

Minutes of the Nevada State Legislature

Senate Committee on Government Affairs

Date: April 27, 1979

Page: One

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-ninth meeting of the Government Affairs Committee to order at 2 P.M.

Russ McDonald, Washoe County, requested an opportunity to testify to the committee on SB-498 and reassure those present that his interests in the bill were professional and not personal. There was no conflict of interest with regard to this bill.

Mr. McDonald continued that until the federal government changes its position this bill is the best alternative for the counties and cities to acquire, low cost, tax free bonds for special projects. These bonds have a more direct affect on the counties credit.

Chairman Gibson stated that his objection was that these bonds were not limited to the county and city facilities.

Bob Broadbent, Commissioner from Clark County, testified that anything under their permissive authority, given by the legislature, that will broaden their ability to answer the problems in Clark County is favorable legislation in our opinion. Mr. Broadbent stated that as long as there is H.U.D. money available, progress should continue.

Chairman Gibson stated that no action would be taken on this bill at this time and it would be held over until Monday, May 7, 1979.

SB-311 Limits approval of salary increases for classified employees of state based on their merit and fitness.

Bob Gagnier, Executive Director, S.N.E.A., had some suggested amendments for the committee. This bill was previously voted out of committee on the assumption that S.N.E.A. supported the bill in the amended form. This was not true and therefore Chairman Gibson re-scheduled the bill so that S.N.E.A. could be present and voice their problems with the bill.

Mr. Gagnier handed out copies of the proposed amendments for the committee to review. (See Attachment #1) Mr. Gagnier went over same for the committee. Without these amendment changes Mr. Gagnier felt that the bill would be unacceptable to S.N.E.A.

Their concern was that the language in subsection 5 was not necessary and should be deleted.

Also, the incentive award system should be narrowed down. They should be distributed in a reasonable manner. Mr. Gagnier addressed the appeal procedure and felt that an employee who receives an adequate rating should receive such evaluations quarterly. If the employee has not been informed that his performance would not warrant a 5% or higher rating then that employee should have the right to appeal the rating.

Mr. Gagnier concluded by stating that this system should be on a trial basis and if it does not work the legislature can abandon the system and go back to the present system.

Senator McCorkle and Roger Laird, Employee Relations Officer for the Nevada State Personnel Division testified to the committee on the amendments proposed by Mr. Gagnier.

Mr. Laird stated that they have some problems with the suggested amendments as proposed by S.N.E.A. They feel that the 2-1/2% raise allows the flexibility necessary in the proposed system. When the raise is either zero or 5% there is no flexibility. Mr. Laird felt that the reason S.N.E.A. doesn't support the 2-1/2% raise is because the Supervisor might give a 2-1/2% raise but would probably give a 5% raise if the employee were to otherwise receive no raise at all. This would mean that the incentive award system would have to be cut back. These amendments defeat the purpose of the new system and the incentive award.

Senator McCorkle concurred with Mr. Laird's fears regarding the proposed amendments. The Senator felt that there was sufficient accountability in the present bill and with the amendments offered by S.N.E.A. the division would be "hamstrung" by restrictions and regulations. The non-appeal provisions were essential in this bill.

Mr. Laird stated that the employees that would have to review the appeals as a third party did not feel that they could do the job in an objective manner.

Senator McCorkle felt that the review being performed quarterly could be appealed quarterly and this would cost too much work in the appeal area.

Mr. Laird also felt that in the last portion of the bill, Section 6, subsection 2 should also be deleted and they were opposed to the automatic termination of the program after two years. They do not feel that the purpose was to provide a system for review and merit that would increase morale.

Senator Ashworth felt that the bill should be mandated to provide language to require the employee's supervisor to perform the evaluation.

Senator Echols stated that the appeals procedure on the evaluation should only apply to those people who have received no rate increase.

Senator Raggio felt that the employee who received an adequate rating and the 2-1/2% raise that feels the evaluation was too low should have a chance to have the evaluation appealed also.

Chairman Gibson asked Mr. Gagnier to work on the language for appealing the evaluation. The committee felt that if the employee didn't perform adequately he should be evaluated and informed that his performance needed improving. The employee should be able to appeal a rate increase of 2-1/2% if the employee was not informed that his performance was adequate.

The committee also felt that a review by the legislature in 1983 would provide enough time to see if the new system was working effectively.

Senator Kosinski moved to "Amend" SB-311 with the above mentioned amendments.
Seconded by Senator Dodge
Motion carried unanimously.

SB-507 Creates office and defines duties of county public trustee.

