

MINUTES

ASSEMBLY JUDICIARY COMMITTEE
April 4, 1977

Members Present: Chairman Barengo
Assemblyman Hayes
Assemblyman Banner
Assemblyman Coulter
Assemblyman Polish
Assemblyman Price
Assemblyman Ross
Assemblyman Sena
Assemblyman Wagner

Chairman Barengo opened the meeting at 8:15 a.m. to hear the Senate bills which had been sponsored by Senator Raggio.

SB 53: Senator Raggio stated that this bill was self-explanatory and he also introduced a letter from Judge William Beko regarding this bill and SB 54 expressing that these bills were drafted at his request.

SB 54: Senator Raggio stated that this bill was proposed to somewhat offset, in the smaller counties where the jurors sometimes travel more than seventy miles, the lodging expense for jurors in the rural areas as compared with the jurors in the city areas who pay no lodging costs. He also referred to the letter mentioned above which is attached and marked Exhibit A.

Senator Raggio stated that the majority of the bills were suggested by Judge Charles Thompson of Clark County.

SB 206: He stated that this bill has been amended so that the interest rates on claims against an estate has been raised to seven percent. It was his feeling that both the interest on claims against an estate and interest on judgements should have been raised to nine percent as the original draft was written.

In answer to a question from Chairman Barengo, Senator Raggio stated that he did not know why the Senate Judiciary Committee did not allow the nine percent factor, but he felt that it was too late in the session to try to raise it back to the nine percent factor. He said that this could perhaps be done in the future.

SB 207: Senator Raggio stated that this bill provides a protection to people who are asked to serve as jurors but are apprehensive to do so because they have been threatened with losing their job if they do serve. He stated that there is a notice for the employer sent along with the notice to serve which the juror must give to his employer one day in advance

ASSEMBLY JUDICIARY COMMITTEE

April 4, 1977

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of the day the juror is to report for jury duty. This notice would prevent the employer from dismissing that employee because of his or her service on the jury.

In answer to a question from Mrs. Wagner, Senator Raggio stated that the notice was not so much to give him advance notice so that he would be able to get a substitute for the person, but so that the person would be available for duty and the employer would know where he was.

SB 209: Senator Raggio stated that this bill was self-explanatory and he introduced for the record a letter from Judge Thompson and a chart indicating the states which have accepted the Uniform Enforcement of Foreign Judgments Act. They are attached and marked Exhibits B and C respectively.

SB 210: Senator Raggio did not comment on this bill. He did, however, introduce a letter regarding this bill from Judge Thompson which is attached and marked Exhibit D.

SB 211: He read from a letter from Judge Thompson which is attached and marked Exhibit E. Senator Raggio stated that he did not believe there was any opposition to this bill in the first hearing on it on the Senate side. He stated he felt that the jury should base their decision on the facts and not speculation as has been the case in the past.

Riley Beck, general counsel with the Nevada Industrial Commission, stated that NIC is opposed to this bill because they feel the NIC is being singled out on the collateral source rule by this bill. He stated that though this bill might not directly effect the NIC, it would indirectly effect NIC. He stated he felt that the jury might discount the award, even though they had been told the law provided a means that NIC would be repaid.

Mr. Price asked Mr. Beck to explain how this would hurt NIC. Mr. Beck stated he did not believe the bill provided that the judge instruct the jury on the exact amount that had been paid by NIC and the jury might reduce the amount of the award, either intentionally or unintentionally. And, this would be only in third-party suits.

Mr. Beck's strongest point was that if the injured party had insurance coverage, NIC or whatever, that fact should be, as it has been traditionally, irrelevant to the action.

Senator Raggio then commented on Mr. Beck's remarks saying that the law already provides that there should be a statement to jury, in these cases, of the fact that there has been an award made by the NIC. He stated that this bill would only provide that the jury be told the true facts of the case, how much was paid and if any had been repaid, so that their determination can be more enlightened and he did not see how this would actually effect the NIC at all. He stated the situation now is unfair and leads to speculation by the jury.

Kent Robinson, attorney from Reno and member of the Nevada Trial Lawyers Association, spoke next on this bill. He stated that their association was in strong support of this bill. He gave a brief historical case reference as to why he felt this way. He said this bill would have made that case much easier to explain to the jury and he said this would give them a chance to present the truth to the juries in these cases rather than arguing around the truth in these cases as has been done in the past.

Senator Raggio stated that NIC cases are somewhat different than regular insurance cases inasmuch as the jury already knows that NIC was involved if it was a work connected injury and this would simply eliminate the problem of speculation on the part of the jury that goes on in these cases.

Mrs. Wagner asked Senator Raggio if it was true that even though NIC is not a verbalized factor in the case, it is still a known factor in the case as far as the jury is concerned. Senator Raggio stated that that was the case. In connection with this point Mr. Robinson stated that in many cases NIC is an express factor because of the need for their records and he felt that the jury was deserving of the truth.

SB 225: Senator Raggio stated that this bill enlarges the preemptory rights under the sections of NRS covered in the bill, if the rights are not set out specifically in the articles of incorporation. He stated that the statute was not complete in this area and this bill is to rectify that problem because those rights should be clear in the statutes.

Mr. Russ McDonald said that it had been at his suggestion that lines 24 and 25 on page one had been added to the reprint on agreement of the Senate Judiciary Committee and Senator Raggio. He also stated that the addition of section five to this bill makes the law follow the Uniform Act of the Model Corporation Law.

SB 227: Senator Raggio explained that this dealt with the instruction of the jury in jury trials. And, this would make the procedure used throughout the state uniform. He stated line 4 eliminates the necessity to read the pleadings to the jury, which in practice is not done today, generally. He also stated that in section 2, page 2 this provides that the instructions to the jurors must be reduced to writing and provides that they will be retained as a permanent record. They had had some problem with the retention of these and that does become a factor on review of the case. He pointed out that in section 4, lines 13 through 16 provides that the court may order the court reporter to read portions of the testimony requested by the jury.

SB 234: This bill is similar to AB 38 and Senator Raggio stated that he was not aware of the duplication and would review the Assembly Bill. He said that bill dealt with the restrictions on entering a plea. This would allow the filing of a writ on the basis of probable cause even after the entry of a plea.

ASSEMBLY JUDICIARY COMMITTEE

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He then went into the more particular points of the bill which were similar to the other Assembly Bill.

Larry Hicks, Washoe County District Attorney, next addressed this bill stating that their primary concern was on page 2, lines 3 through 6 dealing with indefinite postponing and continuing of the hearings on the matter prior to trial. He stated that this would effect the issuance of subpoenas relating to the trial date which had been set while the writ was pending because at the last minute the trial date could be indefinitely postponed and that would affect all the people who had been notified. This would result in all the witnesses and the case itself being put into a state of limbo. He said this would be a problem, not with all the judges perhaps, but, with some of the district judges certainly. He said he did not feel it was good practice to indefinitely continue any criminal action.

He did point out that the bill did offer some good ideas, but, he did not feel the uncertainty of the indefinite postponement was a good idea.

Senator Raggio said that he did not know another way to handle this and that this bill was the best that he and Judge Thompson had come up with.

Kent Robinson stated in regard to this bill that he did not feel that this bill would present the problems that Mr. Hicks had brought out because this can happen as the present law is written. He said that before the existing law was in effect, they had to procede in these cases sometimes without a trial date and it did not present that big a problem for them. He stated that his association would support the bill or the similar Assembly Bill as written.

Mrs. Wagner stated that the Assembly Bill came about as a result of an interim study. Chairman Barengo pointed out that the language in both bills came from Judges Gunderson and Thompson.

SB 235: Senator Raggio stated that this was a self-explanatory bill which was proposed by Judge Thompson regarding the swearing in of jurors.

SB 236: He stated that this was a companion bill to SB 235 and provides the swearing in process of those who are actually chosen for the jury. Section two broadens the ability of a juror to be excused from duty. He said this would provide that someone whose spouse or family member was ill would be able to be excused, etc.

SB 262: Senator Raggio stated that this bill provides for clarification of the number of preemptory challenges which will be allowed in civil cases.

Bill McDonald, Humbolt County District Attorney, stated that he wished to point out that the provisions of this bill should only be applied to civil cases and that it should never be applied to

criminal proceedings. He stated that he pointed this out so that legislative intent would be clear.

SB 264: Senator Raggio explained that this bill would allow the adoption of a plan for choosing alternate jurors similar to the plan which is in effect in Arizona. He said this plan would help to eliminate some of the bad feelings which can come about by the jury being chosen in the presence of the prospective jurors.

Kent Robinson stated that the Nevada Trial Lawyers Association was in favor of this bill and he stated that this procedure is now being used in some of the Washoe County and Clark County courts.

Larry Hicks stated that he agreed, personally, with the Raggio bills as do other District Attorneys he has spoken to about the bills.

SB 68: Larry Hicks addressed this bill today as he was unable to do so the day this bill was previously scheduled. He stated that his reaction to SB 68 is that he did not actually see a need for this bill because he felt it might go too far in its provisions.

He said that page 3, section 6, subsection b, caused him the most concern. He stated that this section indicated to him that if the court wanted to proceed with a probation revocation on its own, that the language in this bill would make it so the court couldn't go forward on its own motion and he did not feel that would be a healthy situation.

In answer to a question raised by Mrs. Wagner, Mr. Hicks stated that the Scarpelli and Morisey cases do not apply to this particular set of circumstances. He stated there were different factors involved in those cases.

In conclusion, Mr. Hicks stated that he supported SB 53, SB 210, SB 227, SB 235 and SB 262 so long as it is limited to civil cases and not criminal cases.

