

Present: Chairman Gibson
Vice Chairman Keith Ashworth
Senator Dodge
Senator Echols
Senator Ford
Senator Kosinski
Senator Raggio

Also Present: See Attached Guest Register

Chairman Gibson called the thirty-eighth meeting of the Government Affairs committee to order at 4:00 p.m. with all members present to discuss amendments to SB-253 by White Pine County and Sierra Pacific Power Company.

SB-253 Adapts County Economic Development Revenue Bond Law to certain projects for generating and transmitting electricity.

Mr. Joe Gremban, Sierra Pacific Power Company, Mr. Ferdon and Mr. Dave Hagen, representing White Pine County, were present and prepared to go over the amendments to SB-253.

Attachment #1 and Attachment #2 were developed in a meeting held outside the legislature to work out the difficulties in the bill. Chairman Gibson asked the above mentioned individuals to work out some amendment suggestions and bring them back to the committee.

Mr. Gremban stated that they spent two days working on the bill and the amendments to be presented. Mr. Gremban felt that excellent progress had been made in those areas of conflict.

Mr. Gremban went over Attachment #1 and in those areas where they disagreed Attachment #2 provided the language that Sierra Pacific Power Company preferred to use.

Dave Hagen asked Mr. Ferdon to speak to the committee on the problems that they view in Section 5. Mr. Ferdon stated that under the county economic development revenue bond law the county does't have fiscal responsibility, the benefits for the county are in the guarantee that the bonds will be paid off. The obligation of the county is to continue to finance the project. The participants must have some assurance that the county will continue to finance the project to its completion. Mr. Ferdon stated that they need to have some language in order to assure the participants that the bonds will be paid off. They feel that this obligation is essential. There must be no legal impediments. There must be some way to enforce the obligation to the county to continue until the bonds are paid off. In Section 5 it provides that the remedy would be in the degree of a writ of mandamus, this is an effective remedy and should be sufficient for the participants that the bonds are sound.

Mr. Gremban asked the committee to look at Section 6, where the pledge of faith from the State is provided.

Mr. Ferdon felt that this was no more than a statement that the law must not be amended in a form that may cause hard to the contract of the bonds.

Mr. Gremban felt that the committee should slowly and the legislature could have flexibility to approve additional amounts later if the need exists.

Senator Keith Ashworth asked if the bill could be structured so that the plant could begin a one megawatt plant or a 1500 megawatt plant, progressing up to whatever the determination for power capacity is.

Mr. Hagen felt that in expressing the legislative overview the size could be determined and reviewed prior to any commitments by the county.

Mr. Ferdon stated that in financing the important fact is that whatever the size of the project is the financing should be sound and the county must continue to assure the participants that the bonds will be paid off. Mr. Ferdon felt that after the feasibility study was complete the size of the plant would be a more viable factor for discussion. At this time the size is not the major factor.

Senator Dodge questioned the language in Section 10, asking if a plant can be expanded by a substantially large addition. Mr. Gremban stated that the increases would be in 500 megawatt increments.

Mr. Ferdon stated that the size of the plant would be determined after the feasibility study was complete.

Senator Dodge asked if the bill couldn't be structured so that the legislature could approve the 1,000 megawatt plant and then come back on the other phases.

Mr. Ferdon deferred comments on Senator Dodge's question to Mr. Norm Nichols from Los Angeles Power and Light Company. Mr. Nichols stated that the size of a plant must be sufficiently large enough for the participants to be able to participate in the contract. If the size was limited to 1,000 megawatts there might not be enough participants involved for it to be a feasible business venture. The participants informed Mr. Nichols that if the Nevada utilities participate in 50% of the power then the plant size should be 2,000 megawatts in order to make the plant feasible. He further stated that if the power plant were to increase or decrease in size, it must make economical sense for the participants to become involved and at the end of the life there must be a reasonable amount of power going out of the state to the participants.

Mr. Gremban stated that if the project is expanded to two or three thousand megawatts, Sierra Pacific Power Company should be able to renegotiate in order to apply for a larger percentage of participation. He stated that the current estimate of 1,500 megawatts is acceptable to them with their current estimate of participation. If the plant becomes larger they feel certain they would want to increase their amount of participation.

Senator Keith Ashworth felt that this points out the problem of possibly limiting the size and not just looking at increasing the plant.

Mr. Gremban felt that if the size is determined now the bonds must be financed.

