No one knew what was going on. Nothing was clear on where we were going to land or how long we were going to be in the pandemic. Now the County knows and has reopened. The County knows what its balances are. Its projected loss is not necessarily as large as it was thought to be. Why not just wait and use the proper funding to take care of the fire stations. This is the County's responsibility out of either capital improvement or maybe through some special bonding. Districts already have special assessments where the County can do an additional levy. I do not understand why not just wait if it is known that, ultimately, the budget is going to bounce back enough to at least take care of two fire stations.

We should not be in a position of going into the enterprise fund for fire stations. That should not even be a discussion.

MR. WALKER:
Assembly Bill 139 would fund the fire stations much faster than waiting for any of those fees to accrue and then go to design on the projects. It is incumbent on growth to pay for growth instead of pulling funds away from the capital needs of slower-growing areas or more stagnant areas that do not have the revenues to pay for critical services.

It is incumbent on us to capture the revenue from fast-growing areas and put it to use for the services needed for those fast-growing areas. That is why the Southern Nevada Home Builders Association supported the 100 percent increase in the PFNA fee for the southwest and indexing the fee to inflation going forward. That is why we are bringing this bill to get the fire stations built quickly, have response times reduced and allow for the capital improvement funds and other revenue sources to be used for broader countywide needs.

SENATOR NEAL:
What is the PFNA fee? Was that a 21 percent increase?

MR. WALKER:
That is the Public Facilities Needs Assessment fee. The PFNA is a study undertaken by local governments under NRS 278 to assess the need for public infrastructure, whether for fire stations or sewer, that result as anticipated developments come into an area. Those needs are assessed through an impact fee on those parcels as developed. That PFNA we are referring to was adopted in 2001 but did not keep up with construction costs and inflation, and led to this gap.

SENATOR NEAL:
How much was the increase? I thought I read 21 percent.

MR. WALKER:
Mr. Hodgson, correct me if I am wrong. We doubled the PFNA fee for the southwest and then indexed it in future years for inflation.

MR. HODGSON:
That is correct. There is another increase scheduled to go into effect.

SENATOR NEAL:
What is the number? Is it 21 percent?

MR. WALKER:
It was 100 percent, and an additional 21 percent may be scheduled.

MS. JACOB:
Clark County supports A.B. 139 because it is limited. When Clark County was approached with this idea, it wanted to see this sunsetted. It reserved this snapshot in time because of the large-scale commercial construction projects. This may not happen again. Clark County supports the bill because of the needs assessment testified to today. It will fund a critical public safety need in the community, and we are hoping to do so.

The timelines in the bill are tight for the County. It can transfer the funds at the end of the year. Construction timelines in Clark County can be long. To get through design on some of these projects, which may involve BLM approvals, can take quite a bit of time. Once the County gets through the design process, which can be a year or longer if it involves BLM, then it takes approximately nine to ten months, possibly a year and a half or so, to do construction.

Under the tight timelines in this bill, the County hopes to do at least one fire station and then see this sunsetted. If there is another economic downturn, this may not happen again. The County wants this controlled. It will not be here to seek a lift of the sunset. You will not see that from Clark County. Clark County supports the bill as it stands today.

SKIP DALY:
I oppose A.B. 139 not because I am against fire stations or improving the level of service anywhere in the State. My concern is greater now after listening to the testimony and hearing Mr. Walker say we can get into the enterprise fund because it is over 50 percent. I can see the wheels turning and the local governments saying let us hurry up and get our other enterprise funds up over 50 percent so we can also fund capital improvements—nothing in connection with the enterprise fund's original purpose.

I hear Legislators on the panel saying this might be used in my area. And I can see future Legislators say they are going to fix in the sunset and various things.

The sunset only lasts as long until it does not. I have seen plenty of sunsets in this building over the years get extended until they are removed.

This is a bad idea. Whoever it was in the communities that let the development and the level of service of the fire departments go are responsible for letting that get developed without having a way to pay for their fire stations.

You should look at NRS 278C, Tax Increment Areas. You can do special assessment districts under NRS 271. There are a variety of other ways to fund this. This is a bad idea, bad government, bad policy and bad precedent. I would hate to have to say I told you so sometime in the future

SENATOR SCHEIBLE:
Thank you for hearing this bill. I remain available to answer questions and continue to work through concerns on the bill.