SB 132: Pete Kelly, Nevada Rural Electric Association, was back to testify on this bill and to submit to the committee the information they had asked him to obtain when he appeared before. The information he explained to the committee is attached and marked Exhibit F. He stated that this information was supplied to him by Mr. Hafen of the Valley Electric Association.

That concluded the formal testimony on this morning's business.

Committee Action: (Amendments concurred with on past bills)

AB 213: The committee concurred with the amendment for this bill.

AB 41: The committee felt this amendment should be discussed in a conference committee.

AB 138: The committee concurred with the amendment for this bill.

AB 162: The committee concurred with the amendment for this bill.

AB 210: The committee concurred with the amendment for this bill.

ASSEMBLY JUDICIARY COMMITTEE

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Committee Action:

SB 53: Mrs. Wagner moved for a Do Pass. Mr. Banner seconded the motion and it carried unanimously. (Mrs. Hayes, Mr. Sena and Mr. Price were not present to vote.)

SB 54: Mr. Banner moved for a Do Pass. Mrs. Wagner seconded the motion and it carried with the same members voting.

SB 206: Mr. Banner moved for a Do Pass. Mr. Polish seconded the motion and it carried with the same members voting.

SB 207: Mr. Banner moved for a Do Pass. Mr. Polish seconded the motion and it carried unanimously. (Mrs. Hayes and Mr. Price were not present to vote.)

SB 209: This bill will be further discussed due to some questions raised by the committee members and therefore there was no action taken.

SB 210: Mrs. Wagner moved for a Do Pass. Mrs. Hayes seconded the motion and it passed unanimously with all members present.

SB 211: Mrs. Wagner moved for a Do Pass. Mrs. Hayes seconded the motion and it passed unanimously.

SB 225: There will be further testimony on this bill, therefore, no action was taken.

SB 227: Mrs. Hayes moved for a Do Pass. Mrs. Wagner seconded the motion and it carried unanimously.

SB 234: This bill is similar to AB 38 and Senator Raggio is going to review that bill and discuss them later, therefore, no action was taken.

SB 235: Mrs. Wagner moved for a Do Pass. Mrs. Hayes seconded the motion and it carried unanimously.

SB 236: Mrs. Hayes moved for a Do Pass. Mr. Banner seconded the motion and it carried unanimously.

SB 262: Mrs. Hayes moved for a Do Pass. Mr. Polish seconded the motion and it carried unanimously.

SB 264: Mr. Polish moved for a Do Pass. Mrs. Hayes seconded the motion and it carried unanimously.

AB 315: Mr. Ross moved for a Do Pass as Amended. Mrs. Hayes seconded the motion and it carried unanimously.

AB 197: Mr. Ross moved for a Do Pass as Amended. Mrs. Hayes seconded the motion and it carried unanimously.

The meeting was adjourned at 10:55.

Respectfully submitted, 1355

Linda Chandler
Linda Chandler, Secretary

EXHIBIT A (with attachments)

Fifth Judicial District Court
State of Nevada

WILLIAM P. BEKO
JUDGE

PLEASE RESPOND TO:
Tonopah OFFICE

ESMERALDA, MINERAL AND NYE COUNTIES

January 25, 1977

Honorable Robert Barengo
Chairman, Assembly Judiciary Committee
Assembly Chamber
Legislative Building
Carson City, Nevada 89710

Re: S. B. 53 and S. B. 54

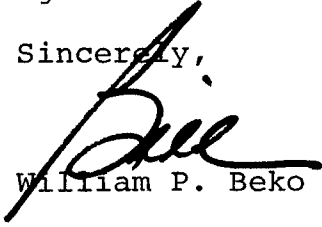
Dear Bob:

Senate Bills 53 and 54 were drafted at my request and are presently in the Senate Judiciary Committee. Ultimately, I feel they will be referred to your committee and for this reason, I have enclosed copies of explanatory correspondence which I have mailed to Rick Blakemore.

If your committee has any questions or reservations concerning these proposals, I would appreciate an opportunity to present my views.

Best personal regards.

Sincerely,


William P. Beko

WPB/dk
Enclosure

How to Place w/ Bills

1356

ESMERALDA COUNTY:
(702) 485-6367
P. O. Box 209
GOLDFIELD, NEVADA 89013

MINERAL COUNTY:
(702) 945-2446
P. O. Box 1457
HAWTHORNE, NEVADA 89415

NYE COUNTY:
(702) 482-3341
P. O. Box 393
TONOPAH, NEVADA 89049

WILLIAM P. BEKO
JUDGE

Fifth Judicial District Court
State of Nevada

PLEASE RESPOND TO:
Tonopah OFFICE

ESMERALDA, MINERAL AND NYE COUNTIES

January 25, 1977

Honorable Richard E. Blakemore
Senate Chamber
Legislative Building
Carson City, Nevada 89701

Re: S. B. 53

Dear Rick:

Many thanks to you and Bill Raggio for introducing S. B. 53 which was drafted at my request.

If enacted into law, this will allow police officers to issue citations to juvenile traffic violators and to juveniles violating ordinances punishable as misdemeanors.

Existing Nevada law [NRS62.170] authorizes officers to take into custody any child who is found violating any law or ordinance. After the child is taken into custody, it is mandatory that the officer notify the parent or custodian of the child, and the probation officer. The child is then released to the parent on a written promise of the parent to produce the child in court when notified.

This procedure is not justified, and burdensome, in cases of minor traffic violations or an early curfew violation. It consumes an inordinate amount of the time of the arresting officer, taking him off the street to perform a purely ministerial task which is accomplished as well by the issuance of a citation.

This proposed procedure has the unanimous support of those peace officers with whom I have discussed the subject. As a matter of fact, I have been requested to grant authority to use a juvenile citation book by night shift officers and found such authority absent under existing law.

Very truly yours,


William P. Beko

cc: Senators Raggio and Sheerin

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ESMERALDA COUNTY:
(702) 485-6367
P. O. Box 209
GOLDFIELD, NEVADA 89013

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P. O. Box 1457
HAWTHORNE, NEVADA 89415

NYE COUNTY:
(702) 482-3341
P. O. Box 393
TONOPAH, NEVADA 89049

Levis

WILLIAM P. BEKO
JUDGE

Fifth Judicial District Court
State of Nevada

PLEASE RESPOND TO:
Tonopah OFFICE

ESMERALDA, MINERAL AND NYE COUNTIES

January 24, 1977

Honorable Richard E. Blakemore
Senate Chamber
Legislative Building
Carson City, Nevada 89701

Re: S. B. 54

Dear Rick:

I wish to extend my thanks to you and Senators Sheerin and Raggio for introducing Senate Bill 54 which was drafted at my request.

This bill, if enacted into law, would correct a serious inequity in the law which exists in the larger counties in Nevada. It would authorize the counties to pay a lodging allowance to trial jurors who travel more than 50 miles to attend court and who do not return home each day.

Under existing law, a juror who actually serves is paid a total of \$15.00 for his service. He receives no allowance for meals or lodging. There is no authority under the law which would allow the county commissioners to pay for meals or lodging for jurors who remain overnight at the county seat rather than return home. This is particularly inequitable to jurors residing in Pahrump Valley, Amargosa Valley and Beatty who must travel up to 175 miles, one way, to attend court as jurors. It requires that they arise before dawn in order to appear in court on time, and also requires that they drive long after dark returning to their homes, after court has adjourned for the day. If they stay overnight, they suffer an economic loss because there is no way they can pay for their meals and lodging for the \$15.00 they presently receive.

The bill requested would have allowed jurors to be compensated at the same rate that state officers and employees are paid. As drafted, it contains an allowance of \$13.00 per day. The state currently allows \$15.50 for state employees and it is my understanding that an

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Honorable Richard E. Blakemore

January 24, 1977

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increase is sought because there are very few motels whose commercial rate does not exceed \$15.50. I would recommend the inclusion of my original request so that it is more consistent with current motel or hotel rates.

Jurors suffer great inconvenience as it is. It is unconscionable that they should be required to serve at an economic loss while being inconvenienced.

If the Judiciary Committee desires my personal attendance when this legislation is considered, kindly advise.

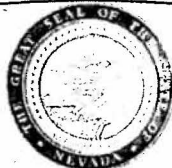
Very truly yours,



William P. Beko

WPB/dk

cc: Honorable William J. Raggio,
Honorable Gary Sheerin



EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY
LAS VEGAS, NEVADA 89101

J. CHARLES THOMPSON
DISTRICT JUDGE

DEPARTMENT ONE
(702) 386-4011

February 17, 1977

The Honorable William J. Raggio
Nevada State Legislature
Carson City, Nevada

Re: S.B. 209

Dear Bill:

I understand that the Senate Committee on Judiciary will consider S.B. 209 on February 22, 1977. As you are aware, S.B. 209 would enact the Uniform Enforcement of Foreign Judgments Act. This act was approved by the National Conference of Commissioners on Uniform State Laws, and the American Bar Association, in 1964.

Court congestion is a problem common to all states. Overcrowded dockets, overworked judges and court officials, with attendant delays, inevitably tend to lower standards for the administration of justice. One of the things that contributes to calendar congestion is the Federal necessity of giving full faith and credit to the judgments of courts of other states. U.S. Const. art. IV, §1. While there is no constitutional requirement that a debtor who has had a full due process trial in one state need to be given a second full scale trial on the judgment in another state, this is the only course generally available to creditors. The usual practice requires that an action be commenced on the foreign judgment. The full procedural requirements apply to the second action.

