

Senate

FEDERAL, STATE AND LOCAL GOVERNMENTS COMMITTEE

Minutes of Meeting -- February 5, 1971

The sixth meeting of the Committee on Federal, State and Local Governments was held on February 5, 1971.

Committee members present: James I. Gibson  
Warren L. Monroe  
Carl F. Dodge  
Lee Walker  
Stan Drakulich  
Coe Swobe

Also present were:

Howard Barrett, State Budget Director  
George Zappettini, State Forester  
Russ McDonald, Legislative Counsel Bureau  
Al Seeliger, Executive Secretary of the Nevada School Trustees  
Procter Hug, Senator

Chairman Gibson called the meeting to order at 11:30 A.M.  
Several bills were before the committee for consideration.

SB-68 Amends Local Government Employee-Management Relations Act to provide procedure to stay submission of factfinding; provides complementary procedure concerning reemployment of public school teachers.

Chairman Gibson read the prepared amendments to this bill and the proposed wording at the present time as follows: Page 2, delete lines 5 and 6 and insert: "factfinding shall be stayed for salary matters only up to 10 days after the adjournment of the legislature sine die or the certification by the State Department of Education of the per pupil basic support guarantee, whichever occurs first." The main difference in this wording is "for salary matters only". Senator Dodge pointed out that most of the school districts have agreed on this and have deferred the matter of salaries, whereas most of the other problems have been resolved. Mr. Seeliger concurred with the statements made by Senator Dodge.

Chairman Gibson read an additional change in the proposed wording of this bill in Section 2, page 2, by deleting lines

28 through 32 and inserting the following language: "2 and 3 shall not apply except that prior to April 10 of each year the teacher shall notify the board in writing on forms provided by the board of their intention to accept reemployment. Any agreement negotiated by the recognized employee organization and the board shall become a part of the contract of employment between the board and the teacher. The board of trustees shall mail contracts to each teacher to be reemployed at his last known address. Failure on the part of the teacher to notify the board of acceptance within 10 days of the date of mailing shall be conclusive evidence that the teacher rejects the contract." Chairman Gibson pointed out that because of the delay the contract may not be negotiated until after school is out. Senator Dodge suggested a further amendment that language be inserted that the contracts would be mailed by "certified mail," which the committee agreed to.

Senator Swobe moved to "Amend and Do Pass," seconded by Senator Drakulich. The motion carried.

SB-71 Validates securities, voted and nonvoted, securities issued in anticipation of the issuance of such securities and proceedings pertaining to such securities.

Mr. McDonald appeared before the committee to testify concerning SB-71. He stated that passage of this bill would not only take care of the state park bonds (again a problem because of the double-ballot system) as well as a variety of other issues which the people have authorized, but cannot be sold. If this bill is passed it would authorize the sale of bonds only at the interest rate the people voted on at the moment. It is general in nature and would, as of the date the governor signs the bill, validate all the proceedings up to that point. He further stated that this wording has been approved by the bonding counsel, and read letters regarding this matter from Mr. Johnson and others (copies attached).

Senator Dodge moved "Do Pass," seconded by Senator Monroe. The motion carried.

SB-96 Conditionally authorizes board of trustees of Washoe County School District on behalf and in name of the district to issue not to exceed \$25,000,000 of bonds for improving school facilities.

Senator Hug appeared before the committee to give some background information concerning SB-96. He stated that the Washoe County School District has not as yet held an election, but anticipates having one in the city primaries in early May. The purpose of this legislation is to validate the election in the event that changes are made by the legislature between now and when the election is held. They have already delayed the bond election as long as they can, but are now badly in need of additional buildings. If they can hold this election on the city primaries they feel that they will save \$35-40,000 they would have to spend in order to have a special election.

After discussion it was determined that any action would be deferred at the present time, and Chairman Gibson requested Mr. McDonald to keep the committee informed on this matter.

SB-97        Makes changes in appeal procedure under state purchasing act.

Mr. Howard Barrett, State Budget Director, spoke before the committee at this time. He stated that last year there had been a case where an appeal was placed against the purchasing chief because of a bid that she had awarded. The procedure presently calls for her to then review her previous action. Mr. Barrett said they feel that this is not good administrative procedure and that nobody should be reviewing an action they previously took based upon an appeal. The appeal should then go to the next highest level.

This bill would accomplish two things: (1) Appeals against bids awarded by the purchasing chief would go to Mr. Barrett as director of administration, rather than going back to the purchasing chief; and (2) the other provision would simply change "average" bid submitted to "successful" bid submitted as a basis for the 25% bond. This would make it easier to compute with a lot less possibility of protesting.

Senator Dodge moved "Do Pass," seconded by Senator Swobe. The motion carried.

SB-98        Modified procedure on contracts for services between state and independent contractor.

Mr. Barrett again testified before the committee, this time with regard to SB-98. He said that this fell into the "house-cleaning" type of legislation. The problem they are trying

to solve here is when contracts are entered into by an agency without the governor or budget office knowing about it -- they do not know the contract is even in existence until the claim comes in to pay the contract. They want to have a look at the contracts the agencies wish to enter into to see if they do coincide with the amount of money in their budget, with the governor's rules and regulations, board of examiner's rules, and even with legislative intent, before the claim comes in and the work has been done.

Chairman Gibson suggested an amendment on this bill making it "effective on passage."

Senator Dodge then moved to "Amend to make bill effective on passage and Do Pass," seconded by Senator Swobe. The motion carried.

SB-104 Excludes Clarke-McNary fire protection districts from Local Government Budget Act.

Mr. George Zappettini, State Forester, spoke to the committee on SB-104. He stated that over the years they have formed various forest and watershed protection districts which are known as "Clarke-McNary" districts since they receive federal funds under the Clarke-McNary law of 1924. There are actually three sources of funds for these districts -- federal, state and county, which are co-mingled. The way the law now reads they are included under the Local Government Budget Act and required to be audited. This has been impossible according to Mr. Zappettini, and he then read a letter from the firm of Chalk and Joerg, CPA's, which explains why (copy attached).

Mr. Zappettini further stated that the Nevada Tax Commission is in favor of this legislation and that the districts were left in only by oversight. The districts are audited by the state and by the federal government.