Mr. Ferdon stated that there must be application to the Public Service Commission for the construction permit and there must also be a granting from the Public Service Commission for that permit. The permit will specify units and the megawatt ability of that plant. Power Sales contracts are signed for the percentage of participation in the plant. If, at some time in the future, additional units are to be added the approval under the law would come back to the legislature and it would also have to be approved by the Public Service Commission. The provisions also state that the participation be at least 50% for the Nevada utilities if they so desire.

Mr. Gremban felt that once the contracts have been set they can't get a higher percentage. If the plant is reallocated to a higher megawatt capacity, the Nevada entities should be able to relocate to a higher percentage of power.

Senator Dodge felt that Section 5 should be considered an iron-clad commitment on the part of the legislature and the county.

Chairman Gibson asked Tom Bath, White Pine County, at what point does the county say they can or can't handle the capacity being considered. Mr. Bath stated that there is a point where they state whether or not the county wants a plant larger than 1,500 megawatts but was not sure where this point was within the provisions of SB-253.

Mr. Ferdon stated that this occurs after the study has been completed prior to the notice being assured to the participants. The application to the Public Service Commission will be made by the owners or co-owners (White Pine County) and they must be satisfied with the size of the plant they are applying for.

Mr. Gremban stated that once the legislature has approved the project and notice is given for issuance of the bonds, the project must be completed. Mr. Gremban concluded that once the approval is given by the legislature and the bonds are issued White Pine County no longer has any say in the matter.

Senator Keith Ashworth asked if the bill could be worded so that it will cover White Pine and give them that approval prior to going to the Public Service Commission. If this could be done would this be acceptable.

Mr. Gremban stated that he would accept language that provides more power for White Pine County.

Chairman Gibson felt that White Pine County needs some protection by setting a specified limit on the size. If the county feels that they can handle a bigger plant then the legislature can grant approval.

Mr. Ferdon felt that this authority is already in the bill and did not object to having it clearly spelled out. The regulatory authority is still the authority and progress will not occur unless the White Pine County people make that application. That is the final determination.

The committee went back to the attachments in order to get through the remaining portions of the amendment suggestions. The following remarks were made with regard to Section 12.

Mr. Hagen stated that they worked on this language and proceeded to pass out copies of the suggested language they came up with. (See Attachment #3). Mr. Hagen noted that the following should be inserted on line 6, after "electrical transmission" add "water, water lines, water transportation and production facilities."

Mr. Ferdon stated that after consulting with the county it was felt by the county that some of the water facilities must be located outside the county. Also some of the transmission facilities would have to be located outside the county in order to deliver power outside the state, to interconnect with the California participants.

Mr. Gremban felt that the county would be locating transmission lines outside the state and also felt that if it is a significant amount the costs will be very high. Mr. Gremban stated that the California participants should be able to pay for those transmission lines going outside the state of Nevada.

Dage Hagen stated that the charge would be paid directly by the entity taking the power. The up-front money comes from the bond issue.

Mr. Ferdon stated that it was also possible that railroad lines and coal resources would be in Utah and the existing railroad lines go into Utah also.

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In Section 12, Mr. Gramban asked that the sale of the bonds be limited to competitive bidding procedures.

Chairman Gibson asked if the source of transmission, water and other costs will be involved in the feasibility study. The Chairman also wanted to know if the bill could be amended when the facts are more clear (Section 12). The railroad belongs to Kennecott Copper and this should be fully studied as part of the feasibility study.

Senator Dodge asked if Mr. Bath had any fears that the railroad might not be able to handle the capacity. Mr. Bath stated that this was questioned very early in the formation of a power plant concept for White Pine County and he felt that the railroad would be able to handle the project although special cars would have to be made to transport the coal.

Mr. Bath further stated that they intend to have both Southern and Northern Pacific railroads as back-up transportation. Mr. Bath also stated that the price of coal is very important to the project.

Mr. Gremban went over Attachment #4 for the committee regarding the possibilities of competitive bidding. Mr. Gremban indicated the savings that could be realized by using the competitive bid.

Mr. Ferdon stated that competitive bids are backed by the federal government. Mr. Ferdon stated that the magnitude of the issue should not be done on a competitive basis because you may only get one bid and this could be a drastic mistake for the project.

Chairman Gibson asked the committee and those present to move on to the next point of contention. Section 17, new language was provided and this new language was acceptable to both parties.

