MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Mr. Craddock
Mr. DuBois
Mr. Jeffrey
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS ABSENT: None

TESTIFIERS: Mr. James Banner, Assemblyman, Dist. #11, representing a group of retirees from Las Vegas.
Mr. Warren Fowler, representative of the Retired Public Employees of Nevada, also representing retired teachers
Mr. Richard Brown, private citizen
Mr. John Hawkins, private citizen
Mr. Vernon Bennett, Executive Officer of the retirement system
Mr. Louis Bergevin, Assemblyman, Dist. #39
Mr. William McDonald, District Attorney, Humboldt Co.
Mr. Richard Heikka, Vice President, Johnson Development Company
Mr. Jac Shaw, Administrator, Division of State Lands, and State Land Registrar
Mr: Joe Green, Director of Department of Wild Life
Mr. Paul Prengaman, Assemblyman, Dist. #26
Mr. Dan Fitzpatrick, Clark County
Mr. Robert Sullivan

Chairman Dini called the meeting to order at 8:00 A.M. The first bill to be discussed is AB-5: Provides for reinstatement of certain insurance coverage for retired public employees.

Mr. James Banner, representing a retiree group from Las Vegas was the first testifier. He stated that AB-5 is designed to correct a vacuum in the existing law. Prior to 1979, the public employees could keep their insurance with the group they were with up to age 65, at which time they were dropped. Last time, we passed a bill which would allow them to continue their insurance at age 65, then they would pick a coordinated of benefit type of policy with their employer. There are three groups of people that have

been dropped from the system involuntarily, and this bill is designed to allow those people to come back into the system. The number one group would be those people who were 65 when we passed the bill, and they can't get back in under that MediCare coordinated of benefits plan. The next group would include those who retired before 60 and didn't retire, but terminated before 60 in order to keep the insurance. The other group includes those people who are terminated because of disability. The existing law terminates their insurance. This bill provides a way for them to get back in. In the Clark County group, with which I am familiar, there are 3,961 people of which there are only 85 retirees, which accounts for only 1.67% of the group, so it is a very small part of the population. The general experience in claims for the people in that age group is higher than 100%, but also, so are the people in the childbearing age. So, it has a way of balancing out and they are sharing the risk.

Mr. Warren Fowler spoke next. He stated that during the last session of the Legislature, they corrected one of the inequities that existed. The law said that if they were eligible for insurance under any other policy at age 65, they could not continue group insurance. Everyone was eligible for MediCare, of course. Some people can't afford it, however. So the law was changed making it permissible for these people, within a period of time, to continue the insurance if they paid the premium. However, this does not cover those people who made an option to drop the insurance because of being covered under a spouse's policy. Mr. Fowler said that his group is trying to get those things for their people fringe things that will give them the most for the least money. If you are aware of what MediCare pays on hospital bills, you will realize that if you have to rely on that and that was your only source of reimbursement for medical expense, you just couldn't afford it. It comes out to something under 50%, although they say they pay 80% of the costs, that is 80% of the costs that they determine as they should be. It comes out considerably below that, and unless the retired person on a fixed income has some supplemental insurance to pick this up, they are not going to be able to afford medical care. I know that some governmental agencies that are saying this thing is prohibitive. The money these people are spending does not belong to that entity, it belongs to the public and my people are part of that public and they are paying. No way in the world are we going to get out of paying for this health insurance or health care. The cheap way to do it is by insurance. The other way that we are going to have to do it, these people can't be left out in the street to die, is going to be in the form of indigent payment, which is far more expensive than insurance.

He continued that as Assemblyman Banner pointed out, this is going to affect a very few people, but it is very important to that very few people.

Approximately 70% of the people covered by the retirement system were eligible for MediCare. So, we are not talking about a great number of people or a large amount of money. It seems that this is an economical way to spread the cost of this thing and to provide a benefit which is very important to retired people at a very, very minimal cost.

Mr. Richard Brown, representing himself, spoke next. He indicated that he is one of those people affected by this bill. When I retired from the Clark County School District at age 65, and became eligible for MediCare, I was involuntarily dropped from our plan. As I understand it, this bill will permit me, then, to be able to enroll as a MediCare supplement under the plan. In talking to the agent from Clark County School District, this bill may be amended to provide for evidence of insurability, it would not negatively affect the group rate and, therefore, the retiree would pay the entire share of the premium. The plan is much broader than the plan I had to take as a MediCare supplement.

Mr. Schofield asked if Mr. Brown would explain the evidence of insurability part of it.

Mr. Brown indicated that to re-enroll in the group, you would have to satisfy the carrier that you had no pre-existing conditions that would negatively affect the group plan. It affects the group experience.

Mr. Nicholas stated that if you had the ability to show that you had had no previous problems, then you would probably qualify for other plans in addition to this one. On the other hand, for those who have had a medical problem in the past, this might be the only answer they have.