In 1948 the National Conference of Commissioners on Uniform State Laws approved the original Uniform Enforcement of Foreign Judgments Act. This act was a distinct advance over the usual method. It provided a summary judgment procedure for actions on foreign judgments. Even this advance, however, fell far short of the method provided by Congress in 1948 for the inter-district enforcement of the judgments of the Federal District Courts. 28 U.S.C., §1963. Further, widespread adoption by Nevada

William J. Raggio

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of the Federal Rules of Civil Procedure which include regular summary judgment practice made special summary judgment acts superfluous.

This 1964 revision of the Uniform Enforcement of Foreign Judgments Act adopts the practice which, in substance, is used in Federal courts. It provides the enacting state with a speedy and economical method of doing that which it is required to do by the Constitution of the United States. It also relieves creditors and debtors of the additional cost and harassment of further litigation which would otherwise be incident to the enforcement of the foreign judgment. This act offers the states a chance to achieve uniformity in a field where uniformity is highly desirable. Its enactment by Nevada should assist in forestalling Federal legislation in this field.

According to my research the following eleven states have enacted the Uniform Enforcement of Foreign Judgments Act:

Alaska	Kansas	Pennsylvania
Arizona	New York	Wisconsin
Colorado	North Dakota	Wyoming
Connecticut	Oklahoma	

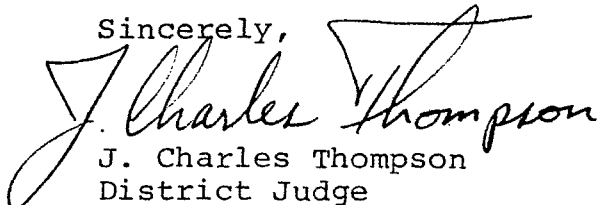
Many of the other states have similar provisions, although they do not entitle them the Uniform Enforcement of Foreign Judgments Act.

I strongly recommend to the Senate Committee on Judiciary that S.B. 209 be passed.

I wish to thank you and the Senate Committee on Judiciary for your prompt and careful consideration of S.B. 209.

Best personal regards.

Sincerely,


J. Charles Thompson
District Judge

JCT/jw

cc: The Honorable Mel Close, Chairman
Senate Committee on the Judiciary

The Honorable Richard Bryan

1361

RECORD OF PASSAGE OF UNIFORM AND MODEL ACTS, AS OF AUGUST 31, 1975

(• As Amended) (■ Substantially Similar) (★ Enacted)

- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- Delaware
- District of Columbia
- Florida
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- Nebraska
- Nevada
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Oregon
- Pennsylvania
- Puerto Rico
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Vermont
- Virgin Islands
- Virginia
- Washington
- West Virginia
- Wisconsin
- Wyoming

1362

SB 209 Raggio

EXHIBIT C

Table I - UNIFORM ACTS		
01		Abortion (1971) (1973)
27	• • • • •	Acknowledgement (1942) (1960)
4	• • • • •	Adoption (1957) (1969) (1971)
3		Aircraft Financial Responsibility (1954)
20	• • • • •	Alcoholism and Intoxication Treatment (1971)
50	• • • • •	Anatomical Gift (1968)
13	• • • • •	Ancillary Administration of Estates (1945) (1953)
50	• • • • •	Arbitration (1956)
		Attendance of Out of State Witnesses (1931) (1936)
5		Certification of Questions of Law (1967)
9	• • • • •	Child Custody Jurisdiction (1968)
5		Civil Liability for Support (1954)
52	• • • • •	Commercial Code (1951) (1957) (1962) (1966)
11		Commercial Code Article 9 (1971)
25	• • • • •	Common Trust Fund (1938) (1952)
9	• • • • •	Consumer Credit Code (1968) (1974)
3		Consumer Sales Practices (1970) (1973)
6		Contribution Among Tortfeasors (1955)
38	• • • • •	Controlled Substances (1970) (1973)
47	• • • • •	Crime Victims Reparations (1973)
8		Criminal Extradition (1925) (1936)
		Criminal Procedure Rules (1952) (1974)
Table I - UNIFORM ACTS (Continued)		
42	• • • • •	Declaratory Judgments (1922)
1		Disclaimer of Property Interests (1973)
2		Disclaimer of Transfers by Will, Intestacy or Appointment (1973)
2		Disclaimer of Transfers Under Nontestamentary Instruments (1973)
4		Disposition of Community Property Rights at Death (1971)
23	• • • • •	Disposition of Unclaimed Property (1954) (1966)
11		Division of Income for Tax Purposes (1957)
10	• • • • •	Divorce Recognition (1947)
01		Drug Dependence Treatment and Rehabilitation (1973)
6		Duties to Disabled Persons (1972)
0		Eminent Domain Code (1974)
20	• • • • •	Enforcement of Foreign Judgments (1948) (1964)
7	• • • • •	Estate Tax Apportionment (1958) (1964)
2		Evidence, Rules of (1974)
20	• • • • •	Facsimile Signatures of Public Officials (1958)
39	• • • • •	Federal Tax Lien Registration (1926) (1966)



EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY
LAS VEGAS, NEVADA 89101

J. CHARLES THOMPSON
DISTRICT JUDGE

February 18, 1977

DEPARTMENT ONE
(702) 386-4011

The Honorable William J. Raggio
Nevada State Legislature
Carson City, Nevada

Re: S.B. 210

Dear Bill:

As you are aware, the Senate Committee on Judiciary will consider S.B. 210 at 9:00 A.M. on February 22, 1977.

S.B. 210 expands the grounds for temporarily excusing jurors from jury service, provides that jurors suffering from a permanent physical or mental disability may be permanently excused from jury service and clarifies the procedure for imposing a fine upon a prospective juror who fails or refuses to attend and serve.

Parts (c) and (d) of Subsection 1 of Section 1 of the act were taken verbatim from §11(b) of the Uniform Jury Selection and Service Act. In essence, they provide that a court can, for reasons of undue hardship or extreme inconvenience, and public necessity, excuse a juror from jury service temporarily and require that he reappear for service at a later time. Undue hardship or extreme inconvenience would include cases where the prospective juror is morally obligated to care for another on a day when the jury is expected to be sitting, even though it does not involve a serious illness or death of a member of his immediate family. It would also include a businessman who has a pressing business engagement and could sit at a later time. Public necessity includes situations where the prospective juror is required to give service to his country for a couple of weeks during the summer which happens to be the same period during which he is called to sit as a juror and also those situations where he might have been subpoenaed to appear in another court at the same time.

At the present time, neither of these circumstances gives the court the right to temporarily excuse the juror. In

William J. Raggio

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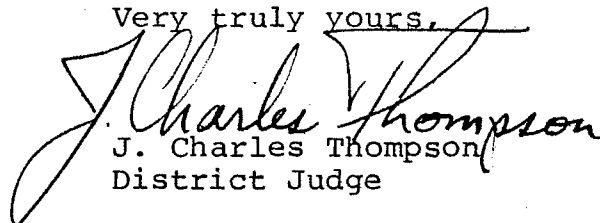
any event, a temporary excuse requires the juror to reappear for jury service sometime in the future.

Subsection 2 of Section 1 of the act provides for jurors to be permanently excused when they are suffering from some permanent physical or mental disability. At the present time the court can only temporarily excuse such jurors and we frequently see them returning again and again only to be excused once again all at great expense to the counties.

Section 2 of S.B. 210 corrects an obvious deficiency in NRS 6.040. At the present time, that section provides that if a juror fails to appear the Court may summarily impose a fine of not more than \$500. This clarifies the procedure so that the juror is given an opportunity to explain his absence by appearing in response to an order to show cause and then if he fails to show cause he may be found in contempt and fined up to \$500.

Although S.B. 210 is primarily a housekeeping bill, it will greatly assist the courts and I strongly urge the Senate Committee on Judiciary to recommend it for passage in the 1977 legislative session.

Very truly yours,


J. Charles Thompson
District Judge

JCT/jw

cc: The Honorable Mel Close, Chairman
Senate Committee on Judiciary

The Honorable Richard Bryan

W.C.



EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY
LAS VEGAS, NEVADA 89101

J. CHARLES THOMPSON
DISTRICT JUDGE

DEPARTMENT ONE
(702) 386-4011

February 18, 1977

The Honorable William J. Raggio
Nevada State Legislature
Carson City, Nevada

Re: S.B. 211

Dear Bill:

I understand that the Senate Committee on Judiciary will consider S.B. 211 on February 23, 1977. As you are aware, S.B. 211 changes the procedure for trials to a jury by claimants who have received workmen's compensation benefits.

At the present time the law provides that at the trial of an action by an injured employee against a third party tort feaser, the court, in camera, receives proof of NIC payments and, without revealing to the jury the existence of such payments, deducts the amount thereof from any verdict favoring the plaintiff. I find that the present system leads to some very unfortunate results. Even if the jurors are not told that the Nevada Industrial Commission paid his medical expenses, the jurors speculate the same to have occurred, and, in their awards, deduct the amount thereof with the mistaken belief that the plaintiff doesn't have to repay NIC. Indeed, in most cases where it is obvious that the plaintiff was injured while working, the first question that the jury sends me after they have reached the jury room is "How much did the Nevada Industrial Commission pay?" and "Does the plaintiff have to return any of that money if we give it to him?" This Court, of course, pursuant to the present mandate of subsection 5 of NRS 616.560 is not at liberty to tell the jury the truth.