In subsection 2J of Sec.17, Mr. Gramban felt that the financing should be limited to the construction of plant facilities. Taxes generated during the course of construction should be more than adequate to cover the impacts on governmental entities. Such taxes have been estimated to be \$44 million on a 1500 megawatt plant. He further stated that the scrubbing system may not be adequate if Kennecott emissions are increased. More scrubbing systems may have to be added in order to meet the E.P.A. standards.

Senator Dodge asked if this could also be part of the feasibility study and Mr. Gremban responded that it definitely should be part of the study.

Mr. Ferdon stated that the provision in subsection 2J is not mandatory and that the funds should be used if there is a need. The studies will indicate if bond proceeds will have to be used to meet E.P.A. standards. Mr. Ferdon felt that they needed to know that, if necessary, the bond proceeds will be ample to handle these costs.

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Mr. Gremban stated that if the scrubbing systems have to be increased to meet E.P.A. standards the money should be credited against the taxes used.

Mr. Ferdon stated that the federal government has a program to help alleviate the expenses incurred in meeting the E.P.A. standards for utility companies in the West. This subject is addressed in SB-254.

Mr. Dave Hagen stated that this matter should be addressed after the two year feasibility study.

The committee took a fifteen minute recess and upon returning Chairman Gibson stated that the committee felt that the bill should be completed in this meeting and all points of contention should be heard.

Mr. Gremban continued and noted the new language to be added in Section 18, subsection 2. The new language was prepared by bond counsel. The language was not reviewed by Mr. Hagen and Ferdon. Mr. Gremban did not feel that there would be objections to the additions. The new language was designated Attachment #5

Mr. Ferdon stated that they would like to have the county represented in the discussion of the Management Committee (three non-voting members).

Senator Dodge and Chairman Gibson both felt that they should have the latitude to look at the possibilities of a competitive bidding system.

Mr. Ferdon stated that he would work with Mr. Gremban on the wording to add the flexibility for competitive bidding.

Mr. Ferdon stated that in Section 22, regarding the water being brought in to the county and the possibility of pipelines from outside the county to enable the county to have adequate water supplies.

Mr. Bath stated that the water they are piping in from is north of Curry near the Elko County line. They did not feel that this should be a problem area.

Mr. Hagen stated that there was no attempt on their part to condemn the water just to provide for transportation.

Senator Dodge asked if a special act would give concern to the bond participants, especially with regard to the constitutionality of the act.

Mr. Ferdon stated that it would be highly suspicious and would be determined by the courts as constitutional or unconstitutional.

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Mr. Ferdon felt that it would be better if the committee works within the enabling legislation in the county development revenue bond act. All the requirements should be within this chapter of the NRS. The project being undertaken is not much different than a county building a factory.

Mr. Ferdon also made some clarifying language changes on page 15 of Attachment #2 (See Attachment #2 for changes)

The discussion at this point was turned to the recapture provisions.

Mr. Ferdon did not think that Nevada utilities should have the opportunities for recapture unless they were willing to have a 25% participation in the feasibility study.

Mr. Nichols stated that they thought the right for recapture should be decided when the size of the plant was more clearly defined and the price set. Mr. Nichols also felt that Nevada utilities should share in the feasibility study costs of up to 25%. They should take the risks if they want to have recapture rights.

The section on reciprocity was agreed to by all parties.

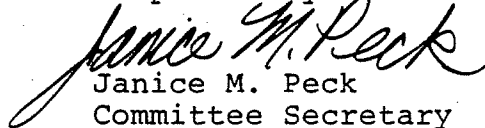
Chairman Gibson felt that the group did a good job of working out the problems areas that were expressed in earlier meetings.

Mr. Gremban stated that they have all the materials on a mag-card machine and can add the new language in the appropriate places, work on the areas that are still unresolved and bring the results back to the committee on Friday.

Chairman Gibson indicated that they would take SB-253 at the end of the meeting on Friday, April 27, 1979.

With no further business the meeting was adjourned at 7 p.m.