Mr. Mello indicated that it would be at a much higher rate. If you go under a group, it's much cheaper. An individual plan is much more expensive and that's why they want to come under the group.

Mr. John Hawkins was the next testifier. He testified as a private citizen, to speak in favor of this bill. I would like to relate one particular case and relate this case, not at his request, but because in the past, he has asked me at times the status of this particular type of legislation in the Legislature. Al Seeliger retired in 1966 as Superintendent of Schools in Carson City after some thirty years in education in Nevada. He also served as a member of the Board of Regents. At the time of his retirement, the option to carry insurance was not provided him and he has felt that since that time, if he had the option to go back and reinstate the insurance, it would certainly be beneficial to him and it has been of a major concern to him, and I felt it was my obligation

to be here to present this particular view to you. I do not believe that the burden rests on any political entity. It rests upon the people who are carrying the insurance, and in the case of teachers, the final burden will rest with the teachers in Carson City or the Carson City School District to the effect that it might raise premiums if it does.

Mr. Craddock questioned the effective date of reinstatement and referred to Line 7 of AB-5. He asked if the date of reinstatement meant from that date forward, or backward.

Mr. Vernon Bennett spoke to this question. He indicated that it was their understanding that a person would have until October 31, 1981 to reinstatement. If he reinstates on a given day from that day forward, the premiums would be paid. We have assured Mr. Banner that the retirement system already does this service for our other members who are eligible. We have the computer program set up. It will incur no hardships on purse.

This concluded testimony on AB-5.

Mr. Dini indicated that the next bill to be heard would be AB-8. The first speaker: Louis Bergevin.

Mr. Bergevin said that this bill became necessary from observation in Douglas County where existing irrigation districts were becoming involved with subdivisions in many cases. They were actually obliterated and resulted in lawsuits between the ranchers and the people involved in the subdivisions, so I felt that a bill was necessary to protect the irrigation ditch rights and also a right of easement wide enough to allow ingress and egress of maintenance equipment so that the owner could properly maintain his ditch to carry on his business of agriculture. The bill as drawn does not necessarily do what I want it to do and I think that it leaves a question as to who the maintenance is being placed upon. If you read it, it could be that the developer is supposed to maintain the ditches. It certainly was not my intention, and so I think the bill needs an amendment to the effect that the governing body shall not approve the final map unless a right of way for any existing irrigation ditch of sufficient width to allow ingress and egress for equipment of the owner to properly maintain the ditch. It has also been suggested by representatives from Washoe County that this be expanded to include man-made or natural drains and also live or intermittent natural streams. That is something that I don't have much feeling for, but I think there are people in the audience that might address that particular instance. My main concern is the irrigation ditch. I feel that there are three parts that do have to be amended, all three being the same, but it does require amendment, Mr. Chairman.

Mr. Dini said that Mr. Bergevin wants to be sure that it says that the owner of the ditch can get in and out of there.

Mr. Bergevin said: That's right, and I want to be sure that the owner of the ditch is the man responsible to maintain the ditch, not the subdivider. That's not his responsibility.

Mr. Polish noted that the water ditches in Washoe County and a lot of other ditches have taken the lives of a lot of youngsters. I was just wondering if we could put in the bill that most of these waterways could be put in concrete. Mr. Bergevin asked at who's expense. Mr. Polish indicated that it didn't make any difference who paid.

Mr. Bergevin stated that the ditches have existed for probably 50 or 60 years prior to any subdivision, and if, indeed, you wanted to write this in, then the burden of expense should certainly be placed on the developer.

Mr. May indicated that there is no definition of irrigation ditches. Can you give me a description.

Mr. Bergevin stated that an irrigation ditch is a means of conveying water from a point of diversion to a point of use and it meanders along, not necessarily subdivision lines, but normally along a grade which allow the water to flow properly. It transects subdivision lines and can only properly be described by metes and bounds in 90% of the instances.

Mr. May then asked if Mr. Bergevin would object then, in a situation like this if it is amended to allow a developer his expense to change the point of ingress and egress provided the flow is not changed.

Mr. Bergevin stated that if, indeed, the conveyance of water is not interrupted by what they would do, I would have no objection to that. Most of these ditches have been existing...well, from 1852 up to approximately 1900, in most instances, in the state of Nevada. Those are the water rights that are presently on the books and so they are real old established rights. I would suppose you would have trouble finding legal right of ways described in the law or even in the deeds. Usually a deed will read "with the necessary ditches and appurtenances thereto", when you transfer a piece of agricultural property.

Mr. May asked if the irrigation ditches or the flow of water ever change their course or are they pretty stable.