Senator Dodge moved "Do Pass," seconded by Senator Swobe. The motion carried.

There being no further business, the meeting was adjourned.

Respectfully submitted,

---

Mary Jean Pondi,  
Committee Secretary

LAW OFFICES

DAWSON, NAGEL, SHERMAN & HOWARD

1900 FIRST NATIONAL BANK BUILDING  
DENVER, COLORADO 80202

266-3401 AREA CODE 303

January 19, 1971

FRITZ A. NAGEL  
COUNSEL

JAMES H. PERSHING (1863-1915)  
ROBERT G. BOSWORTH (1888-1954)  
LEWIS A. DICK (1889-1954)

CABLE ADDRESS  
DAWNAG

AIR MAIL

CLYDE C. DAWSON  
SAMUEL S. SHERMAN, JR.  
WINSTON S. HOWARD  
MICHAEL REIDY  
ROBERT M. JOHNSON  
ARTHUR K. UNDERWOOD, JR.  
HOVER T. LENTZ  
JOHN W. LOW  
WILLIAM F. VOELKER  
THOMAS B. FAXON  
HUGH A. BURNS  
RAYMOND J. TURNER  
BRUCE L. EVANS  
GARTH C. GRISSOM

WILLIAM P. FARTHING  
WILLIAM P. CANTWELL  
MICHAEL D. GROSHEK  
WILLIAM F. SCHOEBERLEIN  
MICHAEL A. WILLIAMS  
ARTHUR J. SEIFERT  
JAMES B. DALEY  
LARRY M. BAKER  
CHARLES EDWARD PALMER  
JAMES E. HAUTZINGER  
DON H. SHERWOOD  
CHARLES R. FREDERICKSON  
W. DAVID PANTLE  
JAMES L. CUNNINGHAM

GARY L. GREER  
MICHAEL L. CHEROUTES  
DOUGLAS M. CAIN  
GEORGE A. SISSEL  
DUANE F. WURZER  
DAVID R. JOHNSON  
JOHN C. MITCHELL III

JOHN T. GAUBATZ  
CONSTANCE L. HAUSER  
EDWARD LEE DALE  
MARILYNN J. CASON  
MAXWELL A. SNEAD, JR.  
S. CHANDLER VISHNER

Mr. Ray Free  
District Attorney  
P. O. Box 218  
Pioche, Nevada 89043

Dear Mr. Free:

Lincoln County, Nevada  
General Obligation Hospital Bonds  
\$50,000.00

Thank you for your letter of January 13, 1971.

As you point out, in our letter of July 27, 1970, we did indicate that we would be drafting proceedings submitting the County bond election to judicial confirmation. Subsequently, however, it became apparent that a number of Nevada municipal corporations would be seeking legislation of one type or another to "validate" possible irregularities in bond authorizations. In view of that, there was some question whether it might not be better for your County, along with many other political subdivisions, to seek legislative redress. This possibility was raised in our August 13, 1970, letter to Mr. Nicholas G. Smith of Burrows, Smith and Company of Nevada, who had been and presumably still is assisting the County.

It now appears that a general ratification act, curing all potential irregularities in bond proceedings of Nevada municipalities, will be introduced at this session of the Legislature. If such an act takes its customary form, we believe that the problems of Lincoln County will be resolved without the need for either special legislation or judicial confirmation.

Mr. Ray Free  
January 19, 1971  
Page 2

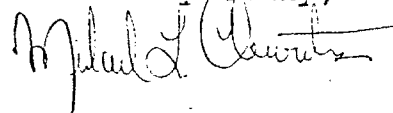
1-76

It is our further understanding that we will have an opportunity to review (if not draft) the general ratification act. Therefore, we should be in a position to influence the form of that legislation so that it will in fact accomplish the desired result with respect to your planned bond issue.

In the meantime, we suggest that you contact Mr. Russell W. McDonald, Legislative Counsel, to confirm this information.

If, for some reason, you would prefer to proceed with either of the other two alternatives (i.e., special legislation relating only to Lincoln County or judicial confirmation in your district court), please so advise us.

Yours very truly,



MLC/ljt

cc: Burrows, Smith and Company of Nevada  
Suite 1003 Kearns Building  
Salt Lake City, Utah 84101  
Attn: Mr. Nicholas G. Smith

Burrows, Smith and Company of Nevada  
Suite 209 - The Nevada Building  
109 South Third Street  
Las Vegas, Nevada 89101  
Attn: Dr. R. Guild Gray

Russell W. McDonald, Esq.  
Legislative Counsel  
Room 45, Capitol Building  
Carson City, Nevada 89701



## LAW OFFICES

DAWSON, NAGEL, SHERMAN &amp; HOWARD

1900 FIRST NATIONAL BANK BUILDING  
DENVER, COLORADO 80202

266-3401 AREA CODE 303

January 26, 1971

CLYDE C. DAWSON  
SAMUEL S. SHERMAN, JR.  
WINSTON S. HOWARD  
MICHAEL REIDY  
BERT M. JOHNSON  
THUR K. UNDERWOOD, JR.  
HOVER T. LENTZ  
JOHN W. LOW  
WILLIAM F. VOELKER  
THOMAS B. FAXON  
HUGH A. BURNS  
RAYMOND J. TURNER  
BRUCE L. EVANS  
GARTH C. GRISSOMWILLIAM P. FARTHING  
WILLIAM P. CANTWELL  
MICHAEL D. GROSHEK  
WILLIAM F. SCHOEBERLEIN  
MICHAEL A. WILLIAMS  
ARTHUR J. SEIFERT  
JAMES B. DALEY  
LARRY M. BAKER  
CHARLES EDWARD PALMER  
JAMES E. HAUTZINGER  
DON H. SHERWOOD  
CHARLES R. FREDERICKSON  
W. DAVID PANTLE  
JAMES L. CUNNINGHAMWILLIAM S. HERSHBERGER  
MICHAEL L. CHEROUTES  
DOUGLAS M. CAIN  
DUANE F. WURZER  
DAVID R. JOHNSON  
JOHN C. MITCHELL III  
JOHN T. GAUBATZCONSTANCE L. HAUVER  
EDWARD LEE DALE  
MARILYNN J. CASON  
S. CHANDLER VISHER  
RICHARD F. MAURO  
JOHN A. KIDWELL

Fritz A. Nagel

FRITZ A. NAGEL  
COUNSELJAMES H. PERSHING (1863-194  
ROBERT G. BOSWORTH (1888-18  
LEWIS A. DICK (1889-1954)CABLE ADDRESS  
DAWNAG

LEGISLATIVE COUNSEL

JAN 29 1971

AIRMAIL

ROUTE 1  
LEGISLATIVE COUNSELRussell W. McDonald, Esq.  
Legislative Counsel  
Legislative Counsel Bureau  
Room 45, Capitol Bldg.  
Carson City, Nevada 89701

Dear Russ:

Re: Nevada legislation

Enclosed are five copies of a proposed 1971 Public Securities Validation Act.

