

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 forty-first meeting of the Government Affairs committee to order at 4:30 p.m. in order to go over the proposed amendments finalized by White Pine County and Sierra Pacific Power Company with Frank Daykin, Legislative Counsel.

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

SB-254 Provides for payments in lieu of taxes on certain power projects.

Chairman Gibson referred the committee and Mr. Daykin to the agreed upon amendments noted above and discussed in Meetings number 38 and 39. (See Attachment #1)

Frank Daykin, Legislative Counsel, testified to the committee that he would review the amendments in conjunction with the County Economic Development Revenue Bond law to be sure of its constitutionality.

Chairman Gibson stated that the size limit for the maximum megawatt power plant must be determined by the committee.

Senator Dodge felt that the 1,500 megawatt size should be seriously considered because this is what White Pine County originally designated. The size can always be increased after the feasibility study if a larger megawatt size is warranted. The water situation is a big concern and the Senator was also concerned about tying up all the water in the county for this one project.

Senator Dodge indicated that through a discussion with Mr. Gremban, President of Sierra Pacific Power Company, the following statistics on water were presented to the Senator. Based on a 1500 megawatt plant they would need 17,220 acre feet of water. The total water capacity would be 576,000 acre feet. This is not recycled and it reflects the operating requirements of a 1,500 megawatt plant in the course of one year.

Senator Dodge continued that these figures convert to 15,370 million gallons of water per day.

The Senator provided the committee with the water consumption necessary in Steptoe Valley and their water consumption coupled with that of the power plant at 1500 megawatt capacity brings the total within 3,000 acre feet of the perennial yield. This could result in allowing the water levels to drop to a dangerous level.

Senator Keith Ashworth felt that the 2,000 megawatt size was a compromise and agreed that this could change either way after the feasibility study. If the water capacity indicates that the plant can handle a 2,000 or 3,000 megawatt plant then changes can be made. If the feasibility study indicates that the area can handle only the 1500 size this can also be accomplished after the feasibility study has been completed.

Senator Raggio asked if the legislature, in the next session, could raise the megawatt size limit to 2,000 if it appears that the 1500 megawatt size will not be sufficient and the area can handle the larger plant.

Chairman Gibson indicated that this could be increased after the feasibility study and Mr. Daykin concurred.

Senator Ford stated that the committee should consider the water and have some language to protect the area from any one entity drawing down the water supplies to an unsafe level.

Senator Keith Ashworth stated that the Water Engineer will have a say regarding the amount of water that can be used for the power project.

Senator Dodge was concerned that all the water resources might be used for this one project and not allow any other development to come into the area for many years.

Chairman stated that since this is a new area of legislation for the committee, great caution should be exercised. It is our responsibility to help the county and provide the necessary safeguards. The Chairman stated that he would feel more comfortable if the limit on the power plant were set at 1500 megawatts. If the study indicates that the area can handle the larger plant, changes can be made. The Chairman also voiced concern with regard to the smaller Nevada utilities for future power needs.

Senator Dodge moved to limit the size of the plant to 1500 megawatts.

Seconded by Senator Ford
Motion carried unanimously.

In Section 18 there was a decision to be made by the committee on the number of non-voting members to the Management Committee.

Senator Ford moved to provide that three non-voting members be on the Management Committee.
Seconded by Senator Keith Ashworth
Motion carried unanimously.

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Senator Raggio was concerned about these members not having sufficient input and questioned if language could be provided to insure that these members have some input.

Frank Daykin stated that if they were made members they they will get some input. It should be specified who these members are and how they will be appointed.

The committee discussed the above and agreed that the members would be appointed by the County Commissioners in White Pine County.

The committee then discussed the problem with emission controls and emissions at the Kennecott Copper plant. The material discussed in located in Section 17, 2J.

The language agreed upon by both parties stated that the expenses will be offset from the ad valorem taxes. The pollution problem with Kennecott will be written off as a capital expense. The utilities will pass this cost on to the consumers in increased rates. Chairman Gibson noted that at the bottom of the power bill that he receives is a portion charged for pollution and air control.