Mr. Bergevin answered that not in a man-made ditch and these are man-made ditches. These are not natural ditches. But like I say,

it was Washoe County who asked that they would like to have it expanded to include natural or man-made drains. It does have some merit, in a lot of instances, that that particular drain should be protected, because in many subdivisions in Reno, without a proper drainage, you are going to have some flooding, or in any other place. So, I think that addition does have some merit.

Mr. Redelsperger asked if the developer would be liable for any injuries, as Mr. Polish was discussing.

Mr. Bergevin answered that he thought you would have to prove negligence on the part of the ditch owner. And again, if he properly maintains his ditch, why then I don't believe you would find any negligence.

Mr. Bill McDonald, District Attorney for Humboldt County was the next speaker. He indicated that the problem they have in Humboldt County is somewhat different than down here in Western Nevada. In our desert valleys, we don't have the formal irrigation ditches to the extend that you do in this part of the state. Our problem is with more the natural irrigation - the creek coming out of the canyon, maybe two or three different ranches using water from that source. We have a problem when one of the ranches gets subdivided and how that water course is going to be protected through that subdivision - how it is going to be maintained. Each rancher goes up and cleans out his ditch; there is no irrigation district. We also have the problem of maintaining the drainages and that is probably the worst problem. The subdivisions tend to go down to the bottom of the valley, between the county road and the ranch up there and the first guy that subdivides might not adequately provide for where that irrigation water that comes off the rancher's field that isn't all used, comes into the division and he might put it out in a different area than where it has historically gone. We feel that all the water courses, whether they are natural or man-made, whether its water coming into the property or going out, whether they are permanent (if the creek runs all year) or whether it is just a gully wash, all of these things ought to be considered. I have to apologize that I did not have an opportunity to put together some recommended language for an amendment, but I would commend to your consideration the possibility of broadening the scope of this to include more than just formal irrigation ditches.

Mr. Dini asked: Isn't it the obligation of the planning commission to see that drainage of this type is taken care of, anyway, under existing law?

Mr. McDonald answered that they do; we are all human, and frequently, or occasionally, at least, that can be missed. The provision of a right of way for maintenance is just as important for the irrigation ditch as for the drainage. If it is necessary and I agree it is,

it ought to be in the NRS to protect the ability to maintain properly that irrigation ditch and the same statutory authority ought to exist for the drainages, as well, and the natural water courses. This bill speaks only to man-made irrigation ditches.

Mr. Dick Heikka was the next testifier. I think that part of our concerns were clarified by Mr. May's comments. When we take a piece of land before a rural commission and a bill like this is on the books, sometimes it is looked at very literally. Our concern is, particularly regarding a small irrigation ditch, to get efficient land use, you need to relocate that ditch; maybe pipe that ditch, and we would like to see the language addressed that we have that perogative and somebody who is in the league to save some valley and got his five acres and doesn't want us to subdivide, doesn't use the argument that the ditch has to be retained at the exact location, which this bill right now, I don't think, is clear. Regarding drains, etc., there are an awful lot of ordinances and legislation now on the books covering and requiring planning commissions to address these issues and I think it is a question of making sure that you look at the existing legislation and don't get an overkill here on some of this.

Mr. Heikka continued by saying that if you use FHA financing on a subdivision, and you have a ditch, you are going to fence it to remove the liability. Quite a bit of this is also addressed.

Mr. Dini stated that what Mr. Heikka felt was that it should be clarified that where you have an existing irrigation ditch, it doesn't mean that you have to leave it there.

Mr. Heikka said that his group does not have an objection to putting an easement on a map. I think there is another area here where a ditch terminates on a piece of property and we obliterate it, I think we have that perogative. We are required by current ordinances on a tentative map to identify all existing drainages and ditches, etc. Basically, the purpose being that you have to show disposition. We are assuming that if we obliterate one, we can do this under this legislation without someone saying that we have to retain a ditch to a non-existent agricultural use.

Mr. May asked if this applies to parcel maps only.

Mr. Heikka answered that that is one of his concerns, because many times the issue will be corrected when the tentative map is issued where it is really discretionary. My concern is that if we have decided to pipe or relocate, we would like to have the bill address that so that on the final map, we may show a ditch going around the corner of the property without necessarily running diagonally through it. As the ditch is retained in its final form, either relocated or piped, or retained in its existing location, that an easement be provided. I don't have any problem with that.

Mr. DuBois asked how much easement is required. Is this a standard area for all irrigation ditches.

Mr. Heikka answered that you should leave some discretion with your local governing body, your local planning commission. Normally, you are going to leave enough easement on one side or the other in order to get equipment in there. Obviously, if you have a ditch, you have to maintain it and we are usually talking fifteen to twenty feet, if we're talking about an irrigation ditch.

Mr. DuBois noted that whether it was fifteen or twenty feet could make quite a difference to a developer.