Pat Gallagher, representing Clark County, stated that this bill is not in the form that was originally requested. Ms. Gallagher presented the committee with suggested amendments. (See Attachment #3)

Chairman Gibson felt it was in the best interest of the committee and Ms. Gallagher to assign a sub-committee to work on the bill and have it reprinted. Chairman assigned Senator Keith Ashworth as the Chairman of the sub-committee and Senator Raggio will also work on this sub-committee.

AB-632 Authorizes local governments to invest in certain securities.

Russ McDonald, Washoe County representative, stated that the comptroller advised that this bill be drafted. Read a letter to the committee from the comptroller which indicated support of the bill. The bill allows the local government flexibility in various securities for investment purposes. Mr. McDonald stated that the question of constitutionality was asked and Mr. Daykin felt that it was constitutional. Mr. McDonald felt that the categories for investments are too limiting and conservative.

Norm Okada, Credit Union Division, testified to the committee in favor of AB-632 and requested that some additional language be added in Section 2, page 2, beginning on line 15. The new language states "insured" in front of commercial banks and adds "insured credit unions". (See Attachment #4) Mr. Okada felt that this inclusion would protect the type of investments that local governments would enter into and allow the credit unions the opportunity to loan to the local entities.

Senator Ford moved "Amend and Do Pass" on AB-632
(Amendment to include Credit Unions as presented
by Mr. Okada - Attachment #4)
Motion died due to a lack of a second.

Senator Echols moved "Do Pass" on AB-632
Seconded by Senator Kosinski
Motion carried unanimously.

SB-513 Clarifies provisions of law under which state land
may be leased.

Frank Daykin stated that this bill clears up the provisions regard-
ing escheats. It also allows state lands to be leased pursuant to
provisions in Chapter 322 of NRS.

Jac Shaw, Division of Lands, testified in favor of the bill and
stated that there is quite a sizeable amount of land that will
be affected by the clarification of SB-513 regarding escheats.
The money received would go into into the distributive school
fund.

Senator Raggio moved "Do Pass" on SB-513
and place on the consent calendar - Seconded by Senator Dodge
Motion carried unanimously.

SB-514 Removes reference to corporations in regard to invest-
ment of state permanent school fund.

Frank Daykin stated that the change on the first page is to clear
up the statutes. The language on page 2 was provided due to the
provisions in Article 8 of the constitution which forbids the state
to loan monies to corporations. This should be deleted.

Senator Raggio moved "Do Pass" on SB-514
and place on the consent calendar.
Seconded by Senator Dodge
Motion carried unanimously.

SB-515 Corrects internal reference concerning registration
for elections in general improvement districts.

Frank Daykin stated that the bill was written to correct a mis-
understanding and this change clears up the intent.

Senator Raggio moved "Do Pass" on SB-515
and place on the consent calendar.
Seconded by Senator Dodge
Motion carried unanimously.

Senator Ford reported to the committee on SB-239 and noted that it
would be heard on Monday, April 30, 1979 in the Assembly and the
language in this bill deals with the same chapter of the N.R.S.
that SE-515 corrects.

Chairman Gibson called a fifteen minute recess and the next item on the agenda was to go over the remaining points of contention on SB-253.

The attachments from Meeting #38 (#1 and #2) were used in conjunction with the new language which was incorporated into the project as a whole for all amendment suggestions to SB-253 that were agreed upon by both White Pine County and Sierra Pacific Power Company.

Mr. Gremban, Mr. Tom Barr and Mr. Dave Hagen testified together to the committee on the areas that were not resolved in Meeting #38 (4-26-79). Attachments #5.

Mr. Gremban went over the changes with regard to the material presented in Meeting No. 38 and the agreed upon portions noted in Attachment #5. Section 17, subsection 2J, the language to protect White Pine County was taken from SB-254.

In Section 18, the number of members on the Management Committee was addressed. They felt that this decision should be left up to the committee.

Mr. Tom Barr, bond counsel for White Pine County from New York provided the committee with information on the milestones that must be achieved prior to the power plant being completed. (See Attachment #6) Mr. Barr stated that the power sales contract will not state the percentage of participation and the ultimate size of the plant. The county will execute its decision with regard to those two items prior to the completion of the contract.

Chairman Gibson asked Mr. Barr to give some estimates on the time frame for each milestone. (These are noted on Attachment #6)

Mr. Bath at this point asked the committee to consider the limit to be 3,000 megawatts. He also asked that White Pine County have three non-voting members on the Management Committee. Mr. Bath felt that this would allow the proper input from White Pine County regarding the power plant and they could provide valuable information to the Management Committee.