I have always felt that telling the jury the truth is the best way to try a lawsuit. The present format leads to speculation and frequently erroneous conclusions by the members of the jury. The proposed change will clarify the procedure

The Honorable William J. Raggio

February 18, 1977
Page two

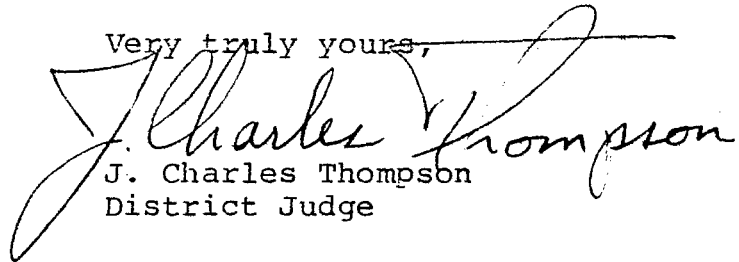
and eliminate the confusion that presently exists.

Incidentally, I have talked to a number of attorneys practicing negligence law and I have yet to hear from any counsel who opposes this change.

I would very much appreciate the Senate Committee on Judiciary favorably reporting out this bill.

Best personal regards.

Very truly yours,



J. Charles Thompson
District Judge

JCT/jw

cc: The Honorable Mel Close, Chairman
Senate Committee on Judiciary

The Honorable Richard Bryan

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KENNETH M. SHEARN

April 2, 1974

The attached is intended for the purpose of placing on record the steps which were taken to amend the bylaws.

For a permanent record of the board's responses to membership request, and for the information of future boards, staff and the general membership, I believe this statement, or some similar record, should be incorporated in the minutes of some early board meeting.

Valley Electric Association
1818 Industrial Road
Las Vegas, Nevada 89102

Gentlemen:

This will confirm my report and opinions expressed at the monthly meeting of your Board of Directors held Friday evening, March 29, 1974, regarding applicability of the Federal Hatch Act to elections of directors at annual district meetings of the Association, and questions raised concerning the solicitation and validity of proxies counted at such meetings.

1. Applicability of Federal Hatch Act. The Hatch Act provides as follows:

A. U. S. Code Title 18, Section 595, states that any person who, being employed in an administrative position by the United States or any department or agency thereof, or by any state, subdivision, municipality or agency thereof (including any corporation owned or controlled by any state, political subdivision, municipality or agency) in connection with any activity financed in whole or in part by loans or grants by the United States or any department or agency thereof, uses his official authority for the purpose of interfering with or affecting, the nomination or election of any candidate for the office of President, Vice President, Presidential Elector, Member of the Senate or Member of the House of Representatives, shall be fined not more than \$1,000 or imprisoned not more than one year or both.

Valley Electric Association
April 2, 1974
Page Two

Comment: Valley Electric Association is not a corporation owned or controlled by any state, political subdivision, municipality or agency, nor is the election involved that of a federal official or member of Congress.

B. Title 5, Section 1502, states that a state or local officer or employee may not use his official authority to interfere with or affect the result of an election or nomination for (public) office; nor attempt to coerce public employees to contribute to parties for political purposes.

Comment: This section applies only to public officials attempting to influence public elections, or public employees with respect to such elections.

Accordingly, it is my opinion that the Federal Hatch Act has no application to the elections of directors of Valley Electric Association.

2. Is Valley Electric Association required to permit members to use proxies?

A. The Association was organized and operates pursuant to Nevada Revised Statutes, Chapter 81.410/81.540, governing non-stock, non-profit, cooperative corporations. NRS 81.500 provides that each such corporation "shall have the powers granted by the provisions of other laws of Nevada relating to private corporations which are not inconsistent with those granted by NRS 81.410 to 81.540, inclusive." One of the provisions of the private corporation law is NRS 78.355 which provides:

"At any meeting of the stockholders of any corporation any stockholder may be represented and vote by a proxy or proxies appointed by an instrument in writing."

Comment: In my opinion, the provision for proxies in the private corporation law is equally applicable to non-stock, non-profit, cooperative corporations such as Valley

Valley Electric Association
April 2, 1974
Page Three

Electric Association. That provision, intended to protect the rights of members, is mandatory, and requires the Association to provide for and recognize proxies of its members for voting at meetings.

What provision for proxy voting has been made by the Association? The Association By-Laws, Article III, Section 5, provides:

"Each member shall be entitled to one vote, in person or by proxy, but at any meeting of the members, each person shall be limited to the vote of his own membership and one proxy vote only. All questions shall be decided by a majority vote of the members voting thereon in person or by proxy, except as otherwise provided by law, the Articles of Incorporation or these By-Laws."

Comment: In my opinion, the foregoing provision for proxy voting is appropriate and valid.

4. Must a proxy be complete at the time it is signed in order to be valid? I am informed that proxies are frequently signed in blank (i.e., the name of a person to vote the proxy is omitted) and the name of the voter is inserted later.

Comment: In my opinion, this practice is legal. My opinion is based on Fletcher: Cyclopedia of the Law of Private Corporations, Vol. 5 (1967 Revision), Section 2056, page 259, which states that a proxy cannot be rejected because it is not dated, or is left with blanks, since it is presumed that the maker authorizes dates or names to be inserted later. The following court decisions were cited as authority: Haslam v. Carlson, 46 R.I. 53, 124 A. 734. Commissioner of Banks v. Cosmopolitan Trust Co., 253 Mass. 205, 148 N.E. 609. Stephens Fuel Co. v. Bay Parkway Nat. Bank of Brooklyn (NY), 109 F.2d 186. There are no contrary decisions in Nevada.

5. Must a person appearing for a corporate or partnership member provide written proof of his authority?

Comment: According to Fletcher, as mentioned above, at page 261 (citing court decisions from Georgia, Delaware,

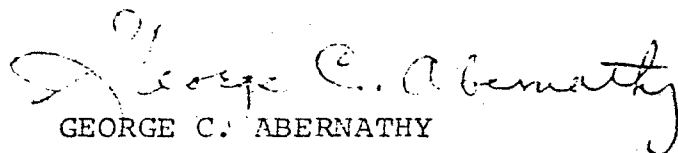
Valley Electric Association
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Page Four

New Jersey, New York, Maryland and Alabama), a corporate representation or proxy cannot be collaterally attacked (i.e., by anyone except another person claiming to represent that corporation). In the absence of such a contesting person, the representation at the meeting should be accepted as genuine.

6. Is it legal for Association employees to solicit proxies? I am informed that, primarily in order to assure the attendance of a quorum at meetings, proxies are solicited by directors and employees of the Association.

Comment: The solicitation of proxies by management or other employees of a private corporation, whether for a quorum or supporting the election of particular individuals, is not only universally recognized as legal and appropriate, but also a matter of right. Everyone has the right either to seek corporate office for himself or any qualified person by way of proxy solicitation. In my opinion, any attempt to limit proxy solicitation by anyone, whether employed by or a member of the Association, could be illegal.

Very truly yours,


GEORGE C. ABERNATHY

GCA:mae

cc: Mr. Kent Hafen

October 22, 1976

Statement relating to the effort to obtain consent to amend the bylaws of Valley Electric Association.

During the District 4 meeting of the members held on March 22, 1974 serious questions were raised concerning the appropriateness and legality of the present bylaws and of the procedures in the holding of meetings and voting rights particularly as related to proxy solicitation and proxy voting.

It was explained at this meeting that considerable thought had been given to the possible revision of the bylaw document.

The matter of legality of procedures and practices in the conduct of elections was discussed at length with counsel at the regular board meeting on March 29, 1974. Counsel was requested to render a written opinion concerning the specific areas of complaint.

The written opinion of counsel was subsequently received on April 2, 1974 and related to the following matters:

1. Applicability of the Federal Hatch Act; (no application)
2. Is Valley Electric required to permit members' use of proxies; YES
3. What provision for proxy voting has been made by the Association;
4. Must a proxy be complete at the time it is signed in order to be valid;
5. Must a person appearing for a corporate or partnership member provide proof of his authority;
6. Is it legal for Association employees to solicit proxies. YES
A copy of the opinion of counsel related to above is included as a part of this statement.

The following actions were thereafter taken concerning amendment of the bylaws:

April 24, 1974 - The areas of possible needed revisions in the bylaws was discussed by counsel at length with the members during the Annual Meeting of the full membership.

February 28, 1975 - Regular board meeting - The Manager presented for review and discussion suggested bylaw revisions. The changes recommended, consisting principally of general clean-up and updating, were reviewed at length. It was determined that final action for revision should not be sought at the April 26th members' meeting, but that the general change proposals would be discussed with the membership both at the district and annual meeting of the full membership.

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March, 1975 - District Meetings

At each of the four district members' meetings Mr. Hafen reviewed the proposed bylaw amendments. Proxies and their use was discussed at length following inquiries by the members. The possible reduction of quorum requirements as a means of obtaining meeting quorums was explored.

April 11, 1975 - Regular board meeting

Staff and board recommendations for bylaw revision were reviewed. The Manager was instructed to work with counsel to finalize recommendations for revision.

April 26, 1975 - Annual meeting of the full membership - The proposals for bylaw amendment were reviewed by Mr. Hafen and Attorney Abernathy. Questions regarding proxies, succession of rights upon death of a joint member, procedures and legal requirements for bylaw revision and the legality of mail vote were discussed.

May 23, 1975 - Regular board meeting - The recommendation of member Sherman Sullivan for a complete revision of the bylaws was received and reviewed by the board. A copy of Mr. Sullivan's recommendations for change is incorporated as a part of this statement.

Counsel George Abernathy advised the board of the legal requirements for change of the bylaws and suggested some areas where revisions were deemed to be needed.