Mr. Heikka indicated that it is not something you can fix. If we, for example, go down between two side lot lines with an eighteen inch concrete pipe, we might be able to well get by with a five foot or an eight foot easement. If we are talking about the Truckee canal, obviously, we are going to retain something there well in excess of protecting the roadways on either side.

Mr. Bergevin stated that he purposely did not put any footage in there because if you have a ditch that will carry five acre feet of water versus one that will carry fifty, you have to have a considerable different set of statistics to take care of that particular situation, so that is why I say 'of sufficient width', and you have to leave that to the local authorities to determine.

Mr. Dini stated that he is appointing a subcommittee to work on this and that will be Paul May and myself. If Mr. McDonald wants to get us some data or information, we will get to work on it. Dick (Heikka) you can get to us, too. We won't take any action on AB-8 today.

Mr. Dini indicated that the next bill will be AB-13 - Requires state land registrar to reserve from sales of state land existing routes necessary to public lands.

Mr. Dean Rhoads testified, as prime sponsor, that AB-13 is one of several bills that came out of the interim study which you have, the problems of access to public lands. It is one of many bills that you will be seeing coming up through the different committees. The access problems existed even before the introduction of the now very famous Sagebrush Rebellion movement, which is, incidentally, spreading now to fifteen states throughout the west. Nothing really, legislatively, has ever been attempted in the past to solve this problem of access. In my travels throughout the west, I found out that access is a problem not only in Nevada, but in just about every one of the western states. We do have an access problem. And I think that by

passing some of this legislation you will be having before you, that Nevada could again lead the way to help solve this problem. We had seven meetings throughout the state and some hearings, and the attendance was really outstanding. The interest was good and we had much cooperation between the landowners and the sportsman groups. This legislation is probably more important today because of the possibility of much more state control and land transfers and exchanges under the new administration. I had an opportunity last week to ride to San Francisco with Senator Laxalt, who indicated to me some of the possibilities that could exist, for instance, the checker-board strip that you see on the map on the wall. Every other section for twenty miles on either side of the railroad is private and every other section is federal. That bill will probably be reintroduced for the exchanges. I think there is a very good chance that some portion of it will probably happen. Also, in this morning's paper on the front page, the headline says 'new interior head supports fast transfer'. The first paragraph reads "Interior Secretary James Watt, who has voiced support of the Sagebrush Rebellion, pledged Wednesday to act more quickly in transferring ownership of federal land so it can be used by communities in the west." It goes on to indicate the fact that he is going to push very quickly to transfer much of this land, particularly around cities and areas that are landlocked. In the state of Nevada, there are some 800,000 acres identified as transferrable over to state control for parks, hospitals, schools and other public purposes. So we are going to have to move very quickly. I think that in the Ruby Mountain area (there is a map on the wall) this is a very good example of what happened because of the access problem. The lands around the lower area of the Ruby Mountains was homesteaded and taken out by private ownership. Because of the abuse and the problems that some of the sportsmen going through caused, and our liability laws not being as strict as they should be, and no maintenance of the roads, etc., these people locked the gates. If this statute had been on the books in 1864 when we became a state, where if Congress had demanded that the federal land agencies when they sold these lands to private individuals that some type of reasonable access with protection would have been guaranteed, we probably wouldn't have had this trouble we are in today. It's a very simple bill. In Section I, sub-section 1, it says that before any state land may be leased, exchanged or sold or contracted for sale, upon the recommendation of the Multi-Use Advisory Committee, reasonable access must be guaranteed across that private land to get to public lands.

The second part determines that after the land is sold, if that right of way is no longer needed after the proper public hearings and notice, then the particular right of way could be taken away and blocked off. In the third paragraph, it indicates that it

has to be published and hearings held, etc.

Mr. Polish said his concern was in the land locked area in the southern part of the Ruby Mountains, with hunters in the White Pine mountains, if there would ever be a possibility of an access where it's going to have to be one area to get into that part of the country.

Mr. Rhoads indicated that there will be additional legislation to approach to provide more incentive to those private landowners to open up some of those areas for access. We are even going to ask for some appropriations of some money to buy some of these right of ways. In many cases, if we had more cooperation with the Federal land agencies, many of these private landowners would probably open their lands up. But due to the fact that in many cases, they don't have the money and access is a very low priority on their list, they don't encourage cooperation of trying to get these accesses through. We are really keyed in on those areas, however.

Mr. May asked what the Multi-Use Advisory Committee was, who were members of it.

Mr. Rhoads answered that it is an NRS committee with Julian Smith as chairman. It has various users on it; it has been ongoing for approximately ten or twelve years. It is a very active committee and they do a very thorough job on the problems. They have some very prominent people throughout the state on it, from all walks of life.

Mr. May noted that it is actually called the State Multiple Use Advisory Committee.