Respectfully submitted,


Janice M. Peck
Committee Secretary

Approved:

Chairman
Senator James I. Gibson

April 26, 1979

SUMMARY SHEET OF SENATE BILL NO. 253

SECTION CHANGES AGREED TO AND NOT AGREED TO BY

SIERRA PACIFIC POWER COMPANY

Section

1. Agreed to by parties.
2. Agreed to by parties, with additional language inserted.
3. Agreed to by parties.
4. Agreed to by parties, with additional language inserted.
5. Disagree. (See p. 2 of 11, Sierra Pacific's proposed amendments to S.B. 253 of April 5, 1979.)
6. Disagree. (See p. 3 of 11, Sierra Pacific's proposed amendments dated April 5, 1979.)
7. Agreed to by parties.
8. Agreed to by parties.
9. Agreed to by parties.
10. Subsections 1-3 acceptable; subsections 4-7, as redrafted, agreed to by parties; subsection 8 language agreed to, but amount of megawatts not agreed to.
11. Agreed to by parties.
12. Disagree as to subsections 1, 2, and 3. (See Sierra Pacific's proposed language at page 7 of 11 of handout dated April 5, 1979, and other parties' handout as to language for subsection 1; otherwise, subsections 4, 5 and 6 are acceptable and agreed to by parties.)
13. Agreed to by parties.
14. Agreed to by parties.
15. Agreed to by parties.
16. Agreed to by parties.

Section

- 17 Agreed to by parties, excepting subsection 2(g); parties have drafted new language which is acceptable and agreed to.
However, Sierra Pacific disagrees with subsection 2(j). See p. 7 of 11 of Sierra's handout dated April 5, 1979.
18. Subsection 1 agreed to as in S.B. 253.
Subsection 2 agreed to as in the bill; however, additional language to be added but agreed to.
19. Agreed to by parties.
20. Subsection 1 agreed to as in S.B. 253.
Subsection 2, new language drafted and agreed to.
21. Agreed to by parties.
22. Subsections 1-8 agreed to by parties, excepting subsection 3, which is new language drafted by the parties and agreed to.
23. Agreed to by parties.
24. Agreed to by parties as rewritten.

New section _____ To be inserted where appropriate.
Applies to recapture provisions as agreed to by parties.

New section _____ To be inserted where appropriate.
Language applicable to reciprocity provisions as agreed to by parties.

TO BE INSERTED AT THE END OF SECTION 2 OF S.B. 253:

If a county shall decide that it will sell the electricity generated and transmission usage of the Project after the expiration of all of the initial contracts for the sale of such electricity and usage, it shall give a first right of refusal to Nevada electric utilities to purchase such electricity and transmission usage. No right of first refusal shall exist at any time by virtue of this section if and to the extent that, under the Internal Revenue Code and regulations thereunder, as in existence at such time, such right of first refusal would or could result in a change in or loss of the exemption from federal income tax for the interest paid, or to be paid, on any bonds issued or to be issued by the county to finance all or a portion of the costs of acquiring, improving or equipping the Project.

Sec. 4. A county may issue bonds to finance solely the cost of studies, surveys and options with respect to a project for the generation and transmission of electricity. Before doing so, the county shall arrange for the repayment of those costs under an agreement or agreements which may provide for the purchase by the obligor or obligors thereunder of the studies, surveys and options through payments sufficient to pay the principal of and interest on the bonds issued to finance those costs if and to the extent the principal of and interest on such bonds are not paid from the proceeds of additional bonds issued to finance the remaining costs of the project. In the event the project is not deemed feasible by the obligors, such obligors shall pay the costs of the aforementioned studies, surveys, and options within a time certain of one (1) year. Such agreements may also include a commitment or agreement by the county to enter into contracts at a later date for the sale of all or a portion of the capacity of the project or for the use of the transmitting facilities of the project by the obligors and for the construction and operation of such project by one or more purchasers of capacity or users of the transmitting facilities. The terms and provisions of such contracts to be executed at a later date must be approved by the board of county commissioners at the time of or before the first issuance of bonds. On or prior to the date of granting of the construction permit for such project pursuant to NRS 704.820 to 704.900, inclusive, the contracts for the purchase of electricity generated and transmission usage for such project and the agreement or agreements for the construction and operation of the project required by paragraph 2 of NRS 244.9215 shall be approved by the Nevada Public Service Commission. The Commission

shall either approve or disapprove such agreement or agreements within 90 days of filing. The county shall, every six months during construction of such project, file with the Commission a report as to the then current estimates of the total cost of the project, but such filing shall not be deemed to involve any approval by the Commission of such report.