Senator Ford agreed and felt that the three County Commissioners should be able to attend the meetings, even though they would not have the privilege of voting.

Mr. Gremban stated that his staff can put all the amendment suggestions together and have the entire package ready for Mr. Daykin to review with the committee by Monday, April 30, 1979.

Minutes of the Nevada State Legislature

Senate Committee on Government Affairs

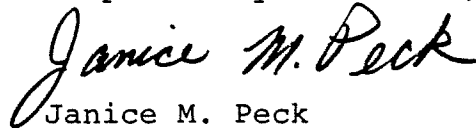
Date: April 27, 1979

Page: Six

Chairman Gibson indicated that there were several important decisions that the Committee must make. Once the package is complete the bill drafter will become involved and the pieces will have to fit within the statutes. The bill drafter will consult with bond counsel to be sure that any changes will be acceptable.

With no further business the meeting was adjourned at 6:05 p.m.

Respectfully submitted,



Janice M. Peck
Committee Secretary

Approved:



Chairman
Senator James I. Gibson

Proposed SNEA Amendments to SB 311

Amend Page 1 Line 19 through Page 2 Line 7 by deleting Subsection 5.

Amend Page 2 Line 33 by substituting the following for (a):

"Ensure that incentive awards are distributed in a reasonable relationship to the composition of the agency workforce by occupational groupings as defined in SB 255."

Amend Page 2 Line 42 by adding the following language after the period:

"By division and occupational category referred to in Section 3."

Amend Page 2 Line 43 by adding the following language after "awards"

"and a breakdown of its usage by such occupational group."

Amend Page 2 Line 49 by adding a new subsection to read as follows:

"The chief shall adopt regulations providing for appeals of employee evaluations by employees who have not been advised at least quarterly of their performance, such appeals shall be addressed to the committee referred to in Section 6."

Amend Page 3 Lines 38 through 42 by deleting the italicized material and substituting therefor the following language:

"2. The chief shall adopt regulations specifying a committee to hear appeals of decisions which establish standards of work performance. An employee may appeal a decision which establishes standards of work performance for his position. If the committee finds that the standards are arbitrary, it shall so inform the administrator of the agency. The decision of the committee is binding."

Add a new section to the bill, the provisions of Sections 3 & 4 of this bill shall terminate on July 1, 1981.

EMPLOYEES "TURNED OFF" RATHER THAN "TURNED ON"
BY FEDERAL AWARDS SYSTEM

Federal managers and supervisors are not using the incentive awards program in an effective way to motivate employees and improve productivity. In fact, the General Accounting Office states in a report to Congress, "federal managers are using awards in such an inconsistent manner that employees' attitudes toward the program are often turned 'off' rather than 'on'."

In its review of award programs at 13 agencies, the GAO found that quality step increases were actually the most commonly granted forms of cash recognition to employees. Many managers, the report states, "indiscriminately substitute quality increases for incentive awards without regard for the more stringent quality increase requirements."

Because of this misuse of within-grade raises, the GAO recommends that the situation either be corrected or else "quality step increases should be discontinued."

Based on a questionnaire sent to employees, the GAO found that:

>60 percent felt their organizations' program did little, or nothing at all, to change their job motivation.

>40 percent said the current awards program makes little or no contribution to their specific work group's productivity.

>One-third believe that improving their performance would probably not affect their opportunity to receive an award.

>60 percent are not sure cash awards are usually presented to those who are the most deserving."

AWARDS TO LOW PERFORMERS

Performance awards and quality step increases do not always go to the most deserving. GAO reports that from its analysis of the performance characteristics of employees receiving those awards, 16 percent were actually in the average category and almost 2 percent were below average performers.

The problems with the awards program exist, according to the GAO, because the agencies do not provide certain basic, but essential components such as "a direct linkage with specific organizational goals and objectives, an objective system for setting and communicating employee work expectations and measuring performance contributions, managers who know how to use, and are motivated to use, the program, awards that are timely and relevant to employees' needs but do not become part of the basic salary rate and an annual evaluation of the program's results."

(Does the Federal Incentive Awards Program Improve Productivity? GAO Report FGMSD-79-9, March 15, 1979.)

SUGGESTED ADDITIONS TO DEFINITIONS SECTIONS

Section 10. "Public Trustee" shall mean the county public trustee.

Section 11. "Trust fund" means the public trustee trust fund.

(At Page 2, Lines 8 - 37)

SECTION 12. In each county having a population of 250,000 or more, the office of public administrator is abolished and the office of public trustee is created.

1. The public trustee shall be appointed by:

(a) The county administrator or county manager in those counties where there is a county administrator or county manager, with the confirmation of the board of county commissioners; or

(b) The board of county commissioners, in any county where there is no county administrator or county manager.