Mr. Rhoads indicated that he thought the committee was appointed by the Governor.

Mr. Jac Shaw was the next speaker and is Administrator, Division of State Lands, and by that title also the State Land Registrar, which this bill addresses. Having worked with the legislative subcommittees during this past one and one-half years on these issues, I would like to concur in the favoring of this bill. It will resolve many of the concerns that people have had in the past and certainly looking to in the future. No matter what happens to the lands, the west has been accustomed to and, I believe, has a right to access to the public lands. This is one method of assuring that in the future, and as Assemblyman Rhoads said, there is other legislation coming that will try to address the existing problems. We just concur.

Mr. McDonald stated that his county is entirely in sympathy and in favor of the bill as Assemblyman Rhoads has proposed it. We would like it to go further, however. We note that the county is not included, the local government is not included in the process by which the determination is first made that public access should be reserved and we find this to be the case with the Bureau of Land

Management. The Bureau occasionally consults local government but doesn't consult us too frequently, and usually we feel we haven't been consulted sufficiently. We feel that the counties, in addition to the Multiple Use Advisory Committee, should play a very important role in determining the areas that public access should be preserved, too. In order to accomplish that, probably those counties that have planning commissions would be the logical ones to play a part in those determinations. In those counties that don't have planning commissions, the county commissioners would be the ones because they have to fulfill that function, anyway. I feel that this is quite important. In sub-section 2, when determination is being made that the access is not required, in that instance, the state land registrar has to release a publication of notice in the county where the access is and the state land registrar can hold a hearing in that county if he chooses to. To give you an example of a problem we had with the Bureau, they closed the road into Blue Lake where it had been the subject of a lawsuit now in the Federal courts and they held their hearings every place but Humboldt County. The Humboldt County citizens and our government played no role at all in determining whether or not that access into Blue Lake, which Humboldt County paid for in conjunction with the Bureau building the thing back in the early sixties, would be closed, and we feel that we should have had something to say.

Mr. Joe Green, Director of the Department of Wild Life indicated the department's support of it.

Mr. Fowler also stated that they had conferred with that committee and that they did a good job.

Mr. Dini noted that the amendment should include "and local governments".

Mr. Dini called for a five-minute recess at 8:50 A.M.

Meeting was called back to order at 8:55 A.M. by Chairman Dini.

Mr. Prengaman spoke on behalf of AB-17. At the present time, the property owners can protest creation of a general improvement district. If they get a petition of 51% of the property owners, they can stop creation of a district. Notice is given and the board makes a determination. As a result of a study in 1975, a new procedure was adopted for general improvement districts for a service plan to be filed. If an ordinance creates a general improvement district, they can also appoint a board of directors to run the improvement district. This period in which the people who create the improvement district and then a board is appointed can create problems, as they are dealing with a board of directors. The filing of the service plan is taking away some of the problems, but you are still working with an appointive board.

One of the problems is in Washoe Co. where a water company owned by Mr. Rusio is involved. The customers have gone to the Public Service Commission, they have gone to court, they have approached Mr. Rusio to buy the company. A general improvement district seems to be the answer. 51% of the people have signed a petition. They have decided that a general improvement district is the solution to their problems and want to operate it themselves. You have this problem when you have a board of directors not responsible to the people. There is range land being subdivided but is stalled because of water problems. It could be annexed but legally people have no right to properties that have no water the way the law reads now.

I would like to see if we can get some protection for the period of time before they have an elected board and while the appointed board runs the district. An amendment to AB-17 is needed. Lines 37 through 41 of paragraph 9 (subsection b and c) should be deleted. It is my intention to remove them. I have made no attempt to find out what effect this will have on other districts in the area.

Mr. Dini stated that if you eliminate the board of directors and the county commissioners take over, then the elected ones can't handle the job, so the state then appoints boards and if they can't handle the job....

Mr. Prengaman stated that the quality of directors is poor. With the service plan now required, a general improvement district goes into it with a better chance of success. The concern is in the initial period when you have an appointed board of directors. It has been a real problem with the quality of people, and there is no guarantee even if elected people are put in. Obviously, the landowner is there to develop his property, but they should have some opportunity to participate in the decision-making process.

Mr. Nicholas indicated that there will be some people in his district that will be affected.

Mr. Prengaman noted the areas affected as being south part of Washoe Valley on the east in the area of Virginia Hills and Shadow Hills. Since the impetus comes from Virginia Hills they should be given a period of time to solve their own problems.

Mr. May stated that the county commissioners may organize themselves as the directors of a new district.

Mr. Prengaman noted that they can also appoint a board of directors.

Mr. Prengaman stated that the whole area has water problems, and to the south of Virginia Hills, there is arsenic traces in the water.

Mr. May asked how many people - what the population of this area is.

Mr. Prengaman answered that there were approximately 600 homes.