This act should clear up legal clouds concerning the validity of proceedings taken to date concerning various types of bonds and other securities issued or to be issued by the State and various political subdivisions, including the State Park bond issue, proposed bonds to be issued by Mineral County School District, proposed bonds to be issued by Carson City School District, special assessment bonds to be issued by the Cities of Wells and Winnemucca, general obligation storm sewer bonds to be issued by the City of Lovelock, general obligation hospital bonds to be issued by Lincoln County, airport revenue bonds of Clark County, and possibly other issues which do not immediately come to mind. (A special act pertaining to the Clark County (Las Vegas Convention Authority) Nevada, General Obligation Public Building and Recreation Bonds and another special act pertaining to proposed bonds of Washoe County School District have made unnecessary the validation act for those two issues, but the validation act will cure legal problems pertaining to those two issues).

Copies of the proposed bill are being forwarded to recipients of copies of this letter as hereinafter indicated.

Thank you for your assistance and cooperation.

Yours truly, *Sincerely,*

*Bob Johnson*

RMJ/11

enc (11) 5

cc: Burrows, Smith &amp; Co.

1003 Kearns Bdg.

Salt Lake City, Utah 84101

(Mr. Nicholas G. Smith)

cc: Burrows, Smith &amp; Co. (5)

209 Nevada Bldg.

109 S. Third St.

Las Vegas, Nevada 89101

(Dr. R. Guild Gray)

## DAWSON, NAGEL, SHERMAN &amp; HOWARD

1900 FIRST NATIONAL BANK BUILDING  
DENVER, COLORADO 80202  
266-3401, AREA CODE 303

December 15, 1969

FRITZ A. NAGEL  
COUNSEL

JAMES H. PERSHINS (1863-1948)  
ROBERT A. BOSWORTH (1866-1905)  
LEWIS A. LICK (1869-1954)

CABLE ADDRESS  
DAWNAG

CLYDE C. DAWSON  
SAMUEL S. SHERMAN, JR.  
WINSTON S. HOWARD  
MICHAEL REIDY  
ROBERT M. JOHNSON  
JUR. K. UNDERWOOD, JR.  
ER. T. LENTZ  
JOHN W. LOW  
WILLIAM F. VOELKER  
THOMAS B. FALON  
HUGH A. BURNS  
RAYMOND J. TURNER  
BRUCE L. EVANS  
GARTH C. GRISSOM

WILLIAM P. FARTHING  
WILLIAM P. CANTWELL  
MICHAEL D. GROSSHEK  
WILLIAM F. SCHNEIDERLEIN  
FRANK S. KING  
MICHAEL A. WILLIAMS  
ARTHUR J. SEIFERT  
JAMES B. DALEY  
LARRY M. BAKER  
CHARLES EDWARD PALMER  
JAMES E. HAUTZINGER  
DON H. SHERWOOD  
CHARLES A. FREDERICKSON

W. DAVID PANTLE  
JAMES L. CUNNINGHAM  
GARY L. GREEN  
JAMES C. OLDHAM  
MICHAEL L. CHEROUTES  
DOUGLAS M. CAIN  
GEORGE A. SSEL  
SCOTT W. JOHNSON  
DUANE WURZER

DAVID R. JOHNSON  
JOHN C. MITCHELL III  
CONSTANCE L. HAUVER  
THOMAS M. VAN CLEAVE III  
EDWARD LEE DALE  
MICHAEL A. SABIAN  
BRIAN PENDLETON  
CHARLES A. BUSS

AIR MAIL

Mr. James L. Wadsworth  
District Attorney  
P. O. Box 446  
Pioche, Nevada 89043

Dear Mr. Wadsworth:

Lincoln County, Nevada  
General Obligation Hospital Bonds  
\$50,000.00

Thank you for your letter of December 10, 1969,  
by which you forwarded an executed set of the pre and post-  
election proceedings, consisting of pages 1 through 33.  
We have the following specific comments:

1. Inasmuch as Commissioner Higbee did not attend the October 13 meeting of the Board, we will need his signature on the initial unnumbered page designated "Call and Notice of Special Meeting," evidencing the fact that he was properly notified of that meeting. We are returning that page herewith and request that it be forwarded to us when the required signature has been obtained.

2. Of major concern to us is the form of the election notice published on November 6 and November 13, 1969. On the one hand, the notice differs in large measure from that form appearing in the election resolution as pages 11 - 13. This gives rise to the possible argument that the published notice was not properly authorized by the Board.

On the other hand, the published notice of election includes a bond question substantially different from that actually submitted. For example, the purpose for which the bonds are to be issued is stated in the published notice as one "of matching



Mr. James L. Wadsworth  
December 15, 1969  
Page 2

1-70

state, federal and private funds in constructing a hospital to be located in Caliente, Lincoln County, Nevada." In the question actually submitted, however, it is simply stated as "establishing a public hospital." We appreciate that in substance this probably amounts to the same thing. Yet, the divergence in form may give rise to the argument that the "purposes for which the bonds are to be issued" were not properly set forth in the notice of election, as required by NRS 350.024(c).

3. Finally, the bond question as submitted by ballot contains an unfortunate typographical error, which to some degree confuses meaning. Instead of the words "for the purpose of establishing a public hospital" there are included the words "for the purchase of establishing a public hospital." The question here is of course whether any voter might have been confused by the error in casting his vote.

In our opinion, the matters discussed in subparagraphs 2 and 3 above raise a legal question of the validity of the bond election. For that reason, we will ask that if judicial confirmation is ultimately sought the election irregularities discussed above be specifically submitted to the district court for resolution.