August 22, 1975 - Regular board meeting - Counsel reviewed with the board the recommendations for bylaw revision which had been developed with staff assistance. Among the many suggested changes, the following were discussed at length:

1. Possibility of eliminating the Annual Meeting of the full membership.
2. Voting rights and election procedures;
3. Proxies;
4. Rights of non-members;
5. District realignment;
6. ^{4/4} Member of consents required to amend.

Counsel was instructed to further review and furnish suggestions for revision prior to a special session to finalize the recommendations to be presented for member action.

September 26, 1975 - Regular board meeting - Counsel presented a written list of recommendations for bylaw revision and reviewed with the board each of the suggested changes. Following lengthy discussions, it was agreed that a special session of the board should be scheduled for the purpose of finalizing the recommendations for revision.

February 20, 1976 - Regular board meeting - the matter of presentation to the membership of proposals for bylaw revision was discussed at length. It was concluded that copies of the proposed amendments, together with existing bylaws, would be made available at the forthcoming district meetings and would be reviewed fully with the members preparatory to presentation for amending action at the April meeting of the full membership.

March, 1976 - District Meetings - At each of the four district meetings copies of the proposed bylaw amendments were distributed to the members and were reviewed and discussed fully. The numerous and extensive revisions as proposed had incorporated the current REA recommended "Model Act Bylaws", The input and suggestions of various individual members, the board and staff recommendations for updating to coincide with present operational practices, and counsel's recommendations for change to bring the bylaw into compliance with legal requirements and current trends in consumer rights legislation.

A copy of the proposed amendment which shows both the existing and proposed revised bylaw text, is attached to and made a part of this statement.

April 24, 1976 - Annual meeting of the full membership - The proposed bylaw amendments were presented, reviewed and discussed fully. While most member comments appeared favorable, some objections were voiced, particularly as related to proxy voting and the proposal to reduce meeting quorum requirements.

A quorum of members was not present at the Annual Meeting, so no action could be taken with regard to revision.

The two-thirds consent requirement for amendment and mail voting procedures were discussed by counsel.

Following considerable discussion it was a consensus that consent for amendment by mail ballot should be attempted.

May 26, 1976 - Regular board meeting - The Manager reported that a form of ballot consent had been approved by counsel and that a mailing of the proposed revisions and ballots could be accomplished within just a few days. It was instructed that staff proceed with the mailing as promptly as possible.

June 25, 1976 - Regular board meeting - The Manager advised that \$1,068.89 had been expended to date in the solicitation of consents to amend the bylaws by mail ballot. He pointed out that this cost outlay did not include any administrative labor costs nor attorney's costs. He reported the following results to date in the solicitation:

1,094 ballots mailed
283 ballots returned and signed
256 ballots favoring amendment
27 ballots opposing amendment

Following a review and discussion of the unfavorable return of ballots, representing only 26% of the mailing, it was instructed that a follow-up flier be sent out with the July billing to encourage the return of ballots.

July 24, 1976 - A flier was mailed with the regular July billing statements to all consumers requesting the return of ballots to indicate approval or disapproval of the amendment proposal.

July 30, 1976 - Regular board meeting - The Manager presented updated data relating to the consent for bylaw revision as follows:

Total cost to date	\$1,115.59
Ballots returned	389
Ballots favoring amendment	341
Ballots opposing amendment	41
Ballots unsigned	7
Percent of consents required	36%
Duplicate ballots	32

It is reiterated that the aforementioned costs do not include administrative man hours expended, nor attorney's fees. The cost and manpower effort put forth, and the results obtained in the attempt to gain approval for the bylaw revision were discussed at length. It was unanimously voted that the attempt to amend the bylaw as proposed be abandoned and that a search be made for some other solution.

As of the date of this statement on October 22, 1976, a total of 625 ballots had been returned to the Association. Of these returns, 453 were marked in favor of the amendment, 62 were marked as opposing amendment, 9 ballots were unsigned, and 101 ballots were duplications of ballots received at an earlier date. The 453 favorable ballots represented 62% of the 729 affirmative votes required to amend the bylaws.

Approximately 150 man hours of supervisory and administrative time has been devoted to research and in putting together the data required for amendment to the bylaws. Attorney fees expended at various times in research and development of the board's final recommended amending sections has been estimated at \$2,200. The total cost of the attempt to effect amendment to the bylaws, inclusive of preparation of recommendations and the subsequent efforts to obtain consent, is therefore conservatively estimated at \$5,200. And this total cost includes no accounting for the time expended by the board of directors or its individual members, nor for the several Association members who rendered assistance in this amending effort.

Date

Oct 22, 1976

Signed _____

729
253
276

B Y L A W S

VALLEY ELECTRIC ASSOCIATION, INC.

ARTICLE IMEMBERSHIP

SECTION 1. Requirement of Membership. Any person, firm, association, corporation, or body politic or subdivision thereof may become a member of Valley Electric Association, (hereinafter called the "Association") by:

- (a) making a written application for membership therein;
- (b) agreeing to purchase from the Association electric energy as hereinafter specified;
- (c) agreeing to comply with and be bound by the Articles of Incorporation and Bylaws of the Association and any Rules and Regulations adopted by the Board of Directors, and
- (d) paying the membership fee hereinafter specified.

NO MEMBER MAY HOLD MORE THAN ONE MEMBERSHIP IN THE ASSOCIATION, AND no membership in the Association shall be transferable, except as provided in these bylaws.

~~-provided;-however;-that-no-person;-firm;-association;-corporation-or-body-politic-or-subdivision-thereof-shall-become-a-member-unless-and-until-he-or-it-has-been-accepted-for-membership-by-the-Board-of-Directors-or-the-members;--No-membership-in-the-Association-shall-be-transferable;-except-as-provided-in-these-bylaws;~~

~~At-each-meeting-of-the-membership-held-subsequent-to-the-expiration-of-a-period-of-six-months-from-the-date-of-incorporation-of-the-Association;-all-applications-received-more-than-ninety-days-prior-to-such-meeting-which-have-not-been-accepted-or-which-have-been-rejected-by-the-Board-of-Directors-shall-be-submitted-by-the-Secretary-to-such-meeting-and;-subject-to-compliance-by-the-applicant-with-the-requirements-hereinabove-set-forth;-any-such-application-may-be-accepted-by-the-vote-of-the-members-The-Secretary-shall-give-each-such-applicant-at-least-ten-days-written-notice-of-the-date-of-the-membership-meeting-to-which-his-application-will-be-submitted-and-such-applicant-shall-be-entitled-to-be-present-and-heard-at-the-meeting;~~

SECTION 2. Membership Certificates. Membership in the Association shall be evidenced by a membership certificate which shall be in such form and shall contain such provisions as shall be determined by the Board of Directors. Such certificate shall be signed by the President and by the Secretary of the Association and the corporate seal shall be affixed thereto. No membership certificate shall be issued for less than the membership fee fixed in these bylaws, nor until such membership fee has been fully paid for. In case a certificate is lost, destroyed or mutilated a new certificate may be issued therefor upon such uniform terms and indemnity to the Association as the Board of Directors may prescribe.

(proposed, amended bylaws - cont. pg. 2)

SECTION 3. Joint Membership. A husband and wife may apply for a joint membership and, subject to their compliance with the requirements set forth in Section 1 of this Article, ~~may be accepted for such membership~~ SHALL QUALIFY FOR SUCH MEMBERSHIP. The term "Member" as used in these bylaws shall be deemed to include a husband and wife holding a joint membership and any provisions relating to the rights and liabilities of membership SHALL APPLY EQUALLY WITH RESPECT TO THE HOLDERS OF A JOINT MEMBERSHIP. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
- (b) the vote of either separately or both jointly shall constitute one joint vote;
- (c) a waiver of notice signed by either or both shall constitute a joint waiver;
- (d) notice to either shall constitute notice to both;
- (e) expulsion of either shall terminate the joint membership;
- (f) withdrawal of either shall terminate the joint membership;
- (g) either but not both may be elected or appointed as an officer or director, provided that both meet the qualifications for such office.

SECTION 4. Conversion of Membership.

(a) A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder and his or her spouse to comply with the Articles of Incorporation, bylaws and rules and regulations adopted by the Board of Directors. UPON SURRENDER OF the outstanding membership certificate, OR UPON THE SUBMISSION OF SATISFACTORY EVIDENCE OF LOST CERTIFICATE, shall be surrendered, and A NEW CERTIFICATE shall be reissued ISSUED by the Association in such manner as shall indicate the changed membership status.

(b) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor. ~~The~~ UPON SURRENDER OF THE outstanding membership certificate, OR THE SUBMISSION OF SATISFACTORY EVIDENCE OF LOST CERTIFICATE, shall be surrendered, and A NEW CERTIFICATE shall be reissued- ISSUED in such manner as shall indicate the changed membership status, provided, however, that the estate of the deceased shall not be released from any debts due the Association.