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SIERRA PACIFIC POWER COMPANY
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Proposed Changes

Explanation

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Sec. 5. Any lessee, purchaser, obligor, trustee or other representative of bondholders or any other interested party is entitled as of right to the enforcement of the obligations, if any, of the county to sell and issue additional bonds to finance the remaining costs of acquiring, improving, and equipping a project, however, should a county at any time decide for any reason to be freed from the project, the participating utilities shall be obligated to purchase the constructed portion of the project at the same ratio as participating utilities have agreed to purchase energy. [or to contract for the sale of the electricity generated or for the transmission of electricity by a project or for the construction and operation of a project, by mandamus or other suit, action or proceeding at law or in equity to compel the county, its board of county commissioners or other appropriate officers to perform those obligations.]

We do not believe the County or the State should be unconditionally committed to a project. A county should be given the flexibility of being freed from all obligations of a project at any time it desires. Our bond counsel, Kutak, Rock & Huie, have informed us that the language proposed in SB 253 is most extraordinary and should be considered only if absolutely necessary to accomplish objectives vital to the State of Nevada.

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Proposed Changes

Explanation

Sec. 5. Should the state repeal, amend, or modify NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act, impairing any outstanding bonds or any revenues pledged to their payment, or to impair, limit or alter the rights or powers vested in a county to acquire, finance, improve and equip a project in any way that would jeopardize the interest of any lessee, purchaser or other obligor, or to limit or alter the rights or powers vested in the county to perform any agreement made with any lessee, purchaser or other obligor, before all bonds have been discharged in full or provision for their payment and redemption has been fully made, the participating utilities shall have the option to purchase the then constructed portion of the project at the same ratio as the participating utilities have agreed to purchase energy. [The faith of the state is hereby pledged that NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act, will not be repealed, amended or modified to impair any outstanding bonds or any revenues pledged to their payment, or to impair, limit or alter the rights or powers vested in a county to acquire, finance, improve and equip a project in any way that would jeopardize the interest of any lessee, purchaser or other obligor, or to limit or alter the rights or powers vested in the county to perform any agreement made with any lessee, purchaser or other obligor, until all bonds have been discharged in full or provision for their payment and redemption has been fully made.]

If the State should adopt the proposed legislation and subsequently discover it has erred and a modification is required, it should not be precluded from making such modification. In order to protect the participants in the project and their security holders, the participants should have the option of purchasing the then-constructed portion of the project.

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Section 10, NRS 244.9196

4. "Commence construction or commencement of construction" shall mean excavation for the foundations for an electric power plant.

5. "Electric power plant" means (i) any generating unit located within the state, owned or to be owned by a county or jointly owned by a county and a private entity, for the generation of electric energy to be furnished, within or without the state, for or to other persons, firms, associations, corporations, or entities, public or private, and (ii) any additional generating unit added to or near the site of any existing project that is owned by a county. The term electric power plant shall not include any additions (excluding generating units), modifications, extensions, alterations, repairs, replacements or improvements to such plant or unit.

6. "Public interest" as it is used in Section 7 herein shall mean a legislative consideration of the following factors: the need for the project, and that the resources of the state may, to the extent necessary, be preserved for the use within the state, to ensure that the environment of the state is protected, to ensure the orderly growth of electric resources within the state, to ensure that any such electric power plant will not unduly interfere with the orderly development of the region wherein such plant will be located and to ensure that any adverse impact of any such electric power plant on social and economic conditions and the health, safety and the welfare of the inhabitants of this state will be at a minimum.

7. No electric power plant project to be financed by a county within the State of Nevada pursuant to NRS 244.9191 to 244.9219, inclusive, shall commence construction unless the project shall have been reviewed

and the concept approved by the Legislature of the State of Nevada. In the event the Legislature of the State of Nevada finds and determines that there may be a public interest for the project, the Legislature shall grant approval for the concept of such project. Such approval by the Legislature of the concept of a project shall not preempt or otherwise interfere with the authority of any Nevada regulatory agency having jurisdiction over the project, including, without limitation, the Nevada Public Service Commission, the Nevada State Environmental Commission, and the Nevada State Department of Conservation and Natural Resources.

8. The Legislature hereby approves the concept of a county financed electric plant project, the generating facilities of which will not exceed _____ megawatts and will be located in White Pine County; however, such legislative approval shall not preempt or otherwise interfere with the authority of any Nevada regulatory agency having jurisdiction over the project.