2. The compensation of the public trustee shall be fixed by the board of county commissioners and paid out of the general fund.

3. The public trustee is subject to sections 2 through 54, inclusive, of this act and Titles 12 and 13 of NRS.

SECTION 13.

1. In each county having a population of less than 250,000, where there is a county administrator or county manager, he, with the confirmation of the board of county commissioners, or where there is no county administrator or county manager, the board of county commissioners shall appoint:

(a) A public trustee who shall perform all duties required of public trustees under sections 2 through 54, inclusive, of this act and Titles 12 and 13 of NRS; or,

(b) A public administrator who shall administer the estates of decedents as that duty is prescribed in NRS 253.010 to 253.250, inclusive, and any other provision of applicable state law respecting the administration of estates of decedents.

2. In counties which have a public administrator, the administrator shall be compensated by the fees provided in NRS 253.050.

(At Page 2, Lines 46 - 48)

SECTION 12.

1. If any vacancy occurs in the office of public trustee, the vacancy must be promptly filled by the board of county commissioners.

(At Page 3, Lines 12 and 13)

SECTION 15.

Except as provided in subsection 5 of section 10 of this act, a public trustee:

(At Page 5, Lines 22 - 28)

3. Upon court order, act as:

- (a) Guardian of the person and estate of an adult ward; or,
- (b) Guardian of the estate of a minor ward,

regardless of the amount of assets in the guardianship estate if no other qualified person having a prior right is willing and able to serve.

4. The public trustee shall petition and secure proper court order to serve as administrator of the estate of a person dying intestate regardless of the amount of assets in the probate estate if no other qualified person having a prior right is willing and able to serve.

(At Page 5, Lines 34 - 37)

SECTION 25.

1.

(a)

(b) Whether there is any qualified person who is willing and able to serve as guardian for a ward or administrator of the estate of an intestate decedent, to determine whether he is eligible to serve in that capacity.

(At Page 5, Lines 40 - 43)

2.

(a) Require any person to give any information, and to execute any written requests or authorizations necessary to provide the public trustee with access to records, otherwise confidential, needed to evaluate eligibility.

(At Page 9, Lines 36 - 39)

SECTION 44.

1. The settlor of an inter vivos trust has the power to amend or terminate the trust at any time by delivery of an executed notice of amendment or termination to the public trustee on a form provided by the public trustee.

(At Page 10, Lines 1 - 3)

SECTION 45.

3. The public trustee shall notify the board of trustees of the termination, and the board shall convert the remaining share of the trust fund into money and distribute it as ordered by the court.

E X H I B I T 3

(At Page 10, Lines 8 - 11)

SECTION 46.

2. In making his determination the public trustee shall take into consideration other resources of the person which are held free of trust, including the ability of any person under a legal obligation to support the person.

(At Page 10, Lines 18 - 25)

SECTION 47.

(Delete Entirely)

(At Page 10, Lines 26 - 30)

SECTION 48.

Income accrued or unpaid on trust property at the termination of any interest in the trust must be paid to the beneficiaries entitled to the next succeeding interest. The public trustee or the board is required to prorate taxes and other current expenses to the date of the termination of the interest.

(At Page 15, Line 21)

(Delete Section 66.)

(At Page 15, Lines 22 - 29, inclusive)

SECTION 67. In any county having a population of less than 250,000, the responsibility for any estate or guardianship which is administered by a public administrator and is pending on January 1, 1981, transfers to the appropriate public trustee or public administrator appointed pursuant to section 13 of this act on that date.

(At Page 15, Lines 26 - 29)

SECTION 68.

Sections 13, 62, and 67 of this act shall become effective on January 1, 1981, if Assembly Joint Resolution 8 of the 59th Session is agreed to and passed by the Legislature during its 60th Session and approved and ratified by the people at the general election in 1980. The remaining sections of this act shall become effective upon passage and approval.

Attachment to A.B. 632 - Committee on Government Affairs

NRS 355.170

Proposed Section 2, Page 2, Lines 15-17:

(e) Negotiable certificates of deposit issued by insured commercial banks, or insured credit unions or insured savings and loan associations which are stock companies and not mutual associations.

678.470 Powers to receive and pay out deposits, borrow, sell or purchase assets. A credit union may, subject to the regulations or approval of the commissioner:

1. Receive from its members or from the members of another credit union deposits which are payable on demand and honor requests for withdrawals in the form of checks or drafts.
2. Borrow from any source in accordance with the policy established by the board of directors and discount and sell any eligible obligations.
3. Sell all or any part of its assets or purchase all or any part of the assets of another credit union.