MR. WALKER:
I appreciate the dialog today. This is a creative solution with representatives of various levels of government who represent areas that see the need and want to solve it. We are thankful to the development community for helping bring this idea forward.

What prevents a local government from building up an excess fund reserve specifically to come back with a bill in the future along these lines is that fees can only be increased as much as construction inflation under NRS 354 without State oversight and approval. Important safeguards, not only in this bill but in statute, would limit local governments from taking advantage of this in anticipation that future legislation might allow them some flexibility. We are committed to having responsible fee levels. We are carefully watching the Building Enterprise Fund Advisory Committee funds and look forward to continued conversation there to ensure that fees are in line with the needs of its various departments.

CHAIR DONDERO LOOP:
I will close the hearing on A.B. 139 and open the hearing on A.B. 245.

ASSEMBLY BILL 245 (1st Reprint): Increases certain fees relating to notaries public and document preparation services. (BDR 19-983)

ASSEMBLYMAN EDGAR FLORES (Assembly District No. 28):
I have had the opportunity to work specifically within the sections of NRS 240 and NRS 240A. Before I had the privilege of being an elected member since 2013, I had the honor of publishing a study for the University of Texas at Austin, *Undergraduate Research Journal* in which I discussed the access to legal services within the southern Nevada community. I mention that because I have been involved in this specific chapter of NRS for many years before I even thought of running for office. Every year in office, I have come back and had the opportunity to work within this chapter.

From 2013 to 2019, the genesis, emphasis, focus and energy has been on going after bad actors. We have come back session after session going after predatory businesses that take advantage of Nevadans who are trying to get help. You have heard about the "notarios" issue of people pretending to be attorneys and taking advantage of members of the community. We have done a great job collectively as members of the Legislature to push that specific NRS chapter forward.

We have put a lot of language in place over the years on how to go after some of these bad actors. Now the emphasis and focus is on how do we help good actors—all those small businesses that have been impacted severely in 2020. How do we help them grow and become better? How do we help these small businesses have a successful model in Nevada? That is where the conversation is today. How do we continue allowing them to grow while focusing on some of those bad actors? That is the two-prong approach to today's conversation.

Like many small businesses, I know how difficult 2020 was. My business went through a rough time also. How do we help small businesses make money? For a long time we have capped what notaries public can charge for notary fees. However, we have not changed that amount even though the fee for a notary stamp, a notary book, the bond and everything else has increased.

We looked at neighboring states best practices and how much notaries can charge. Understandably, we are creating a ceiling of how much they can charge. We are not saying they have to charge these fees. Some banks and offices do not charge for notary services. I am focusing on small business to have a model where they work with small margins. They can now maybe charge a little more, so they can make it pencil out and that the math works. On page 3, section 1.5 of the bill, the fees notaries can charge have been tripled.

There are additional fees on page 4, lines 7 through 10. If the person requesting the notarial act asks the notary public to travel between the hours of 6:00 a.m. and 7:00 p.m., the fee is $15 per hour.

Then on page 4, lines 11 through 13, if the person requesting the notarial act ask the notary public to travel between the hours of 7:00 p.m. and 6:00 a.m., the fee is $30 per hour. The purpose is to allow them to charge a little more and make it work.

I want to get into the second prong of the purpose of this bill. As we mentioned, in past years we have had a heavy focus on going after bad actors and creating language that allows us to do that. One of the issues we have had is with enforcement. As you know, you can create all the laws in the world, but if we do not have an enforcement component, it is difficult for us to allow legislative intent to play out. This is triggered on pages 5 and 6 of the bill. If someone is applying to establish a document preparation service for the first time, there is a $50 fee; we want that to go up to $100. The renewal fee is $25; we want that to go to $50.

Small businesses will make a quick return on that extra $50 and $25 with a few signatures because they will be able to charge more. However, the purpose of that additional charge is we want that money to be used only for education and the enforcement of going after bad actors. That is where we will put a lot of teeth in this and give the Office of the Secretary of State (SOS) the resources to have an officer investigate individuals when complaints are raised. This is the industry providing the resources to keep the industry in line. The quicker we get rid of bad actors, the greater benefit to the good actors. They will not be competing in an unfair market where they are doing everything right and the other players are not.