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Proposed Changes

Explanation

Sec. 12. NRS 244.9198 is hereby amended to read as follows:

244.9198 In addition to any other powers, [which it may now have,] each county [shall have] has the following powers:

1. To finance or acquire, whether by construction, purchase, gift, devise, lease or sublease or any one or more of such methods, and to improve and equip one or more projects or parts thereof, which [shall] shall [except as otherwise provided in this subsection must] be located within this state, and which may be located within or partially within [such] [that] such county. If a project is for the generation and transmission of electricity, only the electrical transmission lines may be located outside of the county which provides the financing. [and the county deems it necessary to connect the project with facilities located outside this state, a part of the project necessary for that inter-connection may be located outside this state.]

2. To finance, sell, lease or otherwise dispose of any or all its projects upon such terms and conditions as the board considers advisable.

3. To issue revenue bonds for the purpose of financing or defraying all or any portion of the cost of acquiring, improving and equipping any project as set forth in NRS 244.9213. All such securities shall be issued on a competitive bid basis and awarded to the bidder with the lowest cost of money.

4. To secure (to end of Section 12).

This provision insures that the generation facility associated with the project must be located within the county providing the financing.

For generation projects involving massive financing, we strongly urge this requirement be included in whatever statute is finally agreed upon. This is the only way all future customers can be assured of the lowest possible cost of money. A difference of one-tenth of one percent in the bond interest rate on a \$2 billion project, would cost consumers \$2 million additionally per year or an additional \$70 million over the life of the project. Similarly, a difference of one-quarter of one percent, which would not be uncommon, would cost consumers an additional \$5 million per year, or \$175 million over the life of the project.

Section 17, Subsection 2(g)

(g) Any acquisition of resources, facilities and supplies, including rights thereto, for fuel, fuel transportation and water applicable to an electric power plant to be financed by a county shall be subject to the review and approval of the Nevada regulatory agencies having jurisdiction over such resources, facilities and supplies.

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Proposed Changes

Explanation

Sec. 17, Subsection 2(j)

*[(h)] (j) All other necessary and incidental expenses[.]
[, including expenses incurred to assist in meeting the financial
demands placed by a project upon the population of, or services
furnished by, this state, a county, city or town, or any
political subdivision, agency or district thereof or created
thereby, and capital contributions made by the county to,
or facilities provided by the county for the use of, any
corporation or other legal entity to minimize pollution in
the vicinity of the project, if that pollution relates to
the simultaneous operations of the project and the corporation
or other legal entity in those areas].*

Financing should be limited to the construction of plant facilities. Taxes generated during the course of construction should be more than adequate to cover the impacts on governmental entities. Such taxes have been estimated to be \$44 million on a 1500 megawatt plant.

TO BE ADDED TO SECTION 2 OF SECTION 18

There shall be provided, pursuant to financing agreements for the project or the contracts for the sale by a county of the electricity generated and transmission usage of such project and contracts for ownership participation in the project, if any, for the establishment of a management committee. Membership on such committee shall be composed of voting members, each of whom shall represent one or more power purchasers from the county of such electricity and usage or participating owners of an undivided interest in the project, and a nonvoting representative of the county. Each voting member shall have a vote equal to the total entitlement to capacity in the project of the participant or participants represented by such member. Such voting members shall be of such numbers and appointed in such manner as shall be provided pursuant to such contracts. Action may be taken by such committee upon an affirmative vote of voting members representing owner participants and purchaser participants entitled to, in the aggregate, not less than 80% of the power of the project. The management committee shall exercise general overall supervision of the construction and operation of such project, which supervision shall include the approval of all major contracts and other major matters relating to the construction and operation of the project including, without limitation, those contracts and matters relating to the acquisition of resources, facilities and supplies, including rights thereto, for fuel, fuel transportation and water for such project. The generating facilities of such project shall be designed by a nationally recognized architect-engineering firm of favorable reputation selected by the management committee. Unless otherwise provided for by the management committee, all materials and construction for the project shall be competitively bid upon such terms as shall be determined by the management committee. All other matters relating to the powers, duties, organization and operation of such committee shall be as provided for by financing agreements for such contracts.

Section 20, Subsection 2.

2. If the project is for the generation and transmission of electricity, the county financing the project may acquire land or rights of way for water or generating facilities within such county and may acquire land or rights of way for transmission facilities or fuel production or transportation facilities within and without said county by the exercise of condemnation through eminent domain, unless the property to be acquired is owned or otherwise subject to use or control by public utilities within the state.