(Added to NRS by 1975, 386)

678.480 Fees and assessments. A credit union may:

1. Require, at the discretion of the directors, the payment of an entrance fee or annual membership fee of any person admitted to membership;
2. Collect, receive and disburse moneys and charge a fee for services rendered in connection with the sale of negotiable checks, money orders and other money-type instruments and for such other purposes as may provide benefit or convenience to its members; and
3. Assess charges to members in accordance with the bylaws for failure to promptly meet their obligations to the credit union.

(Added to NRS by 1975, 387)

678.490 Power to hold memberships; perform certain services. A credit union may:

1. Hold membership in other credit unions organized under this chapter, in the Nevada Credit Union League and in other organizations composed of credit unions;
2. Perform such tasks and missions as may be requested by the Federal Government, the State of Nevada or any agency or political subdivision thereof when approved by the board of directors and not inconsistent with the provisions of this chapter;
3. Act as fiscal agent for and receive deposits from the Federal Government, or any of the subdivisions thereof; and
4. Perform trust services for its members, including the trust estates of deceased members, and act as a custodian of qualified pension funds of self-employed individuals under the provisions of 26 U.S.C. § 361 et seq.

(Added to NRS by 1975, 387)

678.500 Power to make contributions. A credit union may:

1. Contribute to, support or participate in any nonprofit service facility whose services will benefit the credit union or its membership; and
2. Make donations or contributions to any nonprofit civic, charitable or community organization as authorized by the board of directors.

(Added to NRS by 1975, 387)

(b) *Qualifying joint accounts.* A joint account shall be deemed to exist, for purposes of insurance of accounts, only if each co-owner has personally executed a joint account signature card and possesses withdrawal rights. The restrictions of this paragraph shall not apply to coowners of a time certificate of deposit or to any deposit obligation evidenced by a negotiable instrument, but such a deposit must in fact be jointly owned.

(c) *Failure to qualify.* An account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to \$40,000 in the aggregate.

(d) *Same combination of individuals.* All joint accounts owned by the same combination of individuals shall first be added together and insured up to \$40,000 in the aggregate.

(e) *Interest of each coowner.* The interests of each coowner in all joint accounts owned by different combinations of individuals shall then be added together and insured up to \$40,000 in the aggregate.

§ 745.9-1 Trust accounts.

All trust interests, for the same beneficiary, deposited and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to \$40,000 in the aggregate, separately from other deposit or share accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

§ 745.9-2 Keogh Accounts and Individual Retirement Accounts.

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under § 401(d) or § 408(a) of the Internal Revenue Code shall be insured up to \$100,000 separately from other deposits of

the participant or designated beneficiary.

(b) Upon liquidation of the credit union, any insurance coverage payment shall be made by the Administrator to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing, by the plan participant or beneficiary.

§ 745.10 Public unit accounts.

(a) Public funds invested in Federal credit unions and federally-insured state credit unions authorized to accept such investments shall be insured as follows:

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union shall be separately insured up to \$100,000;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state shall be separately insured up to \$100,000;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured credit union in the District of Columbia shall be separately insured up to \$100,000;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, shall be separately insured up to \$100,000;

(5) Each official custodian referred to in subsections (a)(2), (3), and (4) of this section lawfully investing such funds in a federally-insured credit union outside their respective jurisdictions shall be separately insured up to \$40,000; and

(6) For purposes of this section, if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but he shall not be separately insured with respect to all public funds of the same public unit by virtue of holding different offices in such unit or by

holding such funds for different purposes.

(b) With respect to public funds invested in federally-insured state credit unions, the maximum amount of each account shall not exceed 5 per centum of the total assets of the credit union at the time of the investment and no investment shall be accepted in an amount which would cause the aggregate amount of all such accounts to exceed 20 per centum of the total assets of the credit union.

(c) For the purposes of this section, the terms "public unit" and "political subdivision" have the same meaning as that stated in § 701.32(d) and (e) respectively.

§ 745.11 Deposits evidenced by negotiable instruments.

If any insured deposit obligation of a credit union be evidenced by a negotiable certificate of deposit, negotiable draft negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such deposit obligation will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the credit union provided the instrument was in fact negotiated to such owner prior to the date of the closing of the credit union. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§ 745.12 Deposit obligations for payment of items forwarded for collection by credit union acting as agent.

Where a closed credit union has become obligated for the payment of items forwarded for collection by a credit union acting solely as agent, the owner of such items will be recognized for all purposes of claim for insured accounts to the same extent as if his name and interest were disclosed on the

records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such credit union forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Administrator and for the purpose of receiving payment on behalf of such owners.