Senator Dodge felt that 2J should be deleted and if the committee decides to leave it in then it should be part of the feasibility study.

Senator Keith Ashworth felt that this language is a safeguard in order to keep the bonds secure.

Senator Kosinski asked Mr. Daykin if a finding could be obtained and some alternative language added.

Mr. Daykin stated that this could be written in, stating that if necessary to continue operating the plant emission control equipment would be provided.

Senator Ford felt that it should be a part of the feasibility study.

Senator Dodge stated that there should be some language in the bill that within the total economics of the plant there was no better alternative to provide adequate emission controls as decided by the Management Committee.

Chairman Gibson noted that this language in Section 17, 2J was acceptable to the Kennecott Copper people.

The language regarding the bonds was acceptable to the committee.

Frank Daykin stated that he had all the phone numbers of those individuals that worked on the bill and also had the phone number of the bond counsel representatives in New York for Los Angeles Power and Light Company.

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Mr. Daykin indicated that if there were to be any changes made he would contact these individuals in order to be sure that the changes were acceptable.

Chairman Gibson noted that portions of SB-254 were written into SB-253 to protect the county. (Section 4, SB-254)

Chairman further stated that they were not prepared to accept the in-situs method of taxation at this time and indicated that this will be part of the feasibility study and can be enacted in the next session.

Senator Raggio asked if the committee wanted to add to the language in Section 4, applicable sales and use tax.

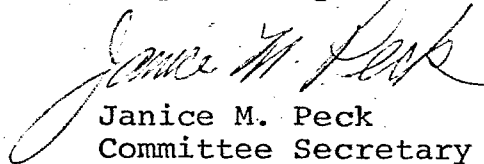
Senator Dodge stated that Roy Nixon, Tax Department, suggested some language regarding the sales and use tax. The Senator stated that he would bring the language to the committee for review as soon as he gets a copy.

Chairman Gibson asked the committee if the language proposed by Mr. Nixon and agreed to by the White Pine County people could be amended into the bill.

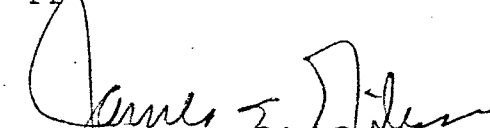
Chairman Gibson asked Mr. Daykin to draft a concurrent resolution to study the in-situs method in the feasibility study. Mr. Daykin stated that he would draft such a resolution. The committee agreed unanimously to support such a resolution.

With no further business the meeting was adjourned at 6:00 p.m.

Respectfully submitted,


Janice M. Peck
Committee Secretary

Approved:


Chairman
Senator James I. Gibson

39916 (5/19/79 Draft)

SENATE BILL NO. 253--SENATOR BLAKEMORE

February 21, 1979

Referred to Committee on Government Affairs

SUMMARY--Adapts County Economic Development Revenue Bond Law to certain projects for generating and transmitting electricity (BDR 20-924)

FISCAL NOTE: Effect on Local Government; No. Effect on the State or on Industrial Insurance: No.

Explanation--Matter in *italics* is new; matter in brackets [] is to be omitted

AN ACT relating to the issuance of revenue bonds by counties for economic development; providing specifically concerning projects for the generation and transmission of electricity; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as section 2 to 7, inclusive, of this act.

EXHIBIT

SEC. 2. A county which acquired or which contemplates acquiring a project for the generation and transmission of electricity may sell all or part of the electricity generated and may charge for the use of its transmitting facilities, and for this purpose may contract with one or more purchasers, but the amount sold or charged to any purchaser or any combination thereof must not exceed the amount allowable under the Internal Revenue Code of 1954, as amended, or the United States Treasury Regulations prescribed thereunder so as to 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 by the county to finance all or a portion of the costs of acquiring, improving or equipping the project. 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.