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Section 22, Subsection 3

3. The provisions of no other law, either general or local, except as provided in NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act apply to doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections, excepting if a project is for the generation and transmission of electricity, the project shall be subject to the review and approval of the Nevada regulatory agencies having jurisdiction over the project, including, without limitation, the Nevada Public Service Commission, the Nevada State Environmental Commission, and the Nevada State Department of Conservation and Natural Resources.

Sec. 24. NRS 704.892 is hereby amended to read as follows:

704.892 When application is made by a Nevada electric utility, out-of-state electric utility, or any governmental entity for the construction of a plant for the generation of electrical energy using any natural resource of this state, including but not limited to coal, geothermal steam and water resources, for export outside this state, the commission:

1. May grant or deny the construction permit.

2. Shall condition the granting or denying of the construction permit on the public utility's or applicant's making available to public utilities within this state an amount of electrical capacity equal to or less than the amount exported, in one of the following manners:

(a) Fifty percent (50%) of the capacity from the project must be made available to Nevada utilities; or

(b) If less than fifty percent (50%) of capacity initially is taken by Nevada utilities, provision must be made for recapture by Nevada utilities of up to fifty percent (50%) of the capacity available from the project; and

(c) Provide for a reciprocity commitment by out-of-state participant agreeing to allow the Nevada utilities to participate in any future capacity of such participants to the same extent that the out-of-state participants have participated in capacity from Nevada projects; ^{138P} provided, ~~except~~ that in the case of an electric generation project financed in whole or in part under NRS 244.9191 to 244.9219, inclusive, the construction permit shall be conditioned upon the compliance with the provisions of said NRS 244.9191 to 244.9219, inclusive, with respect to participation of Nevada utilities in said project, the recapture of capacity thereof from out-of-state utilities, and the reciprocal participation rights of Nevada utilities.

NEW SECTION TO BE ADDED TO S.B. 253
AS AN ADDITION TO CHAPTER 244
RELATING TO RIGHTS OR PARTICIPATION IN AND
RECAPTURE OF CAPACITY OF PROJECT BY NEVADA UTILITIES

Sec. _____. 1. Except in the case of a Project not to exceed _____ megawatts nominally-rated located in White Pine County with respect to which participation rights have already been granted under contracts in effect at the date of enactment hereof, Nevada utilities shall be granted rights to participate, as either a co-owner of the Project or a capacity purchaser from the county or as such a co-owner and a capacity purchaser, in an amount equal in the aggregate to at least 50% of the total capacity of any Project financed wholly or in part pursuant to N.R.S. 244.9191 to 244.9219. Such participation rights shall include participation by Nevada utilities as purchasers of capacity from the county up to the full extent allowable under the Internal Revenue Code and Regulations thereunder, without resulting in a change in or loss of the exemption from federal income tax for the interest paid, or to be paid, on any bonds issued by the county to finance its costs of the Project.

2. In the event that there shall be participation in a Project by Nevada utilities as capacity purchasers from the county, in an aggregate amount which is less than the amount allowable under the Internal Revenue Code and Regulations thereunder as above stated, then the Nevada utilities participating in the Project shall, if so determined by the Public Service Commission in its proceedings granting a construction permit for the Project, have the right to recapture from amounts of capacity sold to out-of-state utilities, additional amounts of capacity up to the aforesaid amount allowable under the Internal Revenue Code and

Regulations, provided that such exercise of the right of recapture shall not result in the purchase from the county of more than the sum of 25% of the Project capacity attributable to the county's ownership of the Project plus the aggregate of the Project capacity purchased from the county by Nevada utilities having 3% or less participation as a Project capacity purchaser.. Any such capacity recapture shall be subject to compliance with the following terms and conditions:

(a) Any such recapture of capacity by a Nevada utility shall be made from each such out-of-state entity in the proportion that such entity's then current capacity entitlement from the Project bears to the total capacity entitlement from the Project of all such out-of-state entities under their power sales contracts;

(b) Such recapture by any Nevada utility shall take place (i) fifteen days after written notice has been given by such Nevada utility to the out-of-state entity that it intends to exercise its right of recapture for an amount of capacity specified in such notice if such notice is given within 90 days following the execution of power sales for the Project, or (ii) ten years after written notice has been given by such Nevada utility to the out-of-state entities that it intends to exercise its right of recapture for an amount of capacity specified in such notice, if such notice is given after the date of commercial operation of the first generating unit of the Project, or (iii) ten years after such date of commercial operation if such a notice is given prior to such date;

