

Committee in Session at 6:20 pm on Friday, May 25, 1979.

Senator Keith Ashworth in the Chair.

PRESENT: Chairman Keith Ashworth  
Vice-Chairman Joe Neal  
Senator Rick Blakemore  
Senator Wilbur Faiss  
Senator Jim Kosinski

ABSENT: Senator Clifton Young

GUESTS: Mr. Russell McDonald, Nevada Association of County  
Commissioners  
Ms. Jean Stoess, Vice Chairman, Washoe County Board  
of Commissioners  
Mr. Heber Hardy, Chairman, Public Service Commission  
Mr. Mike Soumbeniotis, Attorney at Law  
Ms. Debbie Shelter, Washoe County Property Owners  
Groups  
Mr. Ernest Gregory, Administrator, Division of Environ-  
mental Protection  
Mr. Charles Zobell, City of Las Vegas  
Assemblyman Tod Bedrosian, Washoe County Assembly  
District No. 24

Chairman Ashworth opened the meeting and called for the approval of the minutes.

Senator Blakemore moved to approve the minutes of the Senate Committee on Human Resources and Facilities of all the meetings held and signed.

Seconded by Senator Neal.

Motion carried.

Yeas -- 5  
Nays -- None  
Absent -- Senator Young

The hearing was opened regarding the amendments to A.B. 541 (Amendment No. 1367, Exhibit "A").

Chairman Ashworth stated that he had contacted the Mayor of Reno as to this meeting on A.B. 541 but was obviously unable to attend. Senator Kosinski stated that the bill was introduced on March 14 and, to his knowledge, no representative from the city has ever appeared to testify. Chairman Ashworth questioned the committee as to proceeding with the bill. Senator Blakemore expressed concern

at the amount of work to be done at such a late date in the session. He said that the concept is good but the bill was poorly drafted. Chairman Ashworth stated that the problem seemed to be in Washoe County. He questioned if Commissioner Stoess felt the bill would be needed.

Ms. Jean Stoess, Vice Chairman, Washoe County Board of Commissioners, stated that she had spoken before on behalf of the bill and worked with it. She said they receive many applications on behalf of developers and must evaluate "package" treatment plants. She stated that the bill is preferable and questioned the advisability of saying, "Yes, we've lived without it this long, we can live without it two more years."

Mr. Russ McDonald, Nevada Association of County Commissioners, said some problems exist. He questioned if the bill dies, would it be true that with the absence of any authority granted by this legislature, passing ordinances addressing the areas in the bill could be questioned. He also questioned that if the thrust of the bill is to take care of a "package" plant for sewage treatment, would the covenant with the land be a primary lien over any first deed of trust that may support a loan to build a house. Senator Kosinski stated that it was his understanding that the problem could be handled without interfering with the mortgage lender's rights to their lien through security. Mr. McDonald also questioned if it would be in the authority of the local governing body, under the subdivision law, to impose by amendment to the ordinance conditions which are substantially equivalent to the bill or would it be necessary to place it in writing.

Senator Blakemore questioned if an ordinance could be adopted pertaining to "package" sewer plants stating that in case of default, title to the plant would go to the county and it would then be operated as a municipal plant. He expressed concern should one of the plants fail. Mr. McDonald questioned if the power of the board of county commissioners exists unless specifically stated by the legislature. He suggested Mr. Frank Daykin, Legal Counsel, Legislative Counsel Bureau, advise the committee. Senator Blakemore equated the county action to that of a "deed of growth." Chairman Ashworth stated it was his understanding that developers attempt to deed the plants to the municipality, county or city and they refuse to accept them. He questioned passing a law that mandates the local entity to sign on to take it. Mr. McDonald expressed apprehension about adopting an ordinance with the provisions of this bill without expressed delegation from the legislature. He stated that should this be done, it would only be directory and not mandatory. He also questioned if this should be imposed as a condition of acceptance of the subdivision; he said that an individual subjective test is faced each time an application is submitted. Senator Blakemore stated that Senator Kosinski had spent many hours to make the bill workable but stated that he believed there were still problems.