SECTION 5. Membership and Service Connection Fee. FEE. The membership fee shall be ten dollars (\$10.00). ~~upon the payment of which a member shall be eligible for one service connection:~~

SECTION 6. Purchase of Electric Energy. Except as otherwise provided in any written agreement between the Association and any of its members for the furnishing of electric service; Each member shall, as soon

as electric energy shall be available, purchase from the Association electric energy to be used on the premises specified in his application, ~~for membership~~ and shall pay therefor ~~monthly~~ at rates which shall, from time to time, be fixed by the Board of Directors AND APPROVED BY REGULATORY AUTHORITIES HAVING JURISDICTION. It is expressly understood that amounts SO paid for electric energy in excess of the cost of service ~~are furnished by members as capital and each member~~ shall be credited with ~~the~~ AS PATRONAGE capital ~~so furnished~~ as provided in these bylaws. Each member-CONSUMER shall pay ~~to~~ the Association such minimum amounts, ~~per month~~ regardless of the amount of electric energy consumed, as shall be fixed by the Board of Directors from time to time AND APPROVED BY REGULATORY AUTHORITIES HAVING JURISDICTION. Each ~~member~~-CONSUMER shall also pay all amounts owed by him to the Association as and when the same shall become due and payable.

SECTION 7. Termination of Membership.

(a) Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board of Directors may prescribe. The Board of Directors of the Association may, by the affirmative vote of not less than two-thirds of all directors, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, Bylaws or Rules and Regulations adopted by the Board of Directors, but only if such member shall have been given written notice by or at the direction of the Secretary of the Association that such failure makes him liable to expulsion and such failure shall have continued for at least ten days after such notice was given, AND PROVIDED FURTHER THAT SUCH MEMBER SHALL HAVE FIRST BEEN NOTIFIED OF HIS RIGHT TO BE HEARD AND BE REPRESENTED BY COUNSEL AT A HEARING BEFORE THE BOARD OF DIRECTORS PRIOR TO THE TAKING OF ACTION TO EXPEL. Any expelled member SHALL BE GIVEN PROMPT WRITTEN NOTICE BY THE ASSOCIATION OF HIS EXPULSION. HE may be reinstated by A MAJORITY vote of the Board of Directors or by A MAJORITY vote ~~of the members~~ at any annual or special meeting OF THE MEMBERS OF HIS DISTRICT AT WHICH A QUORUM IS PRESENT. The membership of a member who for a period of six (6) months after service is available to him, has not purchased electric energy from the Association, or of a member who has ceased to purchase energy from the Association, shall be cancelled. ~~by resolution of the Board of Directors.~~

(b) Upon the withdrawal, death, cessation of existence or expulsion of a member the membership of such member shall thereupon terminate, and the membership certificate of such member ~~shall~~ SHOULD be surrendered forthwith to the Association. Termination of membership in any manner shall not release a member or his estate from any debts due the Association.

(c) In case of withdrawal or termination of membership in any manner, the Association shall repay to the member the amount of the membership fee paid by him, provided, however, that the Association shall deduct from the amount of the membership fee the amount of any debts or obligations owing from OWED BY the member to the Association.

ARTICLE II

RIGHTS AND LIABILITIES OF MEMBERS

SECTION 1. Property Interest of Members. Upon dissolution, after (a) all debts and liabilities of the Association shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided in these bylaws, the remaining property and assets of the Association shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the seven years next preceding the date of the filing of the certificate of dissolution, or, if the Association shall not have been in

existence for such period, during the period of ITS existence

SECTION 2. Non-liability for Debts of the Association. The private property of the members shall be exempt from execution or other liability for the debts of the Association and no member shall be liable or responsible for any debts or liabilities of the Association.

ARTICLE III

MEETING OF MEMBERS

SECTION 1. Annual Meeting. Commencing with the calendar year 1965, there shall be held during the month of March of each year an annual district meeting in each of the districts which form the ASSOCIATION'S service area. The ~~main~~ purpose of the annual district meetings shall be to elect in alternate years, by the membership in each district, a Director to serve on the Board of Directors of the Association, TO PASS UPON REPORTS FOR THE PREVIOUS FISCAL YEAR AND TO TRANSACT SUCH OTHER BUSINESS AS MAY APPROPRIATELY COME BEFORE THE MEETINGS. SUBJECT TO APPROVAL BY THE BOARD OF DIRECTORS, ANNUAL MEETINGS MAY BE HELD JOINTLY BY TWO OR MORE DISTRICTS. ~~The annual meeting of the full membership shall be held during the month of April of each year at such time and place in Nye, Esmeralda or Clark County, Nevada, as shall be designated in the notice of the meeting, for the purpose of passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the Board of Directors to make adequate plans and preparations for the annual district and full membership meetings.~~ Failure to hold such meetings at the designated time shall not work a forfeiture or dissolution of the Association.

SECTION 2. Special Meetings. Special DISTRICT MEETINGS, OR meetings of all the members, may be called by resolution of the Board of Directors or upon a written request signed by any three directors, by the President, ~~or~~ by ten per centum or more of all the members OF THE DISTRICT FOR A DISTRICT MEETING, OR BY TEN PER CENTUM OR MORE OF THE FULL MEMBERSHIP FOR A MEETING OF ALL THE MEMBERS. ~~and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided:~~ Special meetings of the members may be held at any place within ONE of the Counties of Nye, Esmeralda, or Clark, State of Nevada; SERVED BY THE ASSOCIATION AS specified in the notice of special meeting.

SECTION 3. Notice of Members' Meeting. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose for which the meeting is called, shall be delivered not less than ten days nor more than twenty-five days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meeting, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid. The failure of any member to receive notice of an annual or special meeting of the members shall not invalidate any action taken by the members at any such meeting.

SECTION 4. Quorum. At annual district meetings ~~twenty~~ TEN members or ~~ten~~ FIVE per centum of the district's members, present in person or by proxy, whichever shall be larger, shall constitute a quorum.

At ~~annual~~ meetings of the full membership fifty members or ~~ten~~ FIVE per centum of the total members present in person or by proxy, whichever shall be larger shall constitute a quorum. IN CASE OF A JOINT MEMBERSHIP, THE PRESENCE AT A MEETING OF EITHER HUSBAND OR WIFE, OR BOTH, SHALL BE REGARDED AS THE PRESENCE OF ONE MEMBER. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. The minutes of each meeting shall contain a list of the members present in person or by proxy.

SECTION 5. PROXIES. AT ALL MEETINGS OF THE MEMBERS, A MEMBER MAY VOTE BY PROXY EXECUTED IN WRITING BY THE MEMBER. SUCH PROXY, WHICH SHALL PROVIDE POWER OF SUBSTITUTION BY THE MEMBER DESIGNATED AS PROXY THEREIN, SHALL BE FILED FOR RECORD BEFORE OR AT THE TIME OF THE MEETING. NO PROXY SHALL BE VOTED AT ANY MEETING OF THE MEMBERS UNLESS IT SHALL DESIGNATE THE PARTICULAR MEETING AT WHICH IT IS TO BE VOTED, AND NO PROXY SHALL BE VOTED AT ANY MEETING OTHER THAN THE ONE SO DESIGNATED OR ANY ADJOURNMENT OF SUCH MEETING. NO MEMBER SHALL VOTE AS PROXY FOR MORE THAN ONE (1) MEMBER AT ANY MEETING OF THE MEMBERS. NO PROXY SHALL BE VALID AFTER SIXTY (60) DAYS FROM THE DATE OF ITS EXECUTION. THE PRESENCE OF A MEMBER AT A MEETING OF THE MEMBERS SHALL REVOKE A PROXY THERETOFORE EXECUTED BY HIM AND SUCH MEMBER SHALL BE ENTITLED TO VOTE AT SUCH MEETING IN THE SAME MANNER AND WITH THE SAME EFFECT AS IF HE HAD NOT EXECUTED A PROXY. IN THE CASE OF A JOINT MEMBERSHIP, A PROXY MAY BE EXECUTED BY EITHER HUSBAND OR WIFE. THE PRESENCE OF EITHER HUSBAND OF WIFE AT A MEETING OF THE MEMBERS SHALL REVOKE A PROXY THERETOFORE EXECUTED BY EITHER OF THEM AND SUCH JOINT MEMBER OR MEMBERS SHALL BE ENTITLED TO VOTE AT SUCH MEETING IN THE SAME MANNER AND WITH THE SAME EFFECT AS IF A PROXY HAD NOT BEEN EXECUTED.

SECTION 6 Voting. Each ~~member~~ MEMBERSHIP shall be entitled to one vote, in person or by proxy, but at any meeting of the members, each person shall be limited to the vote of his own membership and one proxy vote only. IT IS THE INTENT OF THIS BYLAW THAT NO INDIVIDUAL PHYSICALLY PRESENT AT ANY MEETING SHALL BE ALLOWED MORE THAN TWO VOTES. PROXIES SHALL NOT BE VOTED BY NON-MEMBERS, EXCEPT THAT CORPORATION, FIRM, ASSOCIATION, BODY POLITIC OR SUB-DIVISION THEREOF OR OTHER ENTITY MEMBERS MUST BE REPRESENTED BY AN INDIVIDUAL (NOT NECESSARILY A MEMBER IN HIS OWN RIGHT). All questions shall be decided by a majority vote of the members voting thereon in person or by proxy, except as otherwise provided by law, the Article of Incorporation or these bylaws. SUBJECT TO APPLICABLE LAW, NOTHING HEREIN CONTAINED SHALL PREVENT A VOTE BY MAIL ON ANY AND ALL MATTERS TO BE DECIDED BY VOTE OF THE MEMBERSHIP.

SECTION 7. Order of Business. The order of business at ~~an~~ annual DISTRICT meetings of the members and, so far as possible, at all other meetings of the members, shall be essentially as follows, except as otherwise determined by the members at such meeting:

1. Report on the number of members present in person and by proxy in order to determine the existence of a quorum.
2. Reading the notice of the meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be.
3. Reading of unapproved minutes of THE previous meeting of the members and the taking of necessary action thereon.
- *4. Presentation and consideration of reports of officers, directors and committees.
- *5. Election of directors.
6. Unfinished business.
7. New business.
8. Adjournment.