EXHIBIT 1 J

SEC. 3. 1. If a county determines, in the proceedings or an agreement with respect to the first issuance of bonds for the purpose of financing a portion of the cost of a project for the generation and transmission of electricity, subsequently to issue additional bonds to finance the costs of the project, the costs of any improvements to the project which are necessary to meet the requirements of any governmental authority, and the costs of any replacements in the project occasioned by damage to, or the destruction or taking of, all or any part of the project, then the county is obligated, and it is the duty of the board of county commissioners or other appropriate officers, to sell and issue such additional bonds from time to time as may be necessary if:

(a) All conditions to their issuance contained in any contractual arrangement between the county and a lessee, purchaser or other obligor have been satisfied; and

(b) The terms of the bonds to be issued do not violate any law of this state in effect at the time of passage of the resolution authorizing the issuance of the bonds.

2. The requirements of NRS 244.9199 and 244.920 do not apply to the the issuance of bonds pursuant to this section.

EXHIBIT

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 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

EXHIBIT

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. 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, 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.

Sec. 6. *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.*

SEC. 7. *The board of county commissioners may enter into any contract, lease or other agreement or transaction appropriate to carry out the provisions of NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act even though it extends beyond their terms of office, without setting forth in detail in any notice the proposed terms or conditions thereof.*

SEC. 8. NRS 244.9191 is hereby amended to read as follows:

244.9191 NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act may be cited as the County Economic Development Revenue Bond Law.

SEC. 9. NRS 244.91948 is hereby amended to read as follows:

244.91948 "Financing agreement" means [an]:

1. An agreement [pursuant to] by which the county agrees to issue bonds pursuant to NRS 244.9191 to 244.9219, inclusive, to finance one or more projects and [pursuant to which] the obligor agrees to:

[1.] (a) Make payments (directly or through notes, debentures, bonds or other secured or unsecured debt obligations of the obligor executed and delivered by the obligor to the county or the county's designee or assignee, including a trustee, pursuant to such financing agreement) sufficient to pay the principal of, premium, if any, and interest on the bonds;

[2.] (b) Pay other amounts required by NRS 244.9191 to 244.9219, inclusive; and

[3.] (c) Comply with all other applicable provisions of NRS 244.9191 to 244.9219, inclusive [.] ; or

2. An agreement by which the county agrees to issue bonds to finance solely the costs of studies, surveys and options and the obligor or obligors undertake one or more of the obligations described in section 4 of this act.

SEC. 10. NRS 244.9196 is hereby amended to read as follows:

244.9196 "Project" means:

1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, whether or not in existence, suitable for manufacturing, industrial, warehousing or research and development enterprises.

2. Any land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination thereof or any interest therein, used by any individual, partnership, firm, company, corporation (including a public utility), association, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns:

(a) For the reduction, abatement or prevention of pollution or for the removal or treatment of any substance in a processed material which otherwise would cause pollution when such material is used.

(b) In connection with furnishing of water if available on a reasonable demand to members of the general public.

(c) In connection with furnishing of energy or gas.

3. Any undertaking by a public utility, in addition to that allowed by subsection 2, which is solely for the purpose of making capital improvements to property, whether or not in existence, of a public utility.

4. *In addition to the kinds of property described in subsection 2, if the project is for the generation and transmission of electricity, any other property necessary or useful for that purpose, including without limitation any leases and any rights to take water or fuel.*

SEC. 11. NRS 244.9197 is hereby amended to read as follows:

244.9197 1. It is the intent of the legislature to authorize counties to finance, acquire, own, lease, improve and dispose of properties to the end that such counties may be able to promote industry and develop trade by inducing manufacturing, industrial, warehousing and research and development enterprises to locate in, remain or expand in this state, in order to assist in relieving the serious threat of extensive unemployment in parts of this state, in securing and maintaining a balanced and stable economy in all parts of this state and in furthering the use of its agricultural products and natural resources. It is, therefore, the intention of the legislature to vest such counties with all powers that may be necessary to enable them to accomplish such purposes, which powers shall in all respects be exercised for the benefit of the inhabitants of this state for the promotion of their safety, welfare, convenience and prosperity.