Mr. McDonald stated that Mr. Heber Hardy, Chairman, Public Service



Commission, said that under public utility regulations, sewers were added early in this session. Chairman Ashworth questioned if this would give the counties the authority to regulate the plants. Mr. Hardy stated that he did not know if this would cover all the areas. Mr. McDonald said that it may have been the rationale for the addition of "sewers" to the law. Mr. Hardy said that the caption of the bill always referred to sewers but the body of the law did not address that. Senator Kosinski questioned if that would only apply should the plants meet the requirements for jurisdiction by the Public Service Commission. Mr. Hardy agreed. Chairman Ashworth questioned why the Public Service Commission could not regulate the plants. Senator Kosinski stated that it was because the Commission was not aware of most of the plants. Mr. Mike Soumbeniotis, Attorney at Law, stated that he believed that statute would give the counties the authority to enact standards. He said that he could not see the problem because before the operation of the sewer plant is ever approved, they would have to come in and comply with whatever standards the county wished to set. Ms. Debbie Shelter, Washoe County Property Owners Groups, stated that she is being served by a utility that is in trouble. She said they have had no water or fire protection for the last three days. She did not believe the utility would have had problems should it have been controlled from the beginning. She said that no one would claim responsibility; she has been told that the county commissioners, the county board of health, fire protection district, Public Service Commission and the Attorney General's Office have all said they can do nothing. She said that they are simply asking for sewer utilities to be under better control from the start; now, when a utility goes defunct, no one can do anything about it for a period of time.

Chairman Ashworth questioned if Mr. Gregory had any comment. Mr. Ernest Gregory, Administrator, Division of Environmental Protection, stated that their concern is for the proper continued operation and maintenance of the facility once it "goes into the ground." Chairman Ashworth questioned if the Division has that responsibility regardless of county or state jurisdiction. Mr. Gregory stated that they do but the law says they are subject to \$10,000 a day fine and questioned who is responsible when "you can't find anybody." He suggested simply establishing a responsible agency; city, county or state.

Mr. Hardy stated that eventually Washoe County is going to have to set up a district as there exists in Clark County. Chairman Ashworth stated that if laws continue to be passed addressing these problems, Washoe County will never handle the problems themselves.

Chairman Ashworth questioned the pleasure of the committee. Senator Blakemore expressed concern as to the time and said that if Mr. McDonald could find a workable solution, he would defer to his judgement. Senator Neal stated that he was committed to voting for the bill. Senator Faiss stated that he would defer to the Senators from Washoe County. Senator Kosinski said that he would be willing to work on it if the committee wished to go forward. Chairman

Ashworth stated that he was disturbed because none of these problems were addressed by the Assembly. He said that he was not happy with the final product. Senator Kosinski suggested, with the committee's approval, that he work with these people and the amendments would be introduced on the floor as his amendments and not those of the committee. He said that the committee could withdraw its support of the bill and "let the bill go as best it can." The committee concurred. Chairman Ashworth stated that he would like to see a population clause amended to the bill. Mr. McDonald said that as long as the record shows that Clark County does not need the bill, a limitation could be added. Senator Kosinski stated that Clark County could be excluded without a population clause by indicating that any county with a regional solid waste treatment plant could be excluded. Chairman Ashworth questioned how this would affect Douglas County. Ms. Shelter stated that Carson City supported the bill before the Assembly as did the representative for the Carson River Basin Council of Governments who spoke for Douglas, Storey and the other counties within the Council. Mr. Charles Zobell, City of Las Vegas, stated that they only wished to have the authority to pass stricter local ordinances so the plants could be excluded. Senator Kosinski stated that it was his understanding they are happy with the bill as it stands. Chairman Ashworth stated that he understood they would be happy without the bill. Mr. Zobell said that it could be either way. Senator Kosinski stated that he believed Mr. McDonald to say that they would not have the authority to adopt ordinances. Chairman Ashworth requested that the provision for the counties to have the authority to adopt ordinances be amended into the bill. Senator Blakemore stated that he supported the basic idea of the bill.

Chairman Ashworth questioned if the Assembly had addressed these questions. Assemblyman Tod Bedrosian, Washoe County Assembly District No. 24, stated that Mr. Ron Jack, representing the City of Las Vegas, testified in favor of the bill; he could not address the question of need. Mr. Bedrosian said that the reason these plants are discouraged in Las Vegas, according to Mr. Jack, is because they felt they encouraged "urban sprawl." Senator Blakemore questioned if the legal problems had been addressed. Mr. Bedrosian stated that there was technical improvement during the Assembly hearings.

The committee reiterated its agreement to have Senator Kosinski work on the bill with the representatives of Washoe County. Senator Blakemore suggested backing up and giving the counties the authority to enact basic ground rules.

The committee adjourned at 6:49 pm and the subcommittee formed to review the amendments.

—Respectfully submitted,

*Roni Ronemus*

Roni Ronemus, Committee Secretary

Approved:

*Keith Ashworth*  
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Senator Keith Ashworth, Chairman  
(Committee Minutes)



1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Senate	AMENDMENT BLANK
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to	Assembly
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>		<del>Joint</del>
Date:		Date:		Bill No. 541	<del>Resolution No.</del>
Initial:		Initial:		BDR 40-1014	
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	Proposed by	Senator Kosinski
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>		
Date:		Date:			
Initial:		Initial:			

Amendment N<sup>o</sup> 1367

Replaces Amend No. 1257.