§ 745.13 Notification of depositors/shareholders.

Each insured credit union is required to provide notice of these rules and regulations for Clarification and Definition of Insurance Coverage of Member Accounts, Part 745, not later than 180 days after the effective date of these regulations or 90 days after being insured, whichever is later, to the owners of each account which had a balance in excess of \$5,000 on any date selected by the credit union between October 1, 1970, and June 30, 1971. Credit unions insured after the effective date of this regulation may select the end of any month of the preceding 6 months before being insured to determine balances in excess of \$5,000. Such notice shall consist of mailing to such owners at their last known address as shown on the records of the insured credit union, a question and answer brochure on insurance of deposits. A small initial supply of such brochures will be prepared and furnished without cost by the Administrator. Additional copies may be purchased from the usual source of supply. Such information shall also be made available to the public at each teller's station or window where deposits or shares are normally received and at new account or share stations of an insured credit union. Additional explanatory materials may also be sent to depositors at the option of the insured credit union.



**We Do Business in Accordance With the
Federal Fair Housing Law**

(Title VIII of the Civil Rights Act of 1968,
as Amended by the Housing and Community
Development Act of 1974)

**IT IS ILLEGAL TO DISCRIMINATE AGAINST
ANY PERSON BECAUSE OF RACE, COLOR,
RELIGION, SEX, OR NATIONAL ORIGIN, TO:**

- ❑ Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or
- ❑ Discriminate in fixing of the amount, interest rate, duration, application procedures or other terms or conditions of such a loan.

**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST, YOU MAY SEND A COMPLAINT TO:**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Assistant Secretary for Fair Housing and Equal Opportunity
Washington, D.C. 20410**

or call your local HUD Area or Insuring Office.

**§ 701.32 Payments on shares by public
units.**

(a) A Federal credit union may receive payments on shares from the following member or nonmember units of Federal, state or local governments:

- (1) An officer, employee, or agent of the United States having official custody of public funds and lawfully investing such funds in a Federal credit union;
- (2) An officer, employee, or agent of any state of the United States or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a Federal credit union;
- (3) An officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a Federal credit union; or

(4) An officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a Federal credit union.

(b) Withdrawal of shares held in public unit accounts may be subject to a requirement providing for written notice, not to exceed 60 days, of intention to withdraw the whole or any portion of such shares. In the event notice is required, the Federal credit union shall communicate such requirement to the party having official custody of the funds prior to the acceptance of such funds by the Federal credit union.

(c) The maximum amount of each account established pursuant to this section shall not exceed 5 per centum of the total assets of the Federal credit union at the time of the share payment and no share payments shall be accepted in an amount which would cause the aggregate amount of all such accounts to exceed 20 per centum of the total assets of the Federal credit union.

(d) The term "public unit" means the United States, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, any municipality, or political subdivision thereof.

(e) The term "political subdivision" includes any subdivision or principal department of a public unit, (1) the creation of which subdivision or department has been expressly authorized by state statute, (2) to which some functions of government have been delegated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts, and bridge or port authorities and other special districts created by state statute or compacts between the states. Excluded from the term are subordi-

CHANGE 34

E X H I B I T 4

349

date or nonautonomous divisions, agencies, or boards within principal departments.

(b) With respect to public funds invested in federally-insured state credit unions, the maximum amount of each account shall not exceed 5 per centum of the total assets of the credit union at the time of the investment and no investment shall be accepted in an amount which would cause the aggregate amount of all such accounts to exceed 20 per centum of the total assets of the credit union.

(c) For the purposes of this section, the terms "public unit" and "political subdivision" have the same meaning as that stated in § 701.32(d) and (e) respectively.

§ 701.33 Compensation of officials.

(a) With the exception of the treasurer, no director or member of a credit committee or supervisory committee may receive compensation for performing the duties or responsibilities of the board or committee position to which the person was elected or appointed.

(b) For purposes of this section, the term "compensation" specifically excludes (1) reasonable and proper costs incurred by or on behalf of an official (whether on a reimbursement basis or paid directly by the credit union) in carrying out the responsibilities of the position to which the person was elected or appointed; and (2) reasonable health and accident and related types of personal insurance protection supplied for the above officials at the expense of the credit union: *Provided*, That such insurance protection shall exclude life insurance, shall be limited to areas of risk, including accidental death and dismemberment, to which the official is exposed by virtue of carrying out the duties or responsibilities of his or her credit union position and shall cease immediately when the insured person leaves office without providing residual benefits other than from pending claims, if any.