2. It is also the intent of the legislature to authorize counties to finance, acquire, own, lease or sell projects or interests therein for the purpose of:

(a) Reducing, abating or preventing pollution or removing or treating any substance in processed material which otherwise would cause pollution when such material is used, to protect and promote the health, welfare and safety of the citizens of this state and to retain and promote private industry and commerce with the resultant higher level of employment and economic activity and stability.

(b) Promoting the furnishing of energy and gas, and of water if available on reasonable demand to members of the general public, in order to protect and promote the health, welfare and safety of the citizens of this state and to retain and promote private industry and commerce with

the resultant higher level of employment and economic activity and stability. *This purpose includes the furnishing of electricity and the provision of facilities to transmit electricity for sale outside the state if its generation promotes industry, commerce or employment within the state.*

3. It is not intended hereby that any county shall itself be authorized to operate any such manufacturing, industrial, warehousing or research and development enterprise.

4. No county may by virtue of NRS 244.9191 to 244.9219, inclusive, assist any manufacturing, industrial, warehousing or research and development enterprise to locate in the county which would offer substantial competition to an existing enterprise within the county whose intrastate markets are substantially the same.

5. NRS 244.9191 to 244.9219, inclusive, shall be liberally construed in conformity with this declaration of purpose.

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

244.9198 General Powers. 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, *except as otherwise provided in this subsection, [shall] must* be located within this state[,] and [which may be located] 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 transportation 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 to be obtained by appropriation may only be appropriated within the boundaries of the county within which the generating facility is located, unless the board of county commissioners of another county shall approve the appropriation within its boundaries for such purpose.*

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.

4. To secure payment of such bonds as provided in NRS 244.9191 to 244.9219, inclusive[.], and sections 2 to 7, inclusive, of this act.

5. If a project is for the generation and transmission of electricity, to own the project in its entirety or an undivided interest in the project with one or more other owners, and to enter into agreements with respect to any matters relating to common ownership of the project, including without limitation matters relating to the ownership, acquisition, construction, improvement, equipping, financing, operation and maintenance of the project.

[5] 6. To take such actions as are necessary or useful in order to undertake, carry out, accomplish and otherwise [implement] carry out the provisions of NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act, including the adoption of resolutions, which may be introduced and adopted at the same special or regular meeting of the board and which [shall] become effective upon adoption[.] unless otherwise specified in the resolution.

SEC. 13. NRS 244.9199 is hereby amended to read as follows:

244.9199 [Before] *Except as otherwise provided in section 3 of this act, before* availing itself of the powers conferred by NRS 244.9198 or *section 2 or 3 of this act* with respect to any project, a board of county commissioners shall:

1. Give notice of its intention by publication at least once in a newspaper of general circulation published in the county, or if there is no such newspaper then in a newspaper of general circulation in the county published in the state; and

2. Hold at least one public hearing, not less than 10 nor more than 20 days after the date of publication of the notice.

Sec. 14. NRS 244.920 is hereby amended to read as follows:

244.920 1. [After holding a] *Except as otherwise provided in section 3 of this act, after holding the required public hearing or hearings, [as provided in NRS 244.9199,] the board of county commissioners shall proceed no further unless or until [by resolution] it:*

(a) [Determines] *Except as otherwise provided in subsection 2, determines by resolution the total amount of money necessary to be provided by the county for the acquisition, improvement and equipment of the project;*

(b) *Receives a 5-year operating history from the contemplated lessee, purchaser or other obligor, or from a parent or other enterprise which guarantees principal and interest payments on any bonds issued; [and]*

(c) *Determines by resolution that the contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement [.] ; and*

(d) *If the project is for the generation and transmission of electricity, determines by resolution that the project will serve one or more of the purposes set forth in NRS 244.9197 and specifies in the resolution its findings supporting that determination.*

2. *If the project is for the generation and transmission of electricity, the board may estimate the total amount of money necessary for its completion, and the total amount of money which may be provided by the county in connection with the project may exceed the estimate,*

without the requirement for any further public hearings to be held in connection therewith, to the extent that the excess is required to complete the project or to finance any improvements to or replacements in the project and the county has previously determined to finance the remaining costs of acquiring, improving and equipping the project.