Amend section 3, page 1, line 11, by deleting "operate" and inserting "discharge water from".

Amend section 3, page 1, by deleting line 13 and inserting:

"1. Neither of the following is available:

(a) Sewerage provided by a public utility; or

(b) Sewerage provided by a municipality or other public entity."

Amend section 3, page 1, line 16, by deleting "cosigns the permit and".

Amend section 3, page 1, line 18, by inserting "continued" before "operation".

Amend section 3, page 2, line 2, by inserting "continued" before "maintenance".

Amend section 3, page 2, line 3, by deleting "plant for" and inserting "plant:

(a) For".

To: E & E  
LCB File  
Journal  
Engrossment  
Bill

Date 5-25-79 Drafted by JW:iw

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Amendment No. 1367 to Assembly Bill No. 541 (BDR 40-1014) Page 2

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Amend section 3, page 2, line 4, by deleting "operation." and inserting:

"operation; or

(b) Until 75 percent of the lots or parcels served by the plant are sold, whichever is later."

Amend section 3, page 2, by deleting lines 5 through 7 and inserting:

"5. The owners of the lands to be served by the package plant for sewage treatment record a declaration of covenants, conditions and restrictions, which is an equitable servitude running with the land and which"

Amend section 3, page 2, lines 9 and 10, by deleting "operating and maintaining" and inserting "continued operation and maintenance of".

Amend section 3, page 2, line 10, by deleting "in the event of any" and inserting "if there is a".

Amend section 3, page 2, line 11, by deleting "plant, and a sufficient bond or equivalent," and inserting "plant and a sufficient surety,".

Amend section 3, page 2, by deleting lines 12 through 14 and inserting:

"4, is not available. These assessments are subject to the jurisdiction of the public service commission."

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Amend section 3, page 2, by deleting lines 15 through 18 and inserting:

"6. The declaration of covenants, conditions and restrictions recorded by the owners further provides that upon the reasonable availability of sewerage provided by a public utility or a municipality or other public entity,"

Amend section 3, page 2, line 20, by deleting "public or municipal sewers," and inserting "sewers provided by a public utility or a municipality or other public entity,".

Amend section 3, page 2, line 22, by deleting "the public or municipal" and inserting "those".

Amend section 3, page 2, line 23, by inserting after the period: These assessments are not subject to the jurisdiction of the public service commission."

Amend section 3, page 2, line 25, by deleting "public or municipal sewerage" and inserting "sewerage provided by a public utility or a municipality or other public entity".

Amend the bill as a whole, by inserting new sections to be designated as sections 3.4 and 3.6, following section 3, to read:

"Sec. 3.4. No lien for the assessments provided by the covenants, conditions and restrictions described in section 3 of this act is binding upon the property until the local governing body, after



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a hearing; establishes the costs, apportions them to each lot or parcel and records a notice of lien in the office of the county recorder in the county in which the property is located.

Sec. 3.6. If the department has found that any of the conditions of a permit to discharge water from a package plant for sewage treatment are being violated and has notified the holder of the permit that he must bring the plant into compliance, but the holder of the permit has failed to comply within a reasonable time after the date of the notice, the local governing body may take the following actions independently of any further action by the department:

(a) Give written notice, by certified mail, to the owner of the plant and the owners of the property served by the plant that if the violation is not corrected within 30 days after the date of the notice, the local governing body will seek a court order authorizing it to assume control; and

(b) After the 30-day period has expired, if the plant has not been brought into compliance, apply to the district court for an order authorizing the local governing body to assume control of the plant and assess the property for the continued operation and maintenance of the plant as provided in subsection 5 of section 3 of this act.



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2. If the local governing body determines at any time that immediate action is necessary to protect the public health and welfare, it may assume physical control and operation of a package plant for sewage treatment without complying with any of the requirements set forth in subsection 1. The local governing body may not maintain control of the plant pursuant to this subsection for a period greater than 30 days unless it obtains an order from the district court authorizing an extension."

Amend section 4, page 2, line 30, by deleting "Maintenance" and inserting "Continued maintenance".

Amend section 4, page 2, lines 33 and 34, by deleting "public or municipal sewer" and inserting "sewer provided by a public utility or a municipality or other public entity".

Amend section 5, page 2, lines 49 and 50, by deleting "public or municipal sewers." and inserting "sewers provided by a public utility or a municipality or other public entity.".