§ 701.34 Share drafts.

(a) For purposes of this section:

(1) "Share draft" means a negotiable or nonnegotiable draft used to withdraw shares from a share draft account.

(2) "Payable through bank" means a bank that has been designated to make presentation of a share draft to the Federal credit union for payment.

(3) "Truncation" means the original share draft is not returned to the member.

(4) "Share draft account" means any regular share account from which the Federal credit union has agreed that shares may be withdrawn by means of a share draft or other order.

(5) "Liquidity reserve" means an allocation of current assets recorded on the credit union's records as cash or deposits and investments as authorized by Section 107 of the Federal Credit Union Act; provided that, any investments included as a portion of this reserve shall be redeemable within 60 days and have a maturity not in excess of 90 days.

(b) A Federal credit union may provide its members with share drafts. The board of directors shall determine, prior to requesting approval to implement the share draft program, that the members' use of share drafts is economically and operationally feasible for the Federal credit union.

(c) A Federal credit union must submit a written request to operate a share draft program to the Administration at least 60 days prior to the proposed date of implementation. The request shall include:

(1) An official copy of the minutes of the board of directors authorizing a request for approval to implement the share draft program.

(2) All background documentation which supports the board of directors' decision that the members' use of share drafts is economically and operationally feasible for the Federal credit union.

(3) A statement that the forms and procedures to be used have been reviewed by legal counsel.

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.

Meeting # 38

351 |

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.

Meeting
SEC
#380

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

12
Meeting # 38 354
EXHIBIT 2

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.

AMENDMENTS TO SB 253
SIERRA PACIFIC POWER COMPANY
April 5, 1979

Page 2 of 11

Proposed Changes

Explanation

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.

Meeting #38
EXHIBIT 2
856

AMENDMENTS TO SB 253
SIERRA PACIFIC POWER COMPANY
April 5, 1979

Page 3 of 11

Proposed Changes

Explanation

Sec. 3. 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.

EXHIBIT

Meeting # 38

2 557

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.

AMENDMENTS TO SB 253
SIERRA PACIFIC POWER COMPANY
April 5, 1979

Page 8 of 11

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.

EXHIBIT

Multnomah #38
2560

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.

P. 4

AMENDMENTS TO SB 253
SIERRA PACIFIC POWER COMPANY
April 5, 1979

Page 4 of 11

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.

EXHIBIT
Meeting #38
2
362

TO BE ADDED TO SUBSECTION 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.

P. 12

Meeting #38
EXHIBIT 2

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.

TRANSPOR. OR
WATER FACILITIES
WATER FACILITIES

P13

Meeting #38
EXHIBIT 2 364

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.

P.14

Meeting #38
EXHIBIT 2 085

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; ^{IBP} 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

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Meeting #38
EXHIBIT 2 367

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:

deduct from IRS standards

(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

P. 17

Meeting # 38
EXHIBIT 2

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

018

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.

P. 19

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.

Meeting #38
EXHIBIT 2 571

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. A county shall, in such agreements providing for the sale of capacity and transmission usage, require that the obligor or obligors, or all of them collectively, make payments to the county, whether or not the electricity is taken or available or the transmitting facility used or available, sufficient in time and amount to enable the county to make

Meeting #39
Re. SB-253
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5

payments in lieu of ad valorem taxes required by law in accordance with such law. 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.

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 rights, water production and transmission facilities, 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 or water rights for the project from outside such county or the state. Provided, however, that financing for out-of-state electrical transmission lines shall be limited to those required to interconnect the project with the first point of interconnection on project participants' systems. Any water rights for such project may only be obtained by appropriation within the boundaries of the county within which the generating facility is located, unless the board of county commissioners of such another county shall approve the appropriation within its boundaries for such purpose.

EXHIBIT 5

974

Sec. 17, Subsection 2(j)

(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 this area. In establishing the budget of a particular taxing entity to determine the rate of ad valorem taxation for a particular fiscal year, the amount to be paid in that fiscal year by the county which owns or is financing a project, from the revenues of or the proceeds of bonds issued for the project, as assistance in meeting the financial demands placed by the project upon the people of or the services furnished by that taxing entity, must be offset against the expenditures to be made by the taxing entity in that fiscal year for those purposes.

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 within or without such county~~ or generating facilities within such county and may acquire land or rights of way for transmission facilities or fuel production or transportation facilities or water transportation ^{OR PRODUCTION} 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.

EXHIBIT 5

376

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.

Notwithstanding the foregoing, 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 only 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 _____.

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

2. "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.

3. "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.