Incidentally, we will need to include in our bond transcript executed sets of those proceedings relating to the adoption by the Hospital Board of its initial resolution requesting the bond election and relating to the adoption by the General Obligation Bond Commission of its resolution approving the submission of the bond question. These were forwarded to you on September 19, 1969.

It is our understanding that as an alternative to judicial confirmation you may choose to seek special authorization for these bonds from a proposed special session of the Nevada legislature. If you ultimately choose this course, the problems raised above should be of little consequence. We will await word from you before drafting further proceedings.

If you have any questions, please do not hesitate to call.

Yours very truly,

Michael J. Quarta

MLC/lh

E. EDWIN HIGBEE  
KENNETH D. LEE  
CHESTER OXBORROW  
COUNTY COMMISSIONERS  
702-962-5235

OFFICE OF DISTRICT ATTORNEY

LINCOLN COUNTY

PIOCHE, NEVADA 89043

13 January 1971

RAY FREE  
DISTRICT ATTORNEY  
P.O. BOX 218  
PIOCHE, NEVADA 89043  
702-962-5445

CARL G. ARNOLDUS  
COUNTY SHERIFF  
702-962-5151

LEORA F. WADSWORTH  
COUNTY CLERK  
702-962-5390

Mr. Russell W. McDonald  
Legislative Counsel Bureau  
State Capitol Building  
Carson City, Nevada 89701

Re: Lincoln County Hospital Bonds, and  
Pahranaagat Valley Fire & T.V. Protection District

RECEIVED

JAN 15 1971

ROUTE 211 ( )  
L ( )  
L ( )

Dear Russ:

I discussed very briefly with Grant Davis two bond problems that I inherited and he suggest that I write to you, setting forth the problems.

On 17 December 1968, a bond election was held in Alamo for authority to issue \$20,000.00 in bonds. This was held by the two-color ballot system which, under Phoenix v. Kolodziejcki, may or may not be valid. Interestingly enough, the vote was as follows:

Property owners	39 yes	2 no
Non-property owners	6 yes	0 no

On 26 August 1969, a special bond election was held to issue general obligation bonds in the amount of \$50,000.00. The result of that election was as follows:

Property owners	566 yes	79 no
Non=property owners	79 yes	7 no

In addition to that problem, I enclose herewith a copy of a letter written by Michael L. Cheroutes of Dawson, Nagel, Sherman & Howard. You will note that he has set forth therein three problems. Your thoughts and thinking as to whether the County should ask for special legislation or judicial determination as to the later three problems would be appreciated.

Mr. Russell W. McDonald

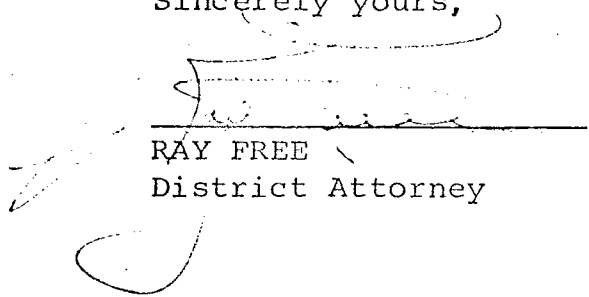
- 2 -

13 January 1971

I understand that some type of legislation is going to be <sup>)- 81</sup> proposed to cover the bonds which have been approved under the two-color ballot system. If I am in error, please advise.

With kindest regards, I am,

Sincerely yours,

  
RAY FREE  
District Attorney

RF:bsm  
Encl.

LAW OFFICES

DAWSON, NAGEL, SHERMAN & HOWARD

1900 FIRST NATIONAL BANK BUILDING  
DENVER, COLORADO 80202

266-3401 AREA CODE 303

February 3, 1971

1-82 FRITZ A. NAGEL  
COUNSEL

JAMES H. PERSHING (1863-19...)  
ROBERT G. BOSWORTH (1888-...)  
LEWIS A. DICK (1889-1954)

CABLE ADDRESS  
DAWNAG

AIR MAIL

CLYDE C. DAWSON  
SAMUEL S. SHERMAN, JR.  
WINSTON S. HOWARD  
MICHAEL REIDY  
ROBERT M. JOHNSON  
ARTHUR K. UNDERWOOD, JR.  
HOVER T. LENTZ  
JOHN W. LOW  
WILLIAM F. VOELKER  
THOMAS B. FAXON  
HUGH A. BURNS  
RAYMOND J. TURNER  
BRUCE L. EVANS  
GARTH C. GRISSOM

WILLIAM P. FARTHING  
WILLIAM P. CANTWELL  
MICHAEL D. GROSHEK  
WILLIAM F. SCHOEBERLEIN  
MICHAEL A. WILLIAMS  
ARTHUR J. SEIFERT  
JAMES B. DALEY  
LARRY M. BAKER  
CHARLES EDWARD PALMER  
JAMES E. HAUTZINGER  
DON H. SHERWOOD  
CHARLES R. FREDERICKSON  
W. DAVID PANTLE  
JAMES L. CUNNINGHAM

WILLIAM S. HERSHBERGER  
MICHAEL L. CHEROUTES  
DOUGLAS M. CAIN  
DUANE F. WURZER  
DAVID R. JOHNSON  
JOHN C. MITCHELL III  
JOHN T. GAUBATZ

CONSTANCE L. HAUVER  
EDWARD LEE DALE  
MARILYNN J. CASON  
S. CHANDLER VISHER  
RICHARD F. MAURO  
JOHN A. KIDWELL

Mr. Ray Free  
District Attorney  
P. O. Box 218  
Pioche, Nevada 89043

Dear Mr. Free:

Lincoln County, Nevada  
General Obligation Hospital Bonds  
\$50,000.00

Town of Pioche, Nevada  
Proposed General Obligation  
Power & Light Acquisition Bonds

This will confirm our telephone conversation of Monday, February 1, 1971.

In your letter of January 28 to Mr. Grant Davis, a copy of which was forwarded to us, you raised the question whether general ratification legislation would be introduced at this session of the legislature. We had mentioned this alternative as a means of resolving those election irregularities which have been delaying completion of the Lincoln County issue.