Mr. May asked where they got their water.

Mr. Nicholas answered that they don't. They bring in their water by truck.

Mr. May asked if the arsenic is a problem, doesn't your county board of health intercede.

Mr. Prengaman answered that their record is not that good. The state sets the standards and leaves it to the health department to issue deadlines. Numerous deadlines have been given to Mr. Rusio but he has ignored them.

Mr. May asked what the customers want to do.

Mr. Prengaman stated that they want a formation of a general improvement district and they will buy the water company, take control and form an association and be in control of their own destiny and solve their own problems. They would look to federal funds and build a water plant.

Mr. May stated that his concern is that there are 600 homes and people are willing to commit themselves to getting federal funds to build a water system, they will need a treatment plant, and all of these things will be derived from 600 people - that's a lot of money. I'm afraid that they will find themselves shortly in a financial bind.

Mr. McDonald stated that Humbold County has more improvement districts than any other county, other than Douglas. I have no problem with Mr. Prengaman's bill, but I do want to point out a problem. If the written protest is filed by the majority of the people, there is nothing in the statutes that clarifies what that majority is. Is it the number of registered voters? If we are talking about the property owners as shown by the county assessor's records of that date, we can go to the county assessor. It is not as easy as with the voter registration because if you have several owners of a piece of property (partners), the records might state 'so and so and etal. Not all names are shown. Are those going to be eleven votes, for example, or if you are married, twenty-two votes. There is also the problem of one-half interests. We had this problem in Paradise Valley. The statute does not tell us how to count the owners.

Mr. Dan Fitzpatrick stated that this bill does not address the special problems statewide. For instance, Clark County has five special improvement districts. The specific problems we have are with lines 20-23. The board, after notice, does not have the authority to notify a new property owner to annex to the district without the district members having a say by majority vote. If notice of the meeting is given by certified letter, you can imagine the problems you have with 10,000 property owners in notify them with sufficient time for them to protest. We feel that currently, there is sufficient language in the law to protect the landowners: Sections 5 and 6, lines 7 through 15.

Mr. Prengaman stated that there is nothing in the bill indicating that anyone has to be notified. What this does is if a property owner petitions, then the people gather up a petition and bring it to the board, then the annexation can't take place. I would assume our District Attorney would say that may be the intent now. The district has a legal responsibility to represent the people of the district of proper notice.

Mr. Bob Sullivan spoke also in opposition. He indicated that they are in the process of decreasing special districts and annexation is, perhaps, one way. Mr. Prengaman has a unique case which is not statewide. The problem of water districts is who is in charge.

Mr. Dini introduced AB-34 which exempts persons who fill elective public offices from disqualification for allowances under public employees' retirement system. This bill attempts to straighten out that problem.

Mr. Vernon Bennett indicated that he feels that the first problem during the 1975 legislative session that was determined was that all elected officials were required to be members of the system and worked for small salaries. The amendment in 1979 appears to create more problems than we solved. The Retirement Board at this point has not had an opportunity to consider this legislation. Therefore, we do not have an official position. However, based on discussions with some members of the Board and with our Deputy Attorney General, we would like to suggest an amendment to Page 2, Line 8, after the period, add: "the provisions, however, of sub-section 1 shall be applicable to a retired employee who fills the same elective public office in which he served and received retirement credit as a member".

He further stated that if AB-34 is passed without the amendment, a person can retire from an elected position, such as a city councilman, resign the day before his term is up, he can have already run for reelection, he can then draw his retirement and the first day he starts the new term, can be sworn in and draw both.

The purpose of this amendment is merely to prohibit that occurrence and what we are saying is that currently the law says that if you are retired, if you return to a position that is eligible for membership, you forfeit your retirement benefit. AB-34 would make an exemption to that and would say that you would not forfeit your retirement benefit if you return to an elected position. The amendment that we are suggesting would make one further provision that you would forfeit your retirement benefit if you return to the same position you served in when you earned your retirement, but it would also allow that this person who was, for example, a city councilman, return as a county commissioner, a sheriff, a state official, without any effect on his retirement benefit. It would eliminate the obvious availability to double dip. In addition to that, we discussed with Mr. Dini the fact that the Retirement Board last August adopted two amendments to this same section of the law, which is 286.520. We have these provisions drafted in our *BDR 23-315 which will be introduced by the Ways and Means Committee and that is our bill that provides the new cost of living increases for our retired employees to begin in 1981 and 1982. To eliminate a conflict between the two bills, Mr. Dini has agreed that we can submit to you for your consideration the two amendments that would have occurred in that same section in the other bill and if your committee is agreeable to the amendments, then AB-34 would be the only bill from the Assembly that would have amendments on 286.520 or the section on re-employment of retired employees. This would eliminate the conflict. We have listed the amendments beginning on the bottom of the page and on the next page. We currently have a provision that if a retired employee returns to employment in a position that is not eligible for membership, that is, less than half-time employment or intermittent or temporary employment, he can earn up to $4,800.00 without losing his retirement benefit. If he earns over $4,800.00 from that day forward, his benefits will be forfeited. We are recommending that you add that if he returns to that type of employment or to an independent contract, he will be under the earnings restriction. And then, in addition, we are recommending that you increase the earnings limitations from $4,800.00 to $6,000.00 per year because these positions are considered half-time or less and an average beginning salary for full time employment is $12,000, $6,000 would be equal.