4. 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

EXHIBIT

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.

5. 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.

6. The amount of capacity of the generation facilities of any project shall be determined by such county with the concurrence of the management committee, provided such determination shall be within the capacity approved as the concept of such project by the Legislature as provided in section _____ of this act. Such determination of the county shall be initially made prior to the application of the county, either as owner or co-owner of the project, to the public service commission pursuant to NRS 704.820 to 704.900, inclusive, for a construction permit for such project.

Paragraph 2 of NRS 244.9202 is amended to read as follows:

2. The bonds may be sold in one or more series at par, or below or above par, in such manner and for such price or prices as the county, in its discretion, shall determine; provided, however, that in the case of a project for the generation and transmission of electricity such determination with respect to the manner of sale of bonds shall be made in the best interest of the participants and at the recommendation and concurrence of the management committee for such project. As an incidental expense of the project, the county, in its discretion, may employ financial and legal consultants in regard to the financing of such project.

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, provided however, that no such right of recapture shall exist to the extent that the percentage amount of capacity to be so recaptured, plus the total percentage amount of capacity then being purchased from the county by all Nevada utilities exceeds the total of the percentage payment obligations of all Nevada utilities, pursuant to the study agreements for such project provided for by Section 4 of this act. 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 contracts with the county for the purchase of capacity of the project;

(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 such contracts 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 (b) 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.

EXHIBIT 5

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 ^{three} nonvoting representative ^(S) 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. Insert
X 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.

, provided that such powers of the management committee shall not be deemed to supersede or to interfere with the exercise of any rights or powers granted under any contracts approved by the management committee or otherwise to impair any obligation of the parties thereunder and the provisions of such contracts shall control over the provisions of this section.

MILESTONES IN THE FINANCING OF THE WHITE PINE COUNTY PROJECT

1. Passage of S.B. 253.
2. County hearings and determinations required by NRS 244 relating to the project.
3. The county approves all forms of project contracts, agrees to issue bonds to complete the project, and agrees to enter into project contracts, including power sales contracts, construction and operation agreements and joint ownership agreement. (The final capacity of the project shall be as specified in the construction permit.) At this point, the county becomes obligated to complete the issuance of bonds to finance the project if the project is deemed feasible and goes forward.
4. Execution of study agreements by county and participants, formation of management committee, approval by management committee of project contracts.
5. Issuance by county of notes to finance feasibility studies and to obtain various necessary permits and approvals. *(SITE STUDY HERE)*
6. Performance of feasibility studies, preparation of environmental reports. *(2 YRS.)* *SITE CHOSEN HERE* *Reviewed New Energy Commission & Public Service Commission (MUST KNOW WATER & FUEL CAPACITIES)*
7. Receipt of final environmental statement (by the county)
8. Determination by county of project capacity based on feasibility and environmental studies.
9. Indication by each participant of its long-term participation in the project and, if necessary, determination of the percentage of joint ownership.
10. Finalization by county of application for construction permit, specifying project capacity. *(3 YRS. 3-4 YRS.)*

11. Submission of application for construction permits, including all necessary supporting documentation, to Public Service Commission, submission to Public Service Commission of finalized power sales contracts and construction and operation agreements for their approvals, submission of all other applications for major permits and approvals.

12. Receipt of construction permits specifying, among other things, the capacity of the project, and receipt of other major permits and approvals and approval of power sales contracts and construction and operation agreements.

13. Execution of power sales contracts, construction and operation agreements and joint ownership agreement, if applicable.

14. Authorization, issuance and sale of first series of construction bonds by county in accordance with NRS 244.

TOTAL TIME
SPAN 10-16
BE 5 to 6 yrs
if everything goes well

15. CONSTRUCTION CAN
Begin here. - POWER CAN BE GUARANTEED
ABOUT 4 YEARS AFTER CONSTRUCTION HAS
BEEN COMPLETED.

Note: POWER DRILLING WILL BEGIN
IN EARLY PHASES. (10-3, 4, 5)

Date Friday, April 27, 1979

Time 2 P.M. Room 243

Bills or Resolutions
to be considered

Subject

Counsel
Requested*

S.B.507- Creates office & defines duties of county public trustee.

Agenda amended on 4-26 to include the following;

S.B.311- Limits approval of salary increases for classified employees of state based on their merit and fitness

A.B.632 Authorizes local governments to invest in certain securities.

S.B.513- Clarifies provisions of law under which state land may be leased. Yes

S.B.514- Removes reference to corporations in regard to investment of state permanent school fund. Yes

S.B.515- Corrects internal reference concerning registration for elections in general improvement districts. Yes