Such general legislation was recently drafted in this office and forwarded for introduction. If adopted in substantially the suggested form, the problems of Lincoln County should be resolved without the need for either special legislation or judicial confirmation. You indicated that you had recently received a copy of the proposed ratification act.

With respect to the proposed issuance of bonds by the Town of Pioche, the situation is somewhat more complicated. You mentioned in your January 28 letter that a bond election has been scheduled for March 16 and that preliminary action with respect to this election contemplates a one ballot pro-

LI  
J  
FEB 3 1971  
RECORDED  
( )  
(v) R.H.  
( )

Mr. Ray Free  
 February 3, 1971  
 Page 2

1- 53

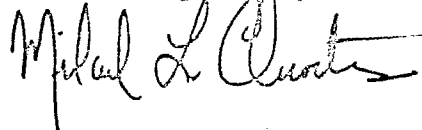
cedure. Legislation authorizing such a procedure will be introduced at this session. However, it is impossible at this point to predict whether and in what form an act will emerge.

The Town is therefore running the substantial risk of noncompliance with whatever statutory scheme evolves. In fact, the Town by calling an election and establishing a procedure not then authorized by statute, may have already jeopardized the validity of the election authorization being sought. Absent some sort of ratification language in the new election legislation, we would have a substantial question as to our ability to approve bonds authorized at the March 16 election, if called upon to do so.

You indicated that you understood our position but were unable to postpone the election without impairing purchase negotiations with the private utility to be acquired.

If we may be of any assistance, please do not hesitate to contact us.

Yours very truly,



MLC/ljt

cc: Burrows, Smith and Company of Nevada  
 Suite 1003 Kearns Building  
 Salt Lake City, Utah 84101  
 Attn: Mr. Nicholas G. Smith

Burrows, Smith and Company of Nevada  
 Suite 209 - The Nevada Building  
 109 South Third Street  
 Las Vegas, Nevada 89101  
 Attn: Dr. R. Guild Gray

Russell W. McDonald, Esq.  
 Legislative Counsel  
 Legislative Counsel Bureau  
 Room 45, Capitol Building  
 Carson City, Nevada 89701

CITY OF RENO

RENO, NEVADA

1. 81

January 14, 1971

Mr. Russell McDonald, Director  
Legislative Counsel Bureau  
401 South Carson Street  
Carson City, Nevada

JAN 15 1971

RECORDED 1 ( )  
INDEXED 1 ( )  
FILED 4 ( )

Dear Russ:

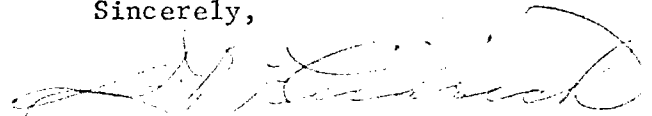
This letter is written at the suggestion of both Messrs. Nick Smith of Burrows, Smith and Company and Clint Wooster, Reno City Attorney.

You may or may not know that at a special election held in Reno on November 3, 1970, the Reno City voters approved the sale of \$2,000,000 worth of City of Reno General Obligation Sewer Improvement Bonds, \$2,000,000 worth of City of Reno General Obligation Street Improvement Bonds and \$2,000,000 worth of City of Reno General Obligation Airport Improvement Bonds. However, in light of recent court decisions, there is considerable doubt that we will be able to obtain a legal opinion from bond attorneys enabling sale in view of Nevada's two-color ballot system.

We will appreciate your office preparing and having introduced a bill similar to that which I understand has been prepared for the Las Vegas Convention Authority which would in effect ratify and thus validate the three bond issues as described above. The maximum interest rate at which these bonds would be sold would be 7%.

We will appreciate this legislation in addition to any general law revision on the subject of two-color ballots, and if you have any questions I will be happy to be of assistance.

Sincerely,



DELBERT R. HEIDRICH  
Director,  
Finance and Personnel

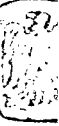
DRH/ar

cc: Nick Smith  
Clint Wooster

Municipal Financial Consultants  
Investments, Tax Free Bonds  
Experience Since 1899

Suite 1003 Kearns Building  
Salt Lake City, Utah 84101  
Phone 328-1511

*Burrows, Smith and Company*  
of Nevada



J-85

January 7, 1971

Mr. Russell W. McDonald  
Legislative Counsel Bureau  
Legislative Building  
401 South Carson Street  
Carson City, Nevada 89701

RECEIVED  
JAN 9 1971  
ROUTE: ( )  
( )  
( )

Re: \$1,000,000 Mineral County School District, Nevada  
G. O. Bonds

Dear Russ:

As you know, these bonds were authorized at an election under the two color of ballot law which bond counsel is unwilling to approve. It will be necessary if the bonds are to be sold that they be validated by the legislature. It would appear that a number of issuers are proceeding with separate acts for validation and I suppose this alternative would be available to the Mineral County School District. However, it would seem to make more sense to have one blanket validation act for all issues which have been authorized and this would save the legislature a good deal of trouble.

It is, of course, essential that the Mineral County issue not be overlooked and I would appreciate being advised if you wish us to have bond counsel draft legislation authorizing issuance of this specific issue or if you feel it would be wiser to handle the matter as a general act covering all authorized bond issues.

Sincerely,

Nicholas G. Smith  
Vice President

ke  
cc Robert M. Johnson  
Arlo K. Funk  
Martha Barlow



Municipal Financial Consultants  
Investments, Tax Free Bonds  
Experience Since 1899

Suite 1003 Kearns Building  
Salt Lake City, Utah 84102  
Telephone 323-1511

*Burrows, Smith and Company*  
of Nevada

January 7, 1971 J-80

Superintendent Arlo Funk  
Mineral County School District  
P. O. Box 1547  
Hawthorne, Nevada 89415

Re: \$1,000,000 Mineral County School District, Nevada, G. O. Bonds

Dear Arlo:

Some one should be working on legislation which would permit Mineral County to impose the optional sale tax and which would permit the county to impose the two cent per gallon optional gasoline tax and use this for maintenance and operation in your county in order to relieve the county budget so that additional moneys could be diverted to school district debt service.