3. The board may refuse to [proceed with] *adopt such a resolution with respect to* any project even if all the criteria of subsection 1 are satisfied. If the board desires to [proceed with] *adopt such a resolution with respect to* any project where any criterion of subsection 1 is not satisfied, it may do so only with the approval of the state board of finance. In requesting such approval, the board of county commissioners shall transmit to the state board of finance all evidence received pursuant to subsection 1.

[3] 4. If any part of the project or improvements is to be constructed by a lessee or a lessee's designee or a purchaser or a purchaser's designee or an obligor or an obligor's designee, the board shall provide, or determine that there are provided, sufficient safeguards to assure that all money provided by the county will be expended solely for the purposes of the project.

[4] 5. Prior to the *first* issuance of [the] bonds [,] *for a project*, the board [shall] *must* receive evidence that the contemplated lessee or purchaser, or other enterprise which guarantees principal and interest payments, has received [,] within the 12 months preceding the issuance of the bonds, *or then has in effect*, a rating within one of the top four rating categories of either Moody's Investor Service, Inc., or Standard and Poor's Corporation, except that *a municipal or*

other public supplier of electricity in this state or a public utility
regulated by the public service commission of Nevada is not required to
furnish such evidence.

Sec. 15. NRS 244.9209 is hereby amended to read as follows:

244.9209 1. Prior to the initial leasing, sale or financing of any project, the board shall by resolution determine:

(a) The amount necessary in each year to pay the principal of and the interest on the first bonds proposed to be issued to finance such project and on any subsequent issues of bonds which may be permitted under the lease, sale or financing and authorizing resolutions pertinent to financings hereunder.

(b) The amount necessary to be paid each year into any reserve funds which the board may deem advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project.

(c) The estimated cost of maintaining the project in good repair and keeping it properly insured, unless the terms under which the project is to be leased, sold or financed provide that the lessee, purchaser or obligor shall maintain the project and carry all proper insurance with respect thereto.

2. The determination and findings of the board, required to be made by subsection 1, shall be set forth in the resolution under which the proposed bonds are to be issued, but the foregoing amounts need not be expressed in dollars and cents in the lease, agreement of sale or financing agreement and the resolution under which the bonds are authorized to be issued, but may be set forth in the form of a formula or formulas [.] , *or if the project is for the generation and transmission of electricity, in any other form which provides a basis for determining the required amounts.*

SEC. 16. NRS 244.921 is hereby amended to read as follows:

244.921 [Prior to the issuance of] *Except as otherwise provided for bonds issued to finance preliminaries to or any costs connected with a project for the generation and transmission of electricity, before issuing any bonds authorized by NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act,* the county shall lease, sell or finance the project under an agreement conditioned upon completion of the project and providing for payment to the county of such revenues as, upon the basis of such determinations and findings, will be sufficient to:

1. Pay the principal of and interest on the bonds issued to finance the project.

2. Build up and maintain any reserves deemed advisable by the board in connection therewith.

3. Pay the costs of maintaining the project in good repair and keeping it properly insured, unless the lease, agreement of sale or financing agreement obligates the lessee, purchaser or obligor to pay for the maintenance and insurance on the project.

SEC. 17. NRS 244.9213 is hereby amended to read as follows:

244.9213 1. The proceeds from the sale of any bonds shall be applied only for the purpose for which the bonds were issued and if, for any reason, any portion of such proceeds is not needed for the purpose for which the bonds were issued, such unneeded portion of such proceeds shall be applied to the payment of the principal of or the interest on the bonds.