* Full-membership-meeting-only- ANNUAL DISTRICT MEETINGS ONLY
~~---District-Meeting-only---~~

ARTICLE IV

DIRECTORS

SECTION 1. General Powers. The business and affairs of the Association shall be managed by a Board of four (4) Directors which number may be changed by amendment to these bylaws and which Directors shall exercise all the powers of the Association except such as are by law, the Articles of Incorporation or these bylaws conferred upon or reserved to the members.

SECTION 2. Qualifications. No person shall be eligible to become or remain a director of the Association who:

- (a) is not a member in good standing and a bona fide resident or consumer in the area served or to be served by the Association; or
- (b) is in any way employed by or financially interested in a competing enterprise, or in a business ~~selling electric energy or supplies to the Association, or a business primarily engaged in selling electrical or plumbing appliances, fixtures or supplies to the members of the Association.~~ WHICH DERIVES ANY SUBSTANTIAL PART OF ITS INCOME FROM SALES OF MATERIALS OR SERVICES TO THE ASSOCIATION.

Upon the establishment of the fact that a director is holding office in violation of any of the foregoing provisions, the Board of Directors shall remove such director from office.

Nothing contained in this section shall affect in any manner whatsoever, the validity of any action taken at any meeting of the Board of Directors.

SECTION 3. Nominations. The Board of Directors may, at its option, appoint a committee on nominations to meet and make nominations for directors. The appointment of such committee shall be made in sufficient time prior to the annual district meetings of the members to permit the preparation and posting of a list of the nominees at the principal office of the Association at least ten days before the meeting date, and the mailing of a list of the nominees to each member IN THE DISTRICT AFFECTED at least five days prior to the annual district meeting. ~~The posting and mailing of the list of nominees shall be the duty of the Secretary.~~ If a committee on nominations is appointed and acts, the chairman shall call for additional nominations from the floor at the annual DISTRICT meeting.

If the Board of Directors does not appoint a committee on nominations, all ~~such~~ nominations FOR DIRECTOR shall be made from the floor at the annual district meetings.

SECTION 4. Election of Directors AND TENURE OF OFFICE. EXCEPT AS OTHERWISE PROVIDED IN THESE BYLAWS WITH RESPECT TO REMOVAL OF DIRECTORS AND THE FILLING OF VACANCIES, Directors shall be elected from and TO represent Districts, ~~as may, from time to time, be established by Resolution of the Board of Directors.~~ ~~Directors representing a District shall either be residents thereof, or purchasers of electric energy for consumption therein.~~ Directors AND shall be elected by vote of the membership in each District. Commencing with the year 1967, Directors shall be elected from odd-numbered Districts in odd-numbered years, and even-numbered Districts in even-numbered years. Each Director shall be elected for a two (2) year term.

SECTION 5. Removal of Directors by Members. Any member may bring charges against ~~a~~ THE director and REPRESENTING HIS DISTRICT by filing with the Secretary such charges in writing, together with a petition signed by at least ten per centum of the members OF SUCH DISTRICT ~~may request REQUESTING~~ the removal of such director by reason thereof. Such director shall be informed in writing of the charges at least ten days prior to the meeting of the members OF SUCH DISTRICT at which the

charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges; and the person or persons bringing the charges against him shall have the same opportunity. The question of the removal of such director shall be considered and voted upon at the meeting of the members OF SUCH DISTRICT and any vacancy created by such removal may be filled by a vote of the membership at such meeting without compliance with the foregoing provisions with respect to nominations.

SECTION 6. Vacancies. Subject to the provisions of these bylaws with respect to the filling of vacancies caused by the removal of directors by the members, a vacancy occurring in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining directors for the unexpired portion of the term, AND SHALL BE FILLED FROM AND TO REPRESENT THE DISTRICT IN WHICH THE VACANCY OCCURRED.

SECTION 7. Compensation. Directors shall not receive any salary for their services as directors, except that by ~~resolution of the Board of Directors~~ MAY BY RESOLUTION AUTHORIZE a fixed sum and ~~actual expenses of attendance; if any; may be allowed for attendance at each meeting of the Board of Directors;~~ OF PAYMENT FOR EACH DAY OR PORTION THEREOF, OR THE EXPENSE ACTUALLY AND NECESSARILY INCURRED IN ATTENDANCE AT MEETINGS OF THE BOARD OF DIRECTORS OR OTHERWISE SPENT ON ASSOCIATION BUSINESS, SUCH AS ATTENDANCE AT BUSINESS MEETINGS, CONFERENCES, AND TRAINING PROGRAMS, OR IN CARRYING OUT COMMITTEE ASSIGNMENTS, WHEN AUTHORIZED BY THE BOARD. No director shall receive compensation for serving the Association in any other capacity, nor shall any close relative of a director receive compensation for serving the Association, unless the payment and amount of compensation shall be specifically authorized by a vote of the members or the service by such director or close relative shall have been certified by the Board of Directors as an emergency measure.

SECTION 8. Districts. The four districts which together form the Association's service area may generally be described as follows:

- (1) Pahrump Valley, Warner Springs, SANDY VALLEY, Johnnie
- (2) Amargosa Valley, Lathrop Wells, Ash Meadows
- (3) Beatty, Rhyolite, Sarcobatus Flats, Scotty's Junction
- (4) Fish Lake Valley, MONTGOMERY PASS, Lida, Gold Point, Lida Junction.

ARTICLE V

MEETINGS OF DIRECTORS

SECTION 1. Regular Meetings. A regular meeting of the Board of Directors shall be held monthly ~~on the last Friday of each month at the hour of 1:30 p.m.~~ at such TIME AND place WITHIN ONE OF THE COUNTIES SERVED BY THE ASSOCIATION as DESIGNATED BY the Board of Directors. ~~may provide by Resolution.~~ Such regular monthly meeting may be held without notice other than such ~~resolution~~ DESIGNATION fixing the place, ~~or~~ DATE AND ~~changing the~~ time thereof.

SECTION 2. Special Meeting. Special meetings of the Board of Directors may be called by the President or by any three directors BY WRITTEN NOTICE TO THE SECRETARY and it shall thereupon be the ~~duty~~ RESPONSIBILITY of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President or the directors

calling the meeting shall fix the time and place (~~which shall be in Nye, Esmeralda or Clark Counties~~) for the holding of the meeting.

SECTION 3. Notice of Directors' Meeting. Written notice of the time, place and purpose of any special meeting of the Board of Directors shall be delivered to each director ~~not less than five days previous thereto~~ either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the President or directors calling the meeting. If mailed, such notice shall be placed in a sealed envelope and shall be deemed to be delivered when deposited in the United States mail addressed to the director at his address as it appears on the records of the Association, with postage thereon prepaid, AT LEAST FIVE DAYS BEFORE THE DATE SET FOR THE MEETING.

SECTION 4. Quorum. A majority of the Board of Directors shall constitute a quorum, provided, that if less than such majority of the directors is present at said meeting, a majority of the directors present may adjourn the meeting from time to time; and provided further that the Secretary shall cause notice to be given to any absent directors of the time and place of such adjourned meeting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, EXCEPT AS OTHERWISE PROVIDED IN THESE BYLAWS WITH RESPECT TO EXPULSION OF MEMBERS.

ARTICLE VI

OFFICERS

SECTION 1. Number. The officers of the Association shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and of Treasurer may be held by the same person.

SECTION 2. Election and Term of Office. The officers shall be elected by ballot annually by and from the Board of Directors at the REGULAR meeting of the Board of Directors FIRST following ~~the annual meeting of the members~~ COMPLETION OF ALL THE ANNUAL DISTRICT MEETINGS. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board of Directors following ~~the next succeeding~~ COMPLETION OF ALL THE annual DISTRICT meetings ~~of the members~~ HELD THE FOLLOWING YEAR, or until his successor shall have been elected and ~~shall have~~ qualified. A vacancy in any office shall be filled by the Board of Directors for the unexpired portion of the term.

SECTION 3. Removal of Officers and Agents by Directors. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. In addition any member of the Association may bring charges against an officer, and by filing with the Secretary such charges in writing, together with a petition signed by ten percentum of ALL the members, may request

the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten days prior to the board meeting at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges; and the person or persons bringing the charges against him shall have the same opportunity. THE BOARD SHALL RENDER ITS DECISION BY MAJORITY VOTE IN WRITING WITHIN TEN (10) DAYS AFTER THE HEARING AND ITS DECISION SHALL BE FINAL . IN THE EVENT OF A TIE VOTE OF THE BOARD THE OFFICER SHALL RETAIN HIS OFFICE. NO OFFICER OR AGENT REMOVED FROM OFFICE OR SUBJECT TO REMOVAL PROCEEDINGS PURSUANT TO THIS PARAGRAPH SHALL HAVE ANY CLAIM OR CAUSE OF ACTION AGAINST THE ASSOCIATION, ITS BOARD OF DIRECTORS OR ANY MEMBER THEREOF, OR ANY MEMBER OR PETITIONER SEEKING HIS REMOVAL. In the event the board does not remove such officer, the question of his removal shall be considered and voted upon at the next meeting of the members.