Mr. Bennett continued by saying that the problem we have with the independent contractor is that we have experienced several situations where a member of the system was working in a position, he would apply for retirement, go on retirement and then go on an independent contract which, coincidentally, was in the same office doing the same work for the same salary, and this allowed him to draw both his retirement and his salary. We would like, by adding in there the restrictions on an independent contract, to close that loophole that's in the current law. These amendments follow

*AB 154

the bottom amendments at the bottom of Page 1 and on Page 2 and have been adopted by the Retirement Board. They are basically technical in nature, but they do make two changes as I have outlined.

Mr. Dini stated that Mr. Bennett had given us these amendments to AB-34 and this one here deals with that language in my proposal. The rest of it is for the Retirement Board dealing with the independent contractors, people that are on retirement and taking the same job as the independent contractor. It tightens up the law on that.

Mr. Warren Fowler indicated that this has been one of our major concerns because many of these positions that we are talking about are out in the rural areas where there is not a lot of money involved and the expertise of some of these retired people is completely lost because of the law. When you gentlemen, in your wisdom, passed the one last time, immediately thereafter, the Attorney General came up on a case with an opinion that couldn't apply to anybody that was already retired. There was some doubt about whether it could apply to anybody who had vested their retirement, because you were changing a condition of the contract. This, by the way, does remove the retired public employee from being a second class citizen. He is the only one who draws a pension who can't go out and hold a public office. He can't get elected. The only other thing left to do is to take away his right to vote. And I think that we may have some people get elected to a job that pays a lot of money, but I am sure all of you gentlemen are aware there are not too many of those in the state of Nevada, these elected positions. So, I don't think we are talking about a lot of money, a lot of problems. Most of these people - the biggest problem we had, I think, was with Justices of the Peace, who get $40.00 a month if they hold a certain number of cases a month and they couldn't even hold that kind of a job. The groups that I represent wholeheartedly endorse it and we would be very happy to become first class citizens again.

Mr. Dini indicated that the next bill would be AB-37. He asked if there was anyone to speak for or against the bill. Mr. Bennett stated he would speak for his group but that they did not have a position.

Mr. Bennett stated that the retirement system introduced a bill in the 1975 Legislature which would allow the employer to pay the employee's contribution to the retirement system in lieu of either a salary increase or a direct salary reduction. This is optional on the part of the various employers and since 1975 approximately 65% of our 42,000 members have enrolled under the employer-paid program. Assembly Bill 37 would provide that elected officials of cities and counties could go under the employer paid program without having to do so in lieu of a salary increase or by a direct salary reduction. The problem that they have encountered is the

fact that the Legislature sets the salary and that the Attorney General has determined that that salary cannot be adjusted. The Retirement Board has not had an opportunity to consider the legislation, however, we would like at this time to suggest a technical correction. The current law as written provides that because the member took either a reduction in salary or took the employer pay in lieu of a salary increase, that upon retirement, the retirement system would increase their average compensation for retirement purposes in an amount equivalent to the reduction they incurred. For our regular members, that was a 7½% increase, or in lieu of, so we would increase their average compensation 7½% so they would not lose any retirement benefits by going to the employer-paid program. Due to the fact that this bill would allow elected city and county officials to go to the employer-paid program without taking the reduction, we would like to suggest an amendment that would clarify that those elected officials who went to the employer-paid program without a reduction in salary or in lieu of the salary increase would not get their average compensation increased by the 7½% at the time they retired. This would eliminate them getting a dual benefit. The wording we have would be on Page 2, at the end of Line 4, add: "this increase shall not be applicable to persons chosen by election or appointment to serve in an elective office in a political sub-division of this state, whose contributions are paid by a public employer without the salary adjustments provided by Sub-section 2(a) and 2(b)". We already have some elected officials who have gone to employer-paid by the direct salary reduction. They would still have their average compensation increased at retirement because this would not be applicable to them.