It is suggested that you request your legislative delegation to ask the legislative council to draft these two acts. I am sending a copy of this letter to Russ McDonald so that he will be aware of your problem and will understand that it is not possible for you to issue your authorized bonds without wrecking havoc to other political subdivisions in the county unless substantial financial relief is obtained. While it is not possible at this time to know what the legislature may do with respect to providing additional moneys to local government, it is suggested that it might be unwise to wait for the legislature to fully deliberate on this point and the legislation suggested above should be introduced and hopefully enacted. It does not have to be implemented unless it becomes necessary to do so at the county level.

If I can be of additional assistance, please advise.

Sincerely,

Nicholas G. Smith  
Vice President

NGS:kn  
cc: Martha Barlow, County Clerk  
Russ McDonald

LAW OFFICES

DAWSON, NAGEL, SHERMAN & HOWARD

FRITZ A. NAGEL  
COUNSEL

CLYDE C. DAWSON  
SAMUEL S. SHERMAN, JR.  
WINSTON S. HOWARD  
MICHAEL REIDY  
BERT M. JOHNSON  
THUR K. UNDERWOOD, JR.  
HOVER T. LENTZ  
JOHN W. LOW  
WILLIAM F. VOELKER  
THOMAS B. FAXON  
HUGH A. BURNS  
RAYMOND J. TURNER  
BRUCE L. EVANS  
GARTH C. GRISSOM

WILLIAM P. FARTHING  
WILLIAM P. CANTWELL  
MICHAEL D. GROSHK  
WILLIAM F. SCHOEBERLEIN  
MICHAEL A. WILLIAMS  
ARTHUR J. SEIFERT  
JAMES B. DALEY  
LARRY M. BAKER  
CHARLES EDWARD PALMER  
JAMES E. HAUTZINGER  
DON H. SHERWOOD  
CHARLES R. FREDERICKSON  
W. DAVID PANTLE  
JAMES L. CUNNINGHAM

1900 FIRST NATIONAL BANK BUILDING  
DENVER, COLORADO 80202  
266-3401 AREA CODE 303

COPY

JAMES H. PERSHING (1863-1946)  
ROBERT G. BOSWORTH (1888-19  
LEWIS A. DICK (1889-1954)

CABLE ADDRESS  
DAWNAG

WILLIAM S. HERSHEBERGER  
MICHAEL L. CHEROUTES  
DOUGLAS M. CAIN  
DUANE F. WURZER  
DAVID R. JOHNSON  
JOHN C. MITCHELL III  
JOHN T. GAUBATZ

CONSTANCE L. HAUSER  
EDWARD LEE DALE  
MARILYNN J. CASON  
S. CHANDLER VISHER  
RICHARD F. MAURO  
JOHN A. KIDWELL

December 10, 1970  
LEGISLATIVE COUNSEL BUREAU

DEC 14 1970

AIRMAIL 7-87

ROUTE: AUDIT DIVISION ( )  
LEGAL DIVISION ( )  
RESEARCH DIVISION ( )

The Honorable John Koontz  
The Secretary of State  
State Capitol Building  
Carson City, Nevada 89701

Dear Sir:

State of Nevada  
General Obligation Park Bonds  
\$5,000,000.00

Thank you for your letter of December 2 and for the enclosed (1) four copies of the Election Certificate of Secretary of State, pages -1- through -9-; (2) one brochure entitled "Constitutional Amendments and Other Propositions to be Voted Upon in State of Nevada at General Election, November 3, 1970", and (3) "Sample General Ballot, State Bond Election, to be Held at the Same Time as and to be Consolidated with the General Election on Tuesday, November 3, 1970" .

The designated material meets with our approval, subject to our comments in our letter to you of April 24, 1970, in item 10 and specifically ¶(b) thereof, concerning the necessity of the bonds being re-authorized or ratified because of legal problems raised by City of Phoenix v. Kolodzieski, 399 U. S. 204, 90 Sup.Court 1990 (1970).

We have inserted one set of the above-designated material in our copy of the transcript of proceedings, and are forwarding the extra copies of such material to Burrows, Smith and Company of Nevada, as well as returning to that firm as redundant to our needs one complete set forwarded to us by its letter of December 4.

The Honorable John Koontz  
December 10, 1970  
Page 2

The timing of the sale of the proposed Park bonds is affected by the need for such legislative action as well as other factors, but also by the Internal Revenue Code of 1954 as amended (herein "Tax Code"). Inasmuch as the State (herein "municipality") may not be aware of the impact of this legislation, we feel compelled to comment thereon at some length.

In 1969, by § 601 of the Tax Reform Act of 1969, § 103. Tax Code, was amended by the addition of a new subsection (d) pertaining to "arbitrage bonds," a term defined in a sense which is much broader than its normal sense. Thus, the term is not limited to tax-exempt municipal bonds the only or at least dominant purpose of which is to borrow money for the actual purpose of the investment of the bond proceeds in securities the income on which is subject to federal income taxation ("taxable securities" or merely "securities"), and regardless of the stated purpose for which the bonds are issued; but the term also pertains to many municipal bond issues relating to typical governmental activities. We have the following comments concerning "arbitrage bonds:"

(a) Previously, in the case of municipal bonds payable from revenues derived from the operation of a project acquired or improved with the proceeds of the securities and pledged for their payment ("pledged revenues," and "project", respectively), it was common for the instrument authorizing the bonds or otherwise pertaining thereto ("instrument") to require the project to be effected forthwith, but otherwise a bond contract did not commonly impose any limitations as to the time the project was completed. In the case of bonds payable from such pledged revenues, any unanticipated delay might adversely affect an estimate of the pledged revenues available to pay the principal of and interest on the bonds, particularly the initial maturities.

(b) In the absence of any additional security with such pledged revenues, in the case of general obligation bonds such a bond contract provision was unnecessary and its inclusion in the instrument would be quite atypical. But since the 1969 amendment of the Tax Code, investors in municipal bonds now feel compelled to be concerned with the project for which bonds are authorized, even though the misuse of the proceeds of bonds issued for a lawful purpose does not affect their validity and even though an investor is in a poor position to see to the application of bond proceeds. This concern arises because it is common for

The Honorable John Koontz  
December 10, 1970  
Page 3

1- 59

municipal bond proceeds, wholly or in substantial part, to be invested in taxable securities, at least temporarily, and because such an investment at a materially higher yield than the yield of the municipal bonds, if such an investment is reasonably expected at the time of the issuance of the municipal bonds, results in the loss of tax exemption, subject to a stated "exception" and stated "special rules."

(c) As we have stated previously, § 103(a)(1), Tax Code, as well as similar provisions in the predecessor federal income tax laws, in effect provides that interest on municipal bonds is exempt from federal income taxation.

(d) But the Tax Code, by the new subsection (d) of § 103, now also in effect provides in ¶(1) that interest on a municipal bond which is an "arbitrage bond" is included in gross income for federal income taxation, i.e., tax exemption is lost in the case of such a bond, subject to such "exception" and such "special rules."

(e) An "arbitrage bond," under § 103(d)(2), is a municipal bond issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to acquire securities or obligations other than tax-exempt municipal bonds, i.e. to acquire securities which may be reasonably expected at the time of issuance of such municipal bond issue to produce a materially higher yield than the yield on the issue of municipal bonds, or to replace funds used to acquire such taxable securities, subject to the stated "exception" and to the stated "special rules."

(f) Under the "exception" (which is irrelevant for our purposes) stated in § 103(d)(3), tax exemption is not lost if the municipal bond is part of an issue meeting the above-stated basic test, but substantially all of the proceeds of which are reasonably expected to be used to provide permanent financing for residential real property of personnel of educational institutions granting baccalaureate or higher degrees or to replace funds so used, and the yield on which municipal bond proceeds is not reasonably expected at the time of issuance of the municipal bonds to be substantially lower than the yield from such investments. But interest on such a bond is included in gross income for federal income taxation for any period during which the bond is held by a person who is a "substantial user" of such facilities financed with such municipal bond proceeds or by "a member" of such a person's "family."

The Honorable John Koontz  
December 10, 1970  
Page 4

1- 00

(g) Under the "special rules" stated in § 103(d)(4), a municipal bond is not treated as an arbitrage bond meeting the basic test solely by reason of the fact (1) that the proceeds of the municipal bond issue may be invested "for a temporary period" in such taxable securities until such proceeds are needed for the municipal bond project, or (2) that not exceeding 15 percent of such proceeds or a higher amount established as necessary is so invested as part of a reasonably required reserve or replacement fund.

(h) While at least at this time the limits of a "temporary period" are obscure, a requirement in the instrument that the municipality effect the project forthwith is designed to insure an investor that the municipality will start and complete the project with reasonable diligence, will expend the municipal bond proceeds to defray the cost of the project over a reasonably short period of time, and thus will not invest municipal bond proceeds for longer than a "temporary period."

(i) Presumably the holders of municipal bonds will be challenged by the Internal Revenue Service if in the eyes of the Service the municipal bond issue constitutes arbitrage bonds, and if the interest on the bonds is excluded from gross income for federal income taxation. Such investors manifestly will in turn complain vigorously to the municipality, as the bonds were purchased upon the premise that the bonds are tax-exempt municipal bonds. The municipality's credit and ability to market bonds after such a challenge are substantially involved. Thus, we recommend that the municipality proceed to complete the project without any substantial delay unless material intervening factors arise after the delivery of the bonds which make it impractical to do so. (For example, if another World War should develop after the delivery of the bonds and if it is not possible to obtain construction materials for the project, the resulting delay would not normally result in a loss of tax exemption nor would such a development normally pertain to the "reasonable expectations" existing at the time of the issuance of the bonds.)

(j) We know that representatives of the Treasury Department and the Internal Revenue Service are concerned

The Honorable John Koontz  
December 10, 1970  
Page 5

1- 81

with the problems of an issuer of municipal bonds borrowing "too-much" or "too-soon" (or both "too-much" and "too-soon") as such problems relate to the denial of tax exemption to "taxable arbitrage bonds." We urge that to the extent practicable the bonds should not be offered for public sale until the municipality is ready to proceed forthwith with the facilities for which the bonds are authorized and to complete the project within a reasonable period of time.

(k) This firm has recently concluded that in connection with each bond issue about which we opine that interest on the bonds is exempt under present laws from federal income taxation, with or without qualification, the municipality issuing the bonds should:

(1) Describe the character of the project for which the bonds are issued and state in some detail the municipality's plans for initiating the project (unless it is already initiated) and completing the project,

(2) Answer the question as to whether the project will be initiated with reasonable diligence and in any event within a period of not exceeding one year from the date of issuing the bonds, and

(3) Answer the question of whether the project will be completed, or at least whether the bond proceeds will be expended or otherwise used for the project (e.g., as a condemnation proceedings deposit) with reasonable diligence and in any event within a period of not exceeding two years from the date of delivery of the bonds.

We are concerned with reasonable expectations as they exist at the time of the delivery of the bonds, as well as at the time the requested information is furnished and the designated questions are answered. Such information should be furnished and such questions should be answered by a responsible official or officials of the municipality. Of course if there is any material development between that time and the time of the delivery of the bonds, appropriate supplemental information should be furnished to us promptly.

The Honorable John Koontz  
December 10, 1970  
Page 6

(l) The two questions posed to municipal officials in the next preceding paragraph are intended as "safe havens" for at least a temporary period of time, e.g., until specific guidelines are provided by the Department of the Treasury and the Internal Revenue Service in supplementation of the rather general provisions of subsection (d) of § 103, Tax Code. We of course appreciate that more complicated and extensive projects may not fall within the designated safe havens. In such event it will be necessary for us to inquire in more detail into the project to enable us to satisfy ourselves that no question exists about the loss of tax exemption because of the arbitrage bond provisions in the Tax Code, and thus to enable us to express a favorable opinion concerning the exemption of interest on the bonds from present federal income taxation.

(m) The U. S. Department of the Treasury and the Internal Revenue Service are jointly charged and empowered to promulgate regulations in supplementation of the general provisions in subsection (d) of § 103, Tax Code. On Friday, November 13, there were published in the Federal Register temporary regulations pertaining to arbitrage bonds.

(n) The designated regulations are very fragmentary in nature and tend to be limited to special fact situations which are not of much assistance generally. Thus we assume that there may be an absence of specific guidelines concerning many general problems pertaining to the construction of the arbitrage bond provisions of the Tax Code for an unknown period.