2. The cost of acquiring, improving and equipping any project shall be deemed to include the actual cost of acquiring and improving a site or the cost of the construction of any part of a project which may have been constructed, plus the total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, improvement, equipment and extension of any project including without limitation:

(a) The cost of studies and surveys [;] , *and the acquisition of options to purchase any real or personal property or interest therein;*

(b) Plans, specifications, architectural and engineering costs;

(c) Legal, organization, marketing or other special services;

(d) Financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings;

(e) Rehabilitation, reconstruction, repair or remodeling of existing buildings;

(f) Acquisition, installation, construction, reconstruction, repair, alteration and improvement of fixtures, machinery, equipment and furnishings;

(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.

(h) Working capital and reserves;

(i) An initial bond and interest reserve together with interest on bonds issued to finance such projects to a date 6 months subsequent to the estimated date of completion; and

[(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 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.

Sec. 18. NRS 244.9215 is hereby amended to read as follows:

244.9215 1. When all principal of, interest on and any prior redemption premiums due in connection with the bonds issued for a project have been paid in full, and if an option to purchase or option to renew a lease, if any, contained in such lease has not been exercised as to all of the property contained in the project, the lease shall terminate and the county shall sell such remaining property or devote the same to county purposes other than those authorized by NRS 244.9191 to 244.9219, inclusive[.], and sections 2 to 7, inclusive, of this act.

2. No county may operate any project as a business or in any other manner except as a lessor or seller thereof. *If the project is for the generation and transmission of electricity, and the county retains ownership and sells the electricity generated or charges for the use of the transmitting facilities, the project must be constructed and operated by one or more of the purchasers of that electricity or users of the transmitting facilities pursuant to agreement with the county. 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 ³ ~~2~~ 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 capacity 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, all budget overruns, and other major matters relating to financing, 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.

EXHIBIT 1 J

SEC. 19. NRS 244.9216 is hereby amended to read as follows:

244.9216 Pursuant to NRS 361.060, all property owned by a county pursuant to NRS 244.9191 to 244.9219, inclusive, [shall be and remain] *and sections 2 to 7, inclusive, of this act is* exempt from taxation. The lessee or purchaser shall pay [all] *whatever* taxes *are* assessed to him pursuant to NRS 361.157 and 361.159, and any obligor shall pay all taxes assessed to him in the same manner as any other taxpayer.

EXHIBIT 1

Sec. 20. NRS 244.9217 is hereby amended to read as follows:

244.9217 [No] *Except as otherwise provided in subsection 2, no land acquired by a county by the exercise of condemnation through eminent domain can be used for the project to effectuate the purposes of NRS 244.9191 to 244.9219, inclusive[.], and sections 2 to 7, inclusive, of this act.*

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 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 water 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.*

SEC. 21. NRS 244.9218 is hereby amended to read as follows:

244.9218 No action may be brought questioning the legality of any contract, lease, agreement, [of sale, financing agreement,] indenture, mortgage, resolution proceedings or bonds executed, adopted or taken in connection with any project or improvements authorized by NRS 244.9191 to 244.9219, inclusive, [from and] *or sections 2 to 7, inclusive, of this act* after 30 days from the effective date of *that contract, lease, agreement, indenture, or mortgage or the resolution first* authorizing the issuance of [such bonds.] *those bonds, as the case may be.*

EXHIBIT

SEC. 22. NRS 244.9219 is hereby amended to read as follows:

244.9219 1. NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act without reference to other statutes of the state, [shall] constitute full authority for the exercise of powers granted in [NRS 244.9191 to 244.9219, inclusive,] those sections, including but not limited to the authorization and issuance of bonds. [hereunder.]

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 244.9191 to 244.9219, inclusive and sections 2 to 7, inclusive, of this act to be done, shall be construed as applying to any proceedings taken under [NRS 244.9191 to 244.9219, inclusive,] those sections, or acts done pursuant to [NRS 244.9191 to 244.9219, inclusive,] those sections, except for laws to which reference is expressly made in [NRS 244.9191 to 244.9219, inclusive,] those sections or by necessary implication of [NRS 244.9191 to 244.9219, inclusive,] those sections.