Mr. Bennett felt that this would clean up the bill as written and eliminate the obvious duplication of benefits which I don't feel that the authors intended. We have discussed the matter with our Deputy Attorney General. It is his interpretation that due to the wording, the bill shall be applicable to elected officials of a political sub-division, that state officials are not within a political sub-division and that this bill will not be applicable to elected state officials. Should you determine that your intent was for the bill to be applicable to elected state officials, it is the feeling of the retirement staff and the Deputy Attorney General that due to the provision in the constitution a state official's salary cannot be either increased or decreased during his present term, that provision for state officials would have to be effective at the beginning of their next elected term. Any amendment to that effect should provide those provisions. Another alternative to this bill that could be possible, and this is also for your information, is that as the Legislature sets the salaries for the elected state, city and county officials, the bill that sets those salaries could merely add the wording:"the employer would pay the employee contribution in lieu of salary in addition to that specifically provided in the new law". The Board has not taken a position as yet. They

will be meeting on February 18, but we will be happy to answer any questions which the committee may have,

Mr. Bennett confirmed to Mr. Polish that the Legislature has a separate retirement system. There is no prohibition for our retired employees to serve in the Legislature. We even encourage it.

Mr. Dini indicated that the public testimony was concluded.

On AB-5, Mr. Mello moved a DO PASS. Mr. Nicholas seconded. Motion carried.

AB-8: This bill was assigned to a subcommittee composed of Mr. May, Mr. Dini and Mr. Redelsperger.

On AB-13, Mr. May moved to AMEND AND DO PASS, by adding the wording after "counties" the words "and local governments". Mr. Polish seconded. Motion carried.

On AB-17: Mr. Dini indicated that he felt that this bill opens up the entire area of the 318. districts. The bill creates some complications in what it is trying to do. I understand what Paul is trying to do and I also understand that a large district like Clark County could have a lot of problems with it. I think rather than rush into the passage of AB-17 or killing AB-17, we can use it as an avenue to further explore flaws that may be in 318. districts. With that in mind, I think that I would like to not take a vote on AB-17 today, but, in fact, assign a committee to study the problems as brought up by Mr. McDonald concerning voter qualifications and that type of thing that could be addressed into this, and further, investigate the problems created by the language proposed in this bill. We have people on the committee very qualified to handle that. I would like to appoint Bob Craddock, if it meets with the committee's approval, of course, Bob Craddock to chair that subcommittee, along with Mr. Schofield. The problems will be in the larger counties with this kind of an amendment. We should get to the bar with this.

Mr. Prengaman stated that he would like to say that part of the testimony this morning related to proliferation of districts. This bill has nothing to do with that. The county commissioners can create a district if they want to and the people can initiate it. This does not stimulate districts or whatever. It has nothing to do with the proliferation of districts. Also, on the notice requirements: I admit that this will impact differently in Clark County, but I don't feel it will be the way that Mr. Fitzpatrick presented it. Lastly, I would like to say that, regardless of which end of the state you are in, I feel that the people inside the district ought to control their district, to the greatest extent as possible.

Mr. Craddock advised that with the approval of the committee his subcommittee will get into this relatively quickly and will certainly do our best and do a job that we will all be proud of. I don't feel at this point that we should get into a discussion as to whether or not the emphasis is on proliferation, etc. I don't think any of these points will be resolved at this point in time. I do feel that it does merit a lot of work.

Mr. Dini stated that there are some problems here and I think we should get to the bottom of them, but I don't think there is that big of a rush to zip a bill in and out of here. We will consider all aspects of it as a committee as a whole. In my own personal feeling, if I had to vote on it today, I would be against passage of AB-34. The law right now, if it does what it is supposed to do, means that if that guy wants to annex into a district and pay his fair share of creating a water district and whatever is going to be improved is going to be made there, I think that is his right under the existing law to do that. To stop him by this amendment to the law may be infringement by the Legislature over local government's perogative.

Mr. Dini appointed a sub-committee with the committee's approval.

Mr. Dini asked for a vote on the next bill, AB-34. Mr. Schofield moved to AMEND AND DO PASS. Mr. May seconded. Motion carried.

The next bill to be voted on was AB-37. Mr. Dini stated that he would try to smoke out the introducer.

Mr. Mello moved that the committee hold AB-37 to the pleasure of the chairman. Mr. Schofield seconded. Motion carried.

Meeting was adjourned at 10:00 A.M.

Respectfully submitted,

Lucille Hill

Lucille Hill
Assembly Attache

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date February 5, 1981

PLEASE PRINT YOUR NAME	PLEASE PRINT REPRESENTING:	I WISH TO SPEAK			
			FOR	AGAINST	BILL NO.
Vernon Bennett	Public Employees Retire Sys.				AB5/AB34/AB37
JOHN HAWKINS	N/A		✓		AB5
Bill Cozart	REALTORS				
Joe Greenley	Dept of Wildlife				AB 13
Richard Brown	N/A		✓		AB5
Laurence I Hawkes	RPEN		✓		AB5 - AB37
Bob Sullivan	Carson River Basin CAC				