(o) In connection with the arbitrage bond provisions, the temporary regulations do indicate in connection with the basic test, that if the adjusted yield of the taxable securities acquired with municipal bond proceeds is not higher than the adjusted yield of the municipal bonds by more than one-half of 1%, the former yield is not "materially higher" than the latter yield, and in such event the basic test is not met, i.e., the bonds are not arbitrage bonds. In such event there is no danger of a loss of tax exemption.

(p) It is our understanding that in connection with most bond issues all or substantially all of the bond



The Honorable John Koontz  
December 10, 1970  
Page 7

1- 33

proceeds are invested at least for a temporary period until the proceeds are needed to defray costs of the project. Also we understand that under recent market conditions in the absence of bonds of very poor quality it was almost impossible to invest municipal bond proceeds in taxable securities which would not result in a materially higher yield from the investment in comparison with the municipal bond yield, but that at present an investment in federal securities which mature in quite a short time may result in a sufficiently low yield that the basic test may not be met. (Presumably "reasonable expectations" contemplate no change in market conditions from the market existing at the time of the delivery of the municipal bonds, even though it is probable that the market will not remain steady but will fluctuate up and down from time to time during a period of investment and any re-investment of municipal bond proceeds.)

(r) It is anticipated that in connection with most bond issues it will be much simpler to concede that the basic test pertaining to arbitrage bonds will be met, and to concentrate on those facts which indicate that exemption continues to exist because of the "special rules" and most often the rule pertaining to investment for only a "temporary period". The information and questions posed above in paragraph (1) are based upon the above premise. We believe that such approach is far simpler than requesting computations of adjusted yield relating to the municipal bonds and the proposed taxable securities and underlying information as a basis for such computations, but if your finance officers believe that reasonable expectations are that the basic test is not met, please so inform us. In such event we will furnish to you the material from the temporary regulations pertaining to the computation of adjusted yields. (As such material is relatively complicated and lengthy, we are not including it in this letter.)

Please excuse the length of this letter. Inasmuch as the new Tax Code provisions pertaining to arbitrage bonds are not yet widely known, and as they may have substantial impact upon the marketing of any municipal bond issue and upon the project for which the bonds are issued, we feel it is desirable to set forth comments thereabout in some detail.

The Honorable John Koontz  
December 10, 1970  
Page 8

In any event, the information requested and the questions posed in paragraph (1) should be furnished to us and answered by letter, memorandum or otherwise, at least in a tentative manner when we are requested to prepare public sale proceedings or theretofore. Thus, we can minimize risks concerning our being unable to opine favorably as to the exemption of bond interest from federal income taxation, and possibly we will have time to make additional inquiries if the situation indicates such a need.

Thank you very much for your assistance and cooperation.

RMJ/11

Yours truly,

*Dawson, Nagel, Sherman & Howard*

cc: The Honorable Paul Laxalt  
Governor, State of Nevada  
State Capitol Building  
Carson City, Nevada 89701

The Honorable Wilson McGowan  
The State Controller  
State Capitol Building  
Carson City, Nevada 89701

The Honorable Mike Mirabelli  
The State Treasurer  
State Capitol Building  
Carson City, Nevada 89701

The Honorable Harvey Dickerson  
The Attorney General  
State Capitol Building  
Carson City, Nevada 89701

The Honorable Howard E. Barrett  
Director of Administration  
State Capitol Building  
Carson City, Nevada 89701

Russell W. McDonald, Esq.  
Legislative Counsel  
Legislative Counsel Bureau  
Room 45, Capitol Building  
Carson City, Nevada 89701

Mr. Eric R. Cronkhite, Administrator  
Nevada State Parks System  
Room 221, Nye Building  
201 South Fall Street  
Carson City, Nevada 89701

The Honorable John Koontz  
December 10, 1970  
Page 9

1- 65

cc's: Burrows, Smith and Company  
of Nevada  
1003 Kearns Building  
Salt Lake City, Utah 84101  
Attn: Mr. Nicholas G. Smith,  
Vice President

Burrows, Smith and Company  
of Nevada  
Suite 209, Nevada Bldg.  
109 S. Third Street  
Las Vegas, Nevada 89101  
Attn: Dr. R. Guild Gray,  
Vice President

CHALK AND JOERG  
CERTIFIED PUBLIC ACCOUNTANTS

PAUL M. CHALK, C.P.A.  
CHARLES W. JOERG, C.P.A.

717 NORTH CURR STREET  
POST OFFICE BOX 1061  
CARSON CITY, NEVADA 89701  
AREA 702-882-3201

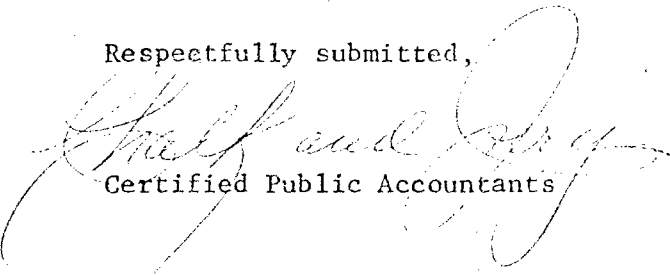
Department of Conservation and Natural Resources  
Division of Forestry  
Clark-McNary Fire Protection District  
Carson City, Nevada:

We have been engaged to examine the records of the Clark-McNary Fire Protection District for the fiscal year ended June 30, 1970. We have determined that the situation which existed at the time of our prior examinations still exists. All receipts of the Division of Forestry are deposited with the Nevada State Treasurer and become co-mingled with other funds. To ascertain that all proper receipts and disbursements of the Clark-McNary Fire Protection District have been properly accounted for would require an audit of the entire Division of Forestry. As such action does not come within the purview of our examination, we were unable to perform an examination in accordance with generally accepted auditing standards.

Based on the preceding paragraph, we are unable to express an opinion on the fiscal transactions of the Clark-McNary Fire Protection District for the fiscal year ended June 30, 1970.

We again recommend that the State of Nevada requirement for the audit of "local government" records be reviewed to determine that the definition of "local government" does in fact include an entity such as the Clark-McNary Fire Protection District which is a subdivision of a Nevada State Agency.

Respectfully submitted,

  
Certified Public Accountants

Carson City, Nevada  
July 24, 1970