3. The provisions of no other law, either general or local, except as provided in NRS 244.9191 to 244.9219, inclusive, [shall] and sections 2 to 7, inclusive, of this act apply to doing of the things authorized in [NRS 244.9191 to 244.9219, inclusive,] those sections to be done, and no board, agency, bureau, commission or official not designated in [NRS 244.9191 to 244.9219, inclusive, shall have] those sections has any authority or jurisdiction over the doing of any of the acts authorized in [NRS 244.9191 to 244.9219, inclusive,] those sections to be done, except as otherwise provided in [NRS 244.9191 to 244.9219, inclusive.] 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.

4. No notice, consent or approval by any public body or officer thereof shall be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act, except as provided in [NRS 244.9191 to 244.9219, inclusive.] those sections.

5. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the Statutes of Nevada or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the counties is not applicable to action taken pursuant to NRS 244.9191 to 244.9219, inclusive [.] , and sections 2 to 7, inclusive, of this act.

6. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 244.9191 to 244.9219, inclusive, and sections 2 to 7, inclusive, of this act without the necessity of associating with any other person or entity as cofiduciary (but such association [shall not be hereby] is not prohibited). [, any other law, including NRS 662.245, to the contrary notwithstanding.]

7. The powers conferred by NRS 244.9191 to 244.9219, inclusive, [shall be] and sections 2 to 7, inclusive, of this act are in addition and supplemental to, and not in substitution for, and the limitations imposed by [NRS 244.9191 to 244.9219, inclusive, shall] those sections do not affect the powers conferred by any other law.

8. No part of NRS 244.9191 to 244.9219, inclusive, [shall repeal or affect] *and sections 2 to 7, inclusive, of this act repeals or affects* any other law or part thereof, except to the extent that [NRS 244.9191 to 244.9219, inclusive,] *those sections* are inconsistent with any other law, it being intended that [NRS 244.9191 to 244.9219, inclusive, shall] *those sections* provide a separate method of accomplishing its objective, and not an exclusive one. [; and NRS 244.9191 to 244.9219, inclusive, shall not be construed as repealing, amending or changing any such other law except to the extent of such inconsistency.]

Sec. 23. NRS 662.245 is hereby amended to read as follows:

662.245 [No] *Except as otherwise specifically provided by statute,* a banking or other corporation, unless it is organized under the laws of and has its principal place of business in this state, or is a national banking association which has its principal place of business located within this state, [nor] *and* any officer, employee or agent of such corporation acting in its behalf, shall *not be appointed* after July 1, 1971, [be appointed] to act as executor, administrator, guardian of minors or estates, receiver, depository or trustee under appointment of any court or by authority of any law of this state unless it associates as cofiduciary a banking corporation whose principal place of business is in this state.

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 [may]:

1. *May* [G]grant or deny the construction permit.

2. *Shall* [C]condition the granting *or denying* of the construction permit on the public utility's *or applicant's* making available to public utilities [for use] *within this state* an amount of electrical [energy] capacity equal to or less than the amount exported, [as the commission may prescribe] *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,

Sec. 25. This act shall become effective upon passage and approval.

*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.*

SECTION ____ . NRS 244.9202 is hereby amended to read as follows:

244.9202 Forms, terms of bonds.

1. The bonds shall:

- (a) Be authorized by resolution;
 - (b) Be in such denominations;
 - (c) Bear such date or dates;
 - (d) Mature at such time or times not exceeding 40 years from their respective dates;
 - (e) Bear such interest at a rate or rates not exceeding 12 percent per annum;
 - (f) Be in such form;
 - (g) Carry such registration privileges;
 - (h) Be executed in such manner, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which manual signature may be either an official of the county or an officer of the trustee authenticating the same;
 - (i) Be payable at such place or places within or without the state; and
 - (j) Be subject to such terms of redemption,
- as the authorizing resolution may provide.

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 [the] *such* project.

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 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.

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 ~~1500~~ 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.

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.*