Amend the bill as a whole, by inserting a new section to be designed as section 5.5, following section 5, to read:

"Sec. 5.5. NRS 445.133 is hereby amended to read as follows:

445.133 As used in NRS 445.131 to 445.354, inclusive, and sections 2 to 5, inclusive, of this act, unless the context otherwise requires, the terms defined in NRS 445.134 to 445.196, inclusive, and section 2 of this act have the meanings ascribed to them in those sections."

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Amend section 6, page 3, by deleting lines 5 and 6 and inserting:  
"sections 2 to 5, inclusive, of [this act,] Assembly Bill 541 of the 60th session of the Nevada legislature, and section 1 of this act, unless the con-".

Amend section 6, page 3, line 8 after "inclusive," by inserting "and section 2 of Assembly Bill 541 of the 60th session of the Nevada legislature".

Amend section 8, page 4, line 5, by deleting "municipal and private treatment plants" and inserting:  
"treatment plants which are privately owned or owned by a public utility or a municipality or other public entity".

Amend section 10, pages 4 and 5, by deleting lines 45 through 50 on page 4 and lines 1 through 6 on page 5 and inserting:

"Sec. 10. NRS 278.377 is hereby amended to read as follows:

278.377 1. A final map presented for filing [shall] must include a certificate by:

(a) The health division of the department of human resources, or the local agency acting pursuant to NRS 278.335 indicating that the final map is approved concerning sewage disposal, water pollution, water quality and water supply facilities. The health division or local agency may not issue a certificate unless it has received written verification from the division of environmental

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protection of the state department of conservation and natural resources that the map or plan has been approved with regard to water pollution and sewage disposal in accordance with the Nevada Water Pollution Control Law.

(b) The division of water resources of the state department of conservation and natural resources, showing that the final map is approved concerning water quantity.

2. A copy of the certificate by the division of water resources required by subsection 1 [shall] must be furnished to the subdivider who in turn shall provide a copy of such certificate to each purchaser of land [prior to] before the time the sale is completed. Any statement of approval as required in subsection 1 is not a warranty or representation in favor of any person as to the safety or quantity of such water."

Amend the bill as a whole, by inserting new section, to be designated as sections 11 and 12, following section 10, to read:

"Sec. 11. Section 5 of Senate Bill No. 184 of the 60th session of the Nevada legislature is hereby amended to read:

"278.377 1. A final map presented for filing must include a certificate by:

(a) The health division of the department of human resources, or the local agency acting pursuant to NRS 278.335, indicating that the final map is approved concerning sewage disposal, water pollution, water quality and water supply facilities. The health

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division or local agency may not issue a certificate unless it has received written verification from the division of environmental protection of the state department of conservation and natural resources that the map or plan has been approved with regard to water pollution and sewage disposal in accordance with the Nevada Water Pollution Control Law.

(b) The division of water resources of the state department of conservation and natural resources, showing that the final map is approved concerning water quantity.

2. Any person aggrieved by the issuance or denial of approval with regard to water pollution and sewage disposal by the division of environmental protection of the state department of conservation and natural resources may appeal to the state environmental commission, which shall affirm, modify or reverse the action of the division. The commission shall adopt regulations providing the time within which appeals must be taken and the manner of taking the appeal to the commission.

[2.] 3. A copy of the certificate by the division of water resources required by subsection 1 must be furnished to the subdivider who in turn shall provide a copy of such certificate to each purchaser of land before the time the sale is completed. Any statement of approval as required in subsection 1 is not a warranty or representation in favor of any person as to the safety or quantity of such water.

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Sec. 12. NRS 704.340 is hereby amended to read as follows:

704.340 1. [A] Subject to the provisions of subsection 3, a municipality constructing, leasing, operating or maintaining any public utility or a trust created for the benefit and furtherance of any public function pursuant to the provisions of general or special law, other than a trust which undertakes to provide transportation by use of a motor vehicle as a common or contract carrier, is not required to obtain a certificate of public convenience, but any trust so created which undertakes the operation of a public utility shall first submit a certified copy of the trust documents or prepared trust documents to the commission together with a detailed explanation of the purposes, scope, area to be affected and such other pertinent information necessary to assist the commission in making a determination as to whether the service presently being offered by any existing public utility would be unreasonably impaired by the approval of such trust documents.

2. The commission shall, after investigation and hearing on any contemplated trust coming within the provisions of subsection 1, submit a report of its findings and reasons therefor to the state and each political subdivision within which such trust contemplates operation. Such trust shall not become effective unless and until written approval has been given by the commission.

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3. The assumption by a municipality of operation and control of a privately owned package plant for sewage treatment pursuant to the provisions of section 3.6 of this act does not in itself exempt that plant from the jurisdiction of the commission."

Amend the bill as a whole by renumbering section 11 as section 13.