We are giving the SOS the ability to assess a civil penalty. The SOS is limited to revoking a license when someone is not in compliance, not acting appropriately or not even licensed. However, it does not always make sense to pursue that route when a small business is out of compliance. The best thing to do is bring them it into compliance so it can continue to operate in the space. Because the SOS's hands are tied, it does not have a lot of options with that. Instead of just revoking a license, the SOS will bring the business back into compliance.

Page 3, lines 9 through 14 Assembly Bill 245 state:

> A notary public who is registered to engage in the business of a document preparation service may perform a notarial act on a document if the notary public has received or will receive directly from a transaction relating to the document a fee for providing document preparation services in addition to the fee authorized pursuant to NRS 240.100 for the notarial act.

That is a lot of verbiage. This was an issue identified within the industry when it realized a perceived conflict in businesses notarizing particular documents that they could not because of the way NRS is written.

MIKE DRAPER (Fingerprinting Express):
Assembly Bill 245 is designed to support notaries in Nevada, many of which are small businesses or even part-time businesses. This bill will help part-time businesses become full-time businesses and full-time businesses employ more people. We hope the significance of this bill is not underestimated.

Notaries are often an overlooked but important cog in our economy and society. However, we have not addressed this statute and what notaries can charge for more than 20 years. Nevada is one of several states that outlines in statute what a notary can charge. Nevada is at the lower end of what most states allow their notaries to charge. The numbers that Assemblyman Flores just worked through were not picked out randomly. They still keep Nevada competitive with other states. Although in some areas we are at the higher end, we are still low within the middle of what other states allow their notaries to charge.

It also addresses a discrepancy in the costs to be a notary. In some cases, the costs of being a notary in the last ten years have gone up as much as four or five times. For instance, just the cost of the notary book has gone up four times. Furthermore, we have seen many people come into this space who are notaries, get their licenses and not do things the way they should. It is often left to other notaries to fix the mess and remedy issues for clients.

Not only does this bill allow notaries to charge more, but we see this as being helpful for small businesses. Many of the notaries we talked to would appreciate

ensuring that only good actors are in this space and that everyone is operating on the same playing field and doing things in an upstanding manner.

GAIL ANDERSON (Deputy for Southern Nevada, Office of the Secretary of State):
The SOS is neutral on A.B. 245. I have submitted my statement in writing (Exhibit B).

SENATOR OHRENSCHALL:
Assemblyman Flores, thank you for your leadership in this area making sure that people go to someone who is who he or she claims to be.

Does the SOS, law enforcement or the Attorney General's Office get involved when someone does not comply with the law?

ASSEMBLYMAN FLORES:
It is a felony for someone to pretend to be an attorney and causes irreparable harm to a member of the community. However, getting law enforcement to go after the bad actor has been almost an impossible task. It is not that law enforcement does not care about these crimes, it is that they are overwhelmed with so many other things. Going after one bad actor is difficult.

The State Bar of Nevada does not get involved because these people are not attorneys. We have consistently had an issue with the State Bar of Nevada getting involved. The Attorney General's Office is well intended and willing to listen, but it also has limited resources.

MS. ANDERSON:
I agree with Assemblyman Flores. The SOS has some contact with the State Bar of Nevada. The SOS referred a few things to it to see if it will do something. The SOS works with a deputy attorney general in the civil section of the Attorney General's Office.

The SOS has a matter in civil court which has been delayed. It was started in 2017. There have been various legal delays and pandemic delays, but it is proceeding. There has been action in that same matter on the criminal side, but that is not public so I cannot comment. It involves an exceptionally large sum of money which is a well-substantiated matter.

The SOS does everything it can. Its cease and desist orders and the fines will help. The SOS can take an action to civil court if someone does not comply with the cease and desist order. That will be done more often. The SOS has issued 20 cease and desist orders this fiscal year.

SENATOR NEAL:
Are the civil penalties in section 3.6 of the bill retroactive? Section 3.6, subsection 2, paragraph (b), subparagraph (2) states, "...whether the person is still a registrant at the time of the hearing so long as the person was a registrant at the time that he or she committed the violation." It seems to be retroactive, but how far back can you go to assess the $1,000 penalty?