(c) The Public Service Commission shall render a written decision to the effect that such Nevada utility has a need for the

capacity to be so recaptured and will be able to meet the financial obligations with respect thereto under the contract with the county for the purchase of capacity and transmission usage, if any, of such Project. The aforesaid action of the Public Service Commission shall be taken within 180 days after the filing of the application therefor and such application shall be filed on or about the time of giving of the written notice specified in (b) above;

(d) Such Nevada utility shall not at the time of the giving of the written notice specified in (2) above be in default under such contract or under any other contract or agreement by which it is bound except insofar as it shall be contesting the same in good faith;

(e) On or before the giving of the notice specified in (b) above, the Nevada utility and the county shall enter into an appropriate amendment to its contract for the purchase of capacity and transmission usage, if any, which amendment shall be subject to such approval by the Nevada Public Service Commission as required by law. The aforesaid action of the Public Service Commission shall be taken within 180 days after the filing of the application therefor and such application shall be filed on or about the time of giving of the written notice specified in (b) above. The amendment shall provide for an increase in (i) the amount of capacity entitlement of such utility by the amount of capacity so recaptured and (ii) the payments to be made by such utility thereunder by an amount attributable to the capacity so recaptured. Upon any such recapture, the contracts between the out-of-state

entities and the county providing for the purchase by such entity of capacity of the Project shall be deemed amended to reduce (i) the capacity entitlement of such entity by the amount recaptured from it and (ii) the payments to be made by such entity by an amount attributable to the recaptured capacity.

3. No right to recapture capacity shall exist at any time by virtue of this section, nor shall capacity be recaptured at any time pursuant to this section or by contract, if and to the extent that, under the Internal Revenue Code and Regulations thereunder, as in existence at such time, such recapture would or could result in a change in or loss of the exemption from federal income tax for the interest paid, or to be paid, on any bonds issued or to be issued by the county to finance all or a portion of the costs of acquiring, improving or equipping the Project.

NEW SECTION TO BE ADDED TO CHAPTER 244

Sec. _____. If the capacity of a Project for the generation and transmission of electricity is made available to Nevada utilities and out-of-state utilities, then there shall be provided a commitment by such out-of-state participants allowing such Nevada utilities to participate, if and to the extent legally possible, in available major future capacity, excluding hydro generation, available to such participants to the same extent in the aggregate that such out-of-state participants have participated in capacity from such Project.

PRESENTED by
DAVE HAGER -

Sec. 12. NRS 244.9198 is hereby amended to read as follows:

244.9198 In addition to any other powers, each county has the following powers:

1. To finance or acquire, whether by construction, purchase, gift, devise, lease or sublease or any one or more of such methods, and to improve and equip one or more projects or parts thereof, which, except as otherwise provided in this subsection, must be located within this state and within or partially within that county. If a project is for the generation and transmission of electricity, electrical transmission lines^{WATER, WATER RIGHTS, WATER TRANSPORTATION AND PRODUCTION FACILITIES} ~~and~~ fuel rights and fuel transportation and fuel production facilities for such project may be located outside of the county which provides the financing and outside the state if such county deems it necessary to connect the project with facilities located outside such county or this state or to develop or transport fuel or fuel rights for the project from outside such county or the state.

Presented
By Mr. Greenham
in regard to Competitive
Bidding Section #12

SIERRA PACIFIC POWER COMPANY

(Data obtained from material supplied by Investment Banking Firm on Tax-Exempt Electric Utility Bond Issues of \$5 million on larger for the period January 1978 - March 15, 1979.)

	<u>No. of Issues</u>	<u>Bonds Sold (\$000)</u>	<u>Underwriting Costs & Fees</u>	<u>Average Underwriting Costs & Fees for each \$1,000 of Bonds</u>
Competitively Sold	42	\$3,260,430	\$28,336,256	\$ 8.69
Negotiated Sale	30	\$3,459,505	\$66,090,357	<u>\$19.10</u>
Difference				\$10.41

Note: If a cost savings of \$10.41 per \$1,000 could be realized by competitively bidding bonds, the savings on a \$2 billion project would be \$20,820,000. ($\$10.41 \times \$2,000,000 = \$20,820,000.$)

Library Note:

During the examination of this set of minutes, Attachment 5 was found to be missing. It also appears to have been missing at the time this set of minutes was hand numbered, as the numbering does not have a gap where this exhibit should be. The exhibit is also missing from the microfiche.

Research Library
September 2010