SECTION 4. President. The President shall:

- (a) Be the principal executive officer of the Association and, unless otherwise determined by the members of the Board of Directors, shall preside at all meetings of the members and the Board of Directors;
- (b) sign, with the Secretary, certificates of membership, ~~the issue of which shall have been authorized by the Board of Directors or the members,~~ and SHALL ~~may~~ sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these by-laws to some OTHER officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and
- (c) in general perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 5. Vice-President. In the absence of the President, or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and BE subject to all the restrictions upon the President. The Vice-President shall also perform such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 6. Secretary. The Secretary shall BE RESPONSIBLE FOR:

- (a) ~~keep~~ KEEPING the minutes of the meeting of the members and of the Board of Directors in one or more books provided for that purpose;
- (b) ~~see~~ SEEING that all notices are duly given in accordance with these By-Laws or as required by law;
- (c) ~~be custodian~~ THE SAFEKEEPING of the corporate records and of the seal of the Association and affix AFFIXING the seal of the Association to all certificates of membership prior to the issue thereof and to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these by-laws;

(d) ~~keep~~ KEEPING a register of the names and post office addresses of all members;

(e) ~~sign~~; SIGNING with the President, certificates of membership; ~~the issue of which shall have been authorized by the Board of Directors of the members;~~

~~{f}--have general charge of the books of the Association;~~

(f) ~~{g}~~ ~~keep~~ KEEPING on file at all times a complete copy of the Articles of Incorporation and By-Laws of the Association containing all amendments thereto (which copy shall always be open to the inspection of any member) and at the expense of the Association, ~~forward~~ THE FORWARDING OF a copy of the bylaws and of all amendments thereto to each member REQUESTING THE SAME; and

(g) ~~{h}~~ in general perform PERFORMANCE OF all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 7. Treasurer. The Treasurer shall ~~=~~ BE RESPONSIBLE FOR:

(a) ~~have charge and custody of and be responsible for~~ all funds and securities of the Association;

(b) ~~be responsible for~~ the receipt of and the issuance of receipts for all monies due and payable the corporation and for the deposit of all such monies in the name of the Association in such bank or banks as shall be selected in accordance with the provisions of these By-Laws; and

(c) in general perform PERFORMANCE OF all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 8. Manager. The Board of Directors may appoint a manager who may be, but who shall not be required to be, a member of the Association. The manager shall perform such duties and shall exercise such authority as the Board of Directors may from time to time vest in him.

SECTION 9. Bonds of Officers. The Treasurer and any other officer or agent of the Association charged with responsibility for the custody of any of its funds or property shall ~~give bond~~ BE BONDED in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent or employee of the Association to ~~give bond~~ BE BONDED in such amount and with such surety as it shall determine.

SECTION 10. Compensation. The powers, duties and compensation of officers, agents and employees shall be fixed by the Board of Directors, subject to the provisions of these By-Laws with respect to compensation for directors and close relatives of directors.

SECTION 11. Reports. The officers of the Association shall submit ~~at each annual meeting of the members reports~~ covering the business of the Association for the previous fiscal year AT EACH ANNUAL DISTRICT MEETING. Such reports shall set forth the condition of the Association at the close of such fiscal year.

ARTICLE VII

NON-PROFIT OPERATION

SECTION 1. Interest or Dividends on Capital Prohibited. The Association shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Association on any capital furnished by its patrons.

SECTION 2. Patronage Capital in Connection with Furnishing Electric Energy. In the furnishing of electric energy the Association's operations shall be so conducted that all patrons, MEMBERS AND NON-MEMBERS ALIKE, will through their patronage furnish capital for the Association. In order to induce patronage and to assure that the Association will operate on a non-profit basis the Association is obligated to account on a patronage basis to all its patrons, MEMBERS AND NON-MEMBERS ALIKE, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Association are received with the understanding that they are furnished by the patrons, MEMBERS AND NON-MEMBERS ALIKE, as capital. The Association is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Association shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Association shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to his account. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Association corresponding amounts for capital.

All other amounts received by the Association from its operations in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Association, after all outstanding indebtedness of the Cooperative ASSOCIATION shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property

rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Association will not be impaired thereby, the capital then credited to patrons' accounts may be retired in full or in part. Any such retirements of capital shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the Association being first retired.

Capital credited to the account of each patron shall be assignable only on the books of the Association pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy in all or a part of such patron's premises served by the Association unless the Board of Directors, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provision of these By-Laws, the Board of Directors, at its discretion, shall have the power at any time upon the death of any patron, if the legal representatives of his estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these By-Laws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the Association will not be impaired thereby.

The patrons of the Association, by dealing with the Association, acknowledge that the terms and provisions of the Articles of Incorporation and By-Laws shall constitute and be a contract between the Association and each patron, and both the Association and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provisions of this article of the By-Laws shall be called to the attention of each patron of the Association by posting in a conspicuous place in the Association's office.

ARTICLE VIII

DISPOSITION OF PROPERTY

~~The Corporation-~~ ASSOCIATION may not BE DISSOLVED, OR sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property unless such DISSOLUTION, sale, mortgage, lease or other disposition or encumbrance is authorized ~~at a meeting of the members thereof, by the~~ BY THE WRITTEN CONSENT OR affirmative vote of not less than two-thirds of all the members of the Association ~~and unless the notice of such proposed sale, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of the meeting,~~ AT A MEETING OF THE MEMBERS THEREOF PURSUANT TO NOTICE DESCRIBING SUCH PROPOSED ACTION; provided, however, that notwithstanding anything herein contained, the Board of Directors of the Association, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages OR ~~of~~ a deed or deeds of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Association, whether acquired or to be

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acquired, and wherever situated, as well as the revenues and income therefrom all upon such terms and conditions as the Board of Directors shall determine, to secure any LOAN TO, OR indebtedness of the Association. ~~provided further that the Board of Directors may upon the authorization of a majority of those members of the Association present in person or by proxy, at a meeting of the members thereof, sell, lease, or otherwise dispose of all or a substantial portion of its property to another Association or foreign corporation doing business in this State pursuant to the Act under which this Association is incorporated.~~

ARTICLE IX

SEAL

The Corporate seal of the Association shall be ~~in the form of a circle~~ and shall have inscribed thereon the name of the Association, date of incorporation, and the word "Seal" engraved thereon.

ARTICLE X

FINANCIAL TRANSACTIONS

SECTION 1. Contracts. Except as otherwise provided in these By-Laws, the Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION 2. CHECKS, DRAFTS, ETC. ALL CHECKS, DRAFTS OR OTHER ORDERS FOR THE PAYMENT OF MONEY, AND ALL NOTES, BONDS OR OTHER EVIDENCES OF INDEBTEDNESS ISSUED IN THE NAME OF THE ASSOCIATION SHALL BE SIGNED AND/OR COUNTERSIGNED BY SUCH OFFICER OR OFFICERS, AGENT OR AGENTS, EMPLOYEE OR EMPLOYEES OF THE ASSOCIATION AND IN SUCH MANNER AS SHALL FROM TIME TO TIME BE DETERMINED BY RESOLUTION OF THE BOARD OF DIRECTORS.

SECTION 2: 3. Deposits. All funds EXCEPT PETTY CASH of the Association shall be deposited from time to time to the credit of the Association in such bank or banks as the Board of Directors may select.

SECTION ~~3~~ 4. Change in Rates. Written notice shall be given to the Administrator of the Rural Electrification Administration of the United States of America not less than ninety days prior to the date upon which any proposed change in rates charged by the Association for electric energy becomes effective.

SECTION ~~4~~ 5. Fiscal Year. The fiscal year of the Association shall begin on the first day of January of each year and shall end on the thirty-first day of December of the same year.

ARTICLE XI

MISCELLANEOUS

SECTION 1. Membership in Other Organizations. The Association shall not become a member of or purchase stock in any other organization without an affirmative vote of the members at a duly held meeting, the notice of which shall specify that action is to be taken upon such proposed membership

(proposed, amended bylaws - cont. pg. 14)

or stock purchase, provided, however, that the Association may upon the authorization of the Board of Directors, purchase stock in or become a member of any corporation or organization organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or with the approval of the Administrator of R.E.A., of any other corporation for the purpose of acquiring electric facilities.

SECTION 2. Waiver of Notice. Any member or director may waive in writing any notice of a meeting required to be given by these By-Laws. The attendance of a member or director at any meeting shall constitute a waiver of notice of such meeting by such member or director, except in case a member or director shall attend a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

SECTION 3. Rules and Regulations. The Board of Directors shall have power to make and adopt such POLICIES AND rules and regulations, not inconsistent with law, the Articles of Incorporation or these By-Laws, as it may deem advisable for the management of the business and affairs of the Association.

SECTION 4. Accounting System and Reports. The Board of Directors shall cause to be established and maintained a complete accounting system which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting systems as may from time to time be designated by the Administrator of the Rural Electrification Administration of the United States of America. The Board of Directors shall also cause to be made BY A CERTIFIED PUBLIC ACCOUNTANT a full and complete audit of the accounts, books, and financial condition of the Association as of September 30 each year. Such-audit-reports A REPORT OF SUCH AUDIT shall be submitted to the members at the next following annual DISTRICT meetings.

ARTICLE XII

AMENDMENTS

These ByLaws may be altered, amended or repealed by a ~~majority~~ TWO-THIRDS vote of ALL the members OF THE ASSOCIATION entitled to vote at any ~~regular-meeting-~~ ~~or--special~~ meeting OF ALL THE MEMBERS, ~~called for that purpose~~, provided, however, the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal. SUBJECT TO APPLICABLE LAW, NOTHING HEREIN CONTAINED SHALL PRECLUDE THE ALTERATION, AMENDMENT OR REPEAL OF THESE BYLAWS BY WRITTEN CONSENT OF TWO-THIRDS OF THE MEMBERSHIP OBTAINED BY MAIL BALLOT.