MS. ANDERSON:
The intent is that if the SOS has substantiated that a violation has occurred during the time a registrant was an active registrant, the SOS could take action. The person may have let the registration expire and is no longer active, but it is not retroactive in the sense that if the violations occurred when he or she was registered, the person comes under the jurisdiction of this authority.

PETER KRUEGER (Registration Services Association of Nevada):
Registration Services Association of Nevada (RSNA) is a service for people who pay a fee to have other people stand in line for them. Three sessions ago, Assemblyman Flores brought document preparers under the authority of his document preparation legislation which includes members of RSNA. The RSNA has worked closely with Assemblyman Flores and supports A.B. 245.

DAVE PAPPAS (Fingerprinting Express):
I am testifying in favor of A.B. 245 on behalf of the 25 notaries who work for Fingerprinting Express and the dozens of notaries I have worked with and spoken to over the last ten years. Notaries can only afford to work part time as a side job and must have a full-time job.

By passing this bill, you will allow people, many of them single parents with limited education, the ability to open a professional service business with flexible hours and earn a livable wage. If you raise this fee, notaries can get one client an hour to earn at least $15 an hour which is equal to what many Legislators are pushing for as the minimum wage.

The initial cost a notary must endure includes the class, the bond, the insurance, the application fee, the stamp, the professional notary journal and membership in the professional notary association, which adds up to $275. A notary would have to notarize 50 signatures just to break even. In addition, a mobile notary needs a reliable vehicle, gas, insurance and registration. They need a limited liability company; pay state, county and multiple business licenses; host a website; and conduct digital marketing. All this costs thousands of dollars, but they can only charge $5 per signature.

Becoming a notary allows someone to become a professional service entrepreneur. If you raise the allowed fees, that would create many new business owners—many from low-income situations. It would give them a flexible schedule to work around their busy personal lives while earning a livable wage.

A notary license stays with the person and does not belong to a business. Fingerprinting Express employs 25 notaries. When an employee leaves us, he or she is required by law to retain the notary designation.

CHAIR DONDERO LOOP:
I will close the hearing on A.B. 245 and open the hearing on A.B. 307.

ASSEMBLY BILL 307 (1st Reprint): Revises provisions governing employment practices. (BDR 18-764)

ASSEMBLYWOMAN SUSAN MARTINEZ (Assembly District No.12):
Assembly Bill 307 seeks to improve the lives of Nevada workers by providing information on how to access the tools and resources needed to advance their careers and futures.

The Department of Employment, Training and Rehabilitation (DETR) is probably best known for operating the State's unemployment insurance system. However, DETR has so much more to offer Nevada workers. This is especially true for those who have been dislocated from a job and are trying to reenter the workforce or are underemployed and wish to move up the career ladder.

Assembly Bill 307 requires DETR to prepare one or more notices concerning job training or employment programs conducted by DETR and provide the notices to the Labor Commissioner. The Labor Commissioner must make such notices

available to each private employer in the State and requires each private employer to post and maintain each notice in a conspicuous location at the workplace.

One of these job training programs is the Career Enhancement Program, the employer-funded training and reemployment program that supplies job seekers with training and resources to improve their earning potential. This Program also assists job seekers with paying job-related expenses such as certifications, work permits, uniforms and even small tools to facilitate their entry or reentry into the labor force.

This is just one of the critical and valuable programs that already exist, but I suspect most people may not be aware of them. This could help the worker sitting in the breakroom who is anticipating dislocation or displacement due to circumstances out of his or her control. It could help the worker's families, friends or colleagues who may have been dislocated or displaced and are seeking to improve their job skills. Regardless, these programs cannot help people if they do not know they exist.

SENATOR NEAL:
Business Services under DETR is supposed build relationships with employers and let people know about the different programs. How is that tied into this? Is it going to be doing this work?

KARLENE JOHNSON (Deputy Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):
Business Services offices located in the north and south deal with employers we can contact. There is an untapped pool of people who may not be aware of the services we offer. Any Business Services representative who is contacted or contacts businesses advises about all of the different programs and services available through Job Connect and Business Services offices.

VICE CHAIR OHRENSCHALL:
We will close the hearing on A.B. 307. Having no further business to come before the Senate Committee on Government Affairs, this meeting is adjourned at 6:11 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Marilyn Dondero Loop, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
A.B. 245	B	1	Gail Anderson / Office of the Secretary of State	Written Testimony