

Date:.....April 10, 1981

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SUBCOMMITTEE MEMBERS PRESENT: Chairman Mello
Vice Chairman Schofield
Assemblyman Prengaman
Assemblyman Redelsperger

SUBCOMMITTEE MEMBERS EXCUSED: Assemblyman May

WAYS AND MEANS SUBCOMMITTEE
MEMBERS PRESENT: Chairman Westall
Assemblyman Coulter
Assemblyman Marvel

GOVERNMENT AFFAIRS COMMITTEE
MEMBERS PRESENT: Chairman Dini
Assemblyman Craddock
Assemblyman DuBois
Assemblyman Jeffrey
Assemblyman Nicholas
Assemblyman Polish

Chairman Mello called the meeting of the Government Affairs Subcommittee on the Consumer's Advocate and the Ways and Means Subcommittee on the Consumer's Advocate to order at 9:05 A.M. Mr. Mello indicated that when the two subcommittees had completed their work and discussion of A.B. 473, that the bill would go before a Committee of the Whole on Government Affairs.

Mr. Mello asked if Janet Wilson of the Bill Drafter's office would go through the bill.

Ms. Wilson stated that it was her understanding that the committee just wanted to go through it section by section.

Ms. Wilson stated that Section 2 contains the definitions, the name of the office which is the Advocate for Customers of Public Utilities, but known as the Consumer's Advocate. Cooperative utility we are using later for purposes of exemption and the public interest which is one of the things that is represented by the Consumer's Advocate. It is a rather broad definition.

Section 3 - the office of the Advocate for customers of public utilities is hereby created within the office of the Attorney General. His term is four years. He is in the unclassified service. The unclassified service was something that we added that we didn't have in the bill when it was before you at the last meeting. However, it was understood, it is just that we added for clarification. Then there is a list of qualifications which the person appointed must meet. At line 15 on page 2, the Attorney General may remove the Consumer's Advocate for inefficiency, neglect of duty or malfeasance in office

Mr. Mello asked if up to this point there were any questions.

Ms. Wilson stated that with regard to Section 5, these are the general powers and duties of the Consumer's Advocate. First is, employ the staff necessary to carry out his duties. There is a list of persons who are in the unclassified service whom he would appoint, a person licensed to practice law who would be the staff counsel, a person knowledgeable in rate making and principles and policies of rate regulation, a specialist in public utilities knowledgeable in accounting or finance or economics or one or more related disciplines and an administrative assistant. (b) and (c) there were re-written as an amendment at the last meeting of the Government Affairs Subcommittee. There is a clarifying statement beginning on line 29. The Consumer's Advocate has sole discretion to employ and remove the members of his staff who are in the unclassified service. Then there are several other powers. The power to purchase equipment, lease office space. Subsection 4 is the power to ask for a subpoena for witnesses and documents. That was re-written at the request of the Attorney General's Office since the last subcommittee meeting.

Mr. Mello asked if there were any questions.

Mr. Dini asked if all of the employees in this office were going to be unclassified?

Mr. Mello stated all but one. Mr. Mello further stated that that one would be found in the budget - it is not in here.

Ms. Wilson stated that the four listed here are unclassified.

Ms. Wilson stated that Section 6 creates the fund for the Consumer's Advocate. This is where the money comes after it has been collected by the PSC.

Mr. Mello indicated that he wanted a clarification on the number of the staff. He stated we have four here and there are going to be six, so obviously the other one is going to be classified.

Ms. Wilson stated that the four listed here - the consumer advocate himself and one clerical.

Mr. Mello stated that that would leave only one that would be classified and questioned Mr. Struve as to what her title would be again.

Mr. Struve indicated it was a legal steno.

Mr. Mello asked if Mr. Struve had any thing to add on that.

Mr. Struve indicated no. The suggestion we made at the last meeting has been included in this draft and is satisfactory to our office.

Ms. Wilson indicated that Section 6 creates the fund. We will talk more about the financial part of it a little later. Section 8 is the key section, I would say. The key powers that the consumer's advocate will have. It also lists the exceptions. The Consumer's Advocate may with respect to all public utilities except railroads, aircraft, common and contract motor carriers and cooperative utilities and except, that is the telephone exception for equipment, have these powers, conduct or contract for studies, surveys, research, expert testimony and so forth, examine books, accounts, etc. that are - in the same way that the PSC may do so.

Subsection 3, petition for request, initiative, appear or intervene in any proceedings concerning rates, charges, tariffs, modifications of service or any related matter before the PSC or any court, regulatory body, etc. having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the PSC, or, and we added the "or" at the last meeting, this would be proceedings in which the public interest or the interests of any particular class of utility customers are involved. He may represent the public interest or the interests of any particular class of utility customers in any such proceeding and he is a real party in interest.

Mr. DuBois asked when there is a rate filing and the PSC will have the staff of auditors and engineers to go in and inspect the books of the utility, is there anything in here to give access to the Consumer Advocate the raw material of the audits that the PSC staff will be making?

Mr. Struve stated no. The authority in this section is to allow access to the same books and records of the utilities that the PSC staff has. The work product of the PSC itself is not provided in Section 8 as it is currently drafted.

Mr. DuBois asked if that would not be desirable.

Mr. Mello stated that in our hearings we felt that it was going to be sufficient that they check the records of the PSC.

Mr. Struve stated that he thought that obviously this can involve a wide variety of viewpoints. I think in my work with Jan (Wilson) on this section, it was felt that the Consumer Advocate would be in much the same position as an intervenor or a party before the Commission, so the work product, the working drafts of the PSC staff, at least to my knowledge, are not normally made available to parties that appear before the Public Service Commission. That is not to say that a policy decision might not be debated by the Committee as to whether the advocate should have such access, but in terms of this draft, the feeling was that the Consumer Advocate would be like any other party, therefore the access to PSC work product would be the same as any other party. That is why it is in the form that it is in.

Mr. Sam Hohmann asked if he could make a point of clarification regarding the question. I think the Assemblyman is asking about the access to audit information from the utilities and the Consumer Advocate will have the same access as the Public Service Commission Staff. What Larry (Struve) is talking about is that the Consumer Advocate will not have access to working up data that the Public Service Commission staff does.

Mr. DuBois stated that that was what he was referring to. Mr. DuBois indicated that in some cases it might be desirable to be able to dig out some of that information of the raw material.

Mr. Struve stated he thought that Mr. DuBois had raised a good point. To the extent that that raw data and the documents in which it is contained are public records, the consumer advocate would have access to it just like any other member of the public. If it is a public record. If it is not, if it's a confidential record provided by law, perhaps as a working draft - a proposed order that the staff is working up to review the Public Service Commission. From that narrow instance it may not be a public record, and the advocate would not have the access to it. I agree with Mr. Hohmann's comment, but I think the thrust of Section 8 as it is written is to allow access to that information which goes into the presentation of cases before the PSC and once that information has been worked up and is under submission to the PSC, then I think the advocate would be in the same position as any other party. They would probably await the final order and then decide what to do in terms of a court appeal.

Mr. Mello asked Mr. Hardy to comment on this.

Mr. Hardy stated that he agreed with it the way it was written right now. It would be very disruptive for the commission's work to have somebody else coming in and simply working off of the work papers and what we are doing at the time. Once the staff prepares the prepared testimony that is available to anybody, including the advocate, and I think it would be very disruptive to allow them to come over and demand the work papers of our people while we are working up the case.

Mr. Mello asked if there were any other questions.

Mr. Struve stated that he had spoken with the Chairman concerning a comment that was submitted to his office regarding Section 8 and whether the language at the beginning of the section, the Consumer's Advocate may includes the staff and the consultants who are employed by the Advocate to work up the cases either for intervention or for court review. I discussed with Jan (Wilson) before your meeting today, that that was certainly our intent when we chose this language. She feels that it is implied. But at the Chairman's request, I have prepared for the consideration of the committee what could be a letter of intent that you could

put into your minutes - legislative history of this bill - that I think clarifies this point. And if I could, could I hand out the substance of that?

Mr. Struve's language for the letter of intent is attached to the minutes of this meeting as EXHIBIT A.

Mr. Struve stated that it was a very simple paragraph - I did not know the form that is used by the Legislative Counsel in putting this into the legislative history, but the thrust of this is to indicate that in Section 8 the powers and authority conferred on the consumer advocate are intended to be conferred on the office of the advocate for customers of utilities in carrying out their duties to protect the public interest and the interests of utility customers who are represented by the consumer advocate. In this connection the subcommittee would indicate that they interpret the term consumer advocate as used in Section 8 to include staff members and consultants who are employed by the consumer advocate in his official capacity and who are working under his supervision and direction pursuant to Section 5 of the bill and basically what this would do is clarify that all of the powers that are given to the advocate in section 8 can be carried out by those working under his supervision and direction under the authority of this bill.

Mr. Mello stated that he did not think that the committee would have any problems with this and we will discuss this further when we take action on the bill.

Mr. Mello stated that he would just like to read something to the committee, NRS 223.160.

"The attorney general shall keep a record of each case to which the state or any other officer of the state in his official capacity may be a party."

Mr. Mello stated that he could read several of these and asked Mr. Struve if the Attorney General himself did this

Mr. Struve stated that he was not sure if he was tracking.

Mr. Mello stated that we were talking about the consumer advocate and the consumer advocate may with respect to all public utilities except railroads, aircraft - you are talking about Section 8 now and the authority of the consumer advocate - what I am saying here is case records, contents, inspection. The attorney general shall keep a record of each case. Is the attorney general himself doing that?

Mr. Struve stated that yes, his staff is doing that.

Mr. Mello stated that he thought that that relates to this.

Mr. Struve stated that he agreed and that when he had worked in the District Attorney's office there was a statute in Chapter 252 which said a Deputy District Attorney is empowered to exercise the same powers conferred on the District Attorney, and I am sure that is in there for much the same reasons that you are pointing out in Chapter 228. The reason that I bring this up for the Committee is that the consumer's advocate is somewhat of a unique creature. He is really going to be able to employ professional staff. They will not be deputy attorneys general but they will be staff members of the office of the consumer advocate therefore the point that was raised to our office is that it should be clarified that what the advocate can do, those working under his supervision and authority can do and I think that is what the subcommittee is intended and that certainly is what the drafters of this legislation intended.

Mr. Mello stated that he personally saw no problem with the letter of intent.

Jan Wilson stated that Section 9 is the exception for telephone utilities - Section 10 is.

Jan Wilson stated that Section 9 is just that all copies of documents that are given to the PSC must be given to the Consumer's Advocate.

Section 10 states that the powers of the consumer's advocate do not extend to matters directly relating to consideration of tariff requested by a telephone utility for products or equipment which the utility certifies under oath are subject to competition.

Mr. Coulter asked if the consumer representative if he thinks that perhaps the oath given by the phone companies was not accurate - does this totally tie his hands?

Mr. Struve stated that he would not believe so. I think there are other statutes, Assemblyman Coulter, where if it is felt there has been a falsification under oath of certain statements that investigation can be launched, now whether that would be done by the consumer advocate or by some other division in the attorney general's office I don't know if I can represent, but it is certainly not my understanding that the hands would be tied if a certification falsely made cannot be acted upon. I would defer to your staff from the Public Service Commission since they obviously have situations now under PSC law where things are submitted under oath and I believe they have remedies if this is done to correct any falsification.

Mr. Mello stated that this office is under the jurisdiction of the attorney general. If the attorney general finds someone that is lying he can prosecute him.

Mr. Struve stated or make arrangements for it, to the extent of

our authority under law.

Mr. Mello stated that first of all he did not know why anyone would under oath lie about such things as these products and equipment.

Mr. Coulter stated that he thought that they could make an argument that something was subject to competition and if you stretch it far enough you could probably come up with that. You can always take a grain of truth and spread it out nice and broad so that you really could not get him for a false statement perhaps. There is a lot of grey area.

Mr. Mello stated that he believed that the fact that this is a first and everybody seems to want to keep the budget down and if you want to have the consumer advocate start right off doing everything then I recommend then that you double the budget and add the necessary staff to do that. That is one of the problems we were faced with.

Mr. Coulter stated that he did not think anything like that would be necessary. The person has the discretion to pick and chose his cases.

Mr. Mello stated then that Mr. Coulter believed there was a problem with this and you believe the consumer advocate just starting will have the time to pick and chose in this particular area.

Mr. Coulter stated that he certainly thought that it is conceivable.

Mr. Mello stated that he thought that we could go through this bill and maybe add other things to it right along with that and then add to the staff.

Mr. Schofield asked if the committee would look at Section 11. He believed that took care of Mr. Coulter's problem. On page 3.

Mr. Mello stated that we were going to get to that and he did not want to get too far ahead.

Jan Wilson stated that Section 11 is the provision that there is a great deal of discretion in the consumer's advocate office. He may represent or refrain from representing the public interest or any class of utility customers in any proceedings. He must, in making that decision, consider the importance and extent of the public interest or the customers' interests and whether those interests would be adequately represented without his participation. If there is a conflict between the one he chooses to represent and another interest, then there might have to be outside counsel hired to take on one of the interests.

Ms. Wilson stated that Section 12 is the legislative interim committee to review the performance of the office. The size of the committee was increased since the last meeting of the subcommittee at the

request of the Chairman of the Subcommittee. Three members of each house from the majority party, two members from the minority party. This would be a committee to review and recommend. It would not have any actual authority over the office. The recommendations we added should go to the attorney general as well as the Consumer's Advocate, Legislative Commission, Interim Finance and the Legislature.

Mr. Mello asked if there were any questions up to this point.

Ms. Wilson stated that Section 13 is just an amendment to the section on the PSC's regulatory fund to say that the money that is collected from the mill tax for the Consumer's Advocate must be transferred and there is a provision later for that transfer.

Section 14 is the provision for independent counsel for the PSC rather than a deputy attorney general. In subsection 4 at the end of that section at line 34, there is a provision to make sure that there is no conflict keeping the attorney general out of these cases completely. The attorney general is not precluded from appearing in or moving to intervene in any action and representing the interests of the State of Nevada in which the commission is a party and is represented by independent counsel.

Mr. Schofield stated that he would like to point out that the balance of this particular thing is related to in Section 11, Subsection 1 and Section 14, Subsection 4 gives a balance to this whole bill regarding that particular thing.

Mr. Struve stated that he thought that subparagraph 4 gives it balance because it preserves the right of the attorney general in NRS 228.170 to protect the interest of the State of Nevada and in the earlier sections that you referred to, the Consumer Advocate is given the necessary flexibility to allocate his resources as effectively as he can, given the limitations of the budget, so I think it would be fair to say they work in tandem.

Mr. Mello asked if there were any questions.

Mr. DuBois asked if the District Attorney still have the authority to intervene on a case on its own?

Mr. Struve stated that he may not intervene on his own. He may intervene as the attorney for his county which is what has occurred in the past.

Mr. DuBois asked if he would still have that option.

Mr. Struve stated that was correct. That is not being precluded.

Ms. Wilson stated that Section 15 is a section on the mill tax. It is provided here that the PSC tax may be not more than 4-1/4 mills. The Consumer's Advocate tax is 3/4 mills. The total

must not be more than 5 mills. For railroads, this came from the last meeting of the subcommittee, the total annual assessment must be that which is for the PSC and must not include that which is for the Consumer's Advocate.

Mr. Mello asked Ms. Wilson to explain why that was done.

Ms. Wilson indicated she was not sure she knew why that was done.

Mr. Mello stated that this was done because the PSC has little authority over the railroads. Mr. Mello asked if Heber Hardy would explain this.

Mr. Hardy stated that traditionally the railroads have such little intrastate service that we have really relied heavily on Interstate Commerce action and recently we have given up jurisdiction over railroad rates by a federal law, so we really should not regulate intrastate railroad rates any more.

Mr. Mello indicated that we did not want to take a chance on any suits as far as the money going into the office of the Consumer Advocate.

Mr. DuBois stated that we were raising the mill rate from 4 mills to 4-1/4 for the Commission and in view of the tremendous increases in revenues, what is the rationale. Will they need all that money?

Mr. Struve stated that the decision to raise the authority to levy the mill tax to 5 mills was a choice made by the subcommittee in view of testimony that has been presented in their prior meetings. As I understand it, and this is how the bill is currently worded, the 4-1/4 mills is the maximum authority or the maximum amount that can be levied by the Public Service Commission to raise funds for its regulatory fund. That is what will make this operation go. I believe over the past several years the Public Service Commission has not levied the maximum that they are authorized under current law which is 4 mills. It depends on their budget needs and is I think considered jointly with the money committees that process the budget.

Mr. DuBois asked if it would still be handled by budget control?

Mr. Struve stated that was correct. The .75 mills is mandatory and we have indicated to the committee that this is the only source of funds to fund the consumer advocate's budget and most importantly to provide revenues to hire the expert witness that are the heart and soul of an intervention.

Mr. DuBois asked as a point of interest what the Public Service Commission was at now with regard to the mills.

Mr. Mello indicated that they were at 4.

Mr. Heber Hardy stated that they were currently assessing 2-1/2 mills. In our current proposed revised which I presented to the Senate Finance Committee yesterday and this morning, we will be proposing to assess 3-1/4 mills the first year of the next biennium and 3-1/2 the second year. That is including using a substantial amount of our carry forward surplus as source of revenue during the next two years. Our problem is that in the second year of the next biennium there could be a situation where we might have to go higher than 2-1/2. I suppose that we could have lived with 4 mills for another biennium, but it is getting close and this is subject to scrutiny of both money committees and we do not assess more than we feel we really need. But as I say we are drawing down the reserve substantially and once that gets drawn down, then we may have to go to a substantially higher assessment as authorized.

Ms. Wilson stated that Section 16 - on page 7 at the top of the page - the commission shall on a quarterly basis transfer to the fund for the Consumer's Advocate that portion of the assessments collected which belong to the Consumer's Advocate so that all of the administration, the collection of the tax, is through the PSC and then there is the transfer.

Mr. Hardy stated for clarification there, under our procedures we collect for a calendar year beginning the following July and they have until August 1st to make their first payment and I would hope that there would be no misunderstanding here and that it would be our intent to make the first transfer of funds about August 1st when they get that first payment and not wait some period after that. The first would be August 1st and the dates are set out in the statute as to the other dates they come in.

Ms. Wilson stated that Section 17 relates to cooperative utilities and what is done there on line 10 is delete the requirement that they pay the mill tax. They are not covered by the consumer's advocate - the powers of the consumer's advocate and this says that they do not have to continue to pay the mill tax.

Mr. Hardy stated that this also eliminates them paying any mill tax to the commission and I have always felt that that has been an unfair situation because we really do nothing for the cooperatives except initially certificate them and they pay an application fee to do that. I think this is correcting something that should have been corrected some time ago.

Ms. Wilson stated that Sections 18, 19 and 20 are just changes from references to the state as to the entity to which fines are due changing the state to the Public Service Commission. That goes along with taking the attorney general (deputy attorney general) out of the PSC and making that an independent counsel.

Section 21 is simply taking care of the unclassified salaries on page 14 between the time this bill passes and July 1. That

is all this is for. At line 22 through 27 are the salaries for this office.

Mr. Mello stated that these salaries were for the five unclassified people and you have the one classified person in the budget.

Mr. Mello stated that the money committees will budget for two months and we have the pay back here of the \$200,000. They will also then continue the budget for the biennium. We will start off with a two month budget.

Mr. Mello asked if there were any questions.

Mr. Coulter asked how soon they were planning on finding a Consumer Advocate?

Mr. Mello stated that we felt until waiting until July, we should try to start this office as soon as this is passed. Your rents, your equipment, your contractual services will all be in the budget.

Mr. Struve stated that he might also point out that in light of the fact that there is a one month lag from the start of the fiscal year until a quarterly transfer is made from the PSC which will fund the budget, the \$200,000 transfer will provide for whatever lag period is involved to enable the operation to start up.

Ms. Wilson stated that Section 22 provides that the Attorney General shall appoint the first Consumer's Advocate for a term ending December 31, 1984. So this is about a 3-1/2 year term for the first one so that it ends in the middle of an attorney general's term. Section 23 is the transfer of \$200,000 from the PSC regulatory fund to the fund for the Consumer's Advocate to take care of the start up funds when the bill takes effect upon passage and approval.

Section 24 is the passage and approval section.

Ms. Wilson stated that Larry said we should be sure and mentioned that that \$200,000 is to be paid back by the Consumer's Advocate by 1983, March, 1983.

Mr. Struve stated in that connection it is my understanding that the 3/4 mill tax - a surplus will be generated from which the revenues will be available to pay back this money by that time.

Mr. Mello asked if everyone understood why we put Section 22 in there.

Mr. Mello stated that we wanted to keep as much politics out of this office as we can, so we have an attorney general who has a consumer advocate who will be there for an additional two years into his term. Mr. Mello stated that the consumer advocate is hired by the attorney general but the consumer advocate hires his staff, so it will be a staff that works for the consumer

advocate. We felt that that took a lot of the political tones out of it.

Mr. DuBois asked if there was anything in the bill that would permit the Consumer Advocate on a speculative basis to intervene in federal cases say through federal entity regulatory agencies.

Mr. Struve stated yes. He indicated that if the committee would turn to Section 8 on page 3, subsection 3 of section 8 - it begins "petition for, request, initiate" and so forth, if you will look down on line 25, you will note that after it talks about the authority to bring a matter that the advocate has either brought before or can bring before the Public Service Commission, the words appear "or in which the public interest or the interests of any particular class of utility customers are involved that he represents." If you will look back up on line 22, you will note that in addition to the Public Service Commission the advocate may intervene, appear, initiate in any court, regulatory body, board, commission or agency having jurisdiction over the matters that are discussed in line 25. The intent clearly is that if there is a budgetary capability to get involved, if the subject matter before an out of state board, agency or commission involves the public interest of Nevada or a body of utility customers that he can represent, the authority is here in this language for the advocate to intervene and to present the case.

Mr. Hardy stated that he would like to call the committee's attention to an extremely minor matter. On page 3, on line 10, we have had a bill passed and signed by the governor which eliminates jurisdiction over aircraft so that can be eliminated entirely right now.

Ms. Wilson stated that there are two places that that goes in.

Mr. Mello stated that we would like that to be taken care of in the Senate.

Mr. Mello stated he would like to get back to Section 10 for a moment. Mr. Mello stated that the feeling of the subcommittee was unanimous that we leave this section in the bill. We talked to the Coalition for Affordable Energy People and they agreed that they would take care of this or at least work on it over in the Senate.

Mr. Craddock asked if there was anyone other than the telephone company that may need or use the provisions in Section 10?

Mr. Hardy stated that the telephone company has a catalogue of equipment to sell.

Mr. Mello stated that this was our twelfth meeting on this. We have amended and amended and I can assure you that if you want to sit here and listen to people, the same ones over and over and over again will be here still working on this when we sini die.

Mr. Mello further stated that there were people that were nit picking, there are people that are doing everything possible to see this not work.

Mr. Redelsperger stated at one time there were more services in here too, but we took that out because they do have competition in long distance phone rates also. It is our feeling that there is a competition.

Mr. Mello asked if there were any other questions.

Mr. Mello asked Andrew Barbano if he had anything that he would like to add.

Mr. Barbano stated no.

Mr. Mello asked if he was satisfied with the bill other than Section 10?

Mr. Barbano stated yes.

Mr. Mello asked if he felt it was better than the Initiative Petition?

Mr. Barbano stated with the exception of Section 10.

Mr. Mello asked if there was anyone else that would like to say a few words?

Mr. Mello stated that on behalf of the subcommittee he would like to give special thanks to all of those people that have worked with us throughout these twelve meetings. Senator Spike Wilson has been working with us, Sam Hohmann - from our research department.

Mr. Mello asked if the Secretary would hold up the minute book of the committee. Mr. Mello indicated that that was what we have collected at our hearings - not including this one.

Mr. Mello indicated that he would like to say a special thanks to Jan Wilson, who has done a fantastic job in drafting this bill and to our fiscal analyst, Bill Bible. We have the Andy Barbano/Randolph Townsend, the Public Service Commission, Heber Hardy who has been here at practically every meeting helping. We have had full cooperation from these people. John Clark, the public utilities, Cen Tel, Nevada Bell, Nevada Power, Sierra Pacific Power Company, Southwest Gas, Southern Pacific Railroad, also, one of the lobbyists that represents Southwest Gas also represents the Union Pacific Railroad and again, special thanks to John Capone, who represents the Governor. If I have left anyone out I am sorry. Also to Larry Struve.

Mr. Mello indicated that Larry (Struve) had been very helpful to

the subcommittee. You have been working with Jan (Wilson) on a day to day basis and with Spike Wilson. I think we have done a lot of work here and hopefully we have a bill here that everyone can accept in the assembly.

Mr. Schofield stated that Mr. May expressed his regret for not being able to be at this meeting but that he was tied up in a taxation meeting.

Mr. Mello stated that he will then entertain a motion from the subcommittee that we accept the letter of intent on AB 473.

Mr. Schofield moved that the subcommittee makes a recommendation to the committee as a whole of Government Affairs a do pass on AB 473, with the letter of intent. The motion was seconded by Mr. Prengaman. The motion carried unanimously.

Mr. Mello asked Mrs. Westall if she would kindly take a vote of her subcommittee.

Mrs. Westall asked if her subcommittee was ready to take a vote on the bill.

Mr. Marvel moved for a Do Pass on the budget, which was seconded by Mr. Coulter. The motion carried unanimously.

Mr. Mello stated that he had talked to the Ways and Means Subcommittee Chairman, Mr. Bremner, who has said that he sees no necessity in referring this bill to Ways and Means.

Mr. Marvel stated that he would just like Mr. Bremner to just take a look at it.

Mr. Mello stated that this was not an uncommon thing. Many times the money committees hear a bill such as this. Mr. Mello stated that when he had Ways and Means he had cooperated with Mr. Dini and the Government Affairs Committee, if we had a bill that we felt was extremely important and the concept was accepted by the money committees. Mr. Mello asked Mr. Marvel if he personally had any problems with the way the bill is drafted.

Mr. Marvel stated no and as a matter of fact this is the first time he had had an opportunity to scrutinize it.

Mr. Mello then adjourned the subcommittee at 9:55 A.M.

Chairman Dini called the Government Affairs Committee to order at 9:55 A.M.

Mr. Dini asked that the record show that a quorum was present and that Mr. May is excused.

Mr. Dini asked for a report from the Government Affairs Subcommittee on the Consumer's Advocate.

Mr. Mello stated that the Subcommittee as you know has recommended a Do Pass on AB 473 with the Letter of Intent to clarify some doubts in the Attorney General's Office with regard to Section 8. Mr. Mello stated that it also is the intent of the Subcommittee that the bill go to the floor.

Mr. Mello moved for a Do Pass on AB 473 with the Letter of Intent which was seconded by Mr. Schofield.

Mr. Craddock stated that he had indicated all along that I would like to have some views on the long range plan for the consumer advocate. Mr. Craddock stated that he had condensed a few newspaper clippings from the Wall Street Journal - February and March - and I would like to just say as a reminder to submit my condensation of the Wall Street Journal Article. Mr. Craddock stated that he felt that Section 15 - utility rates are raising higher than any and all other things - that the increased mill probably should result in sufficient revenue without resorting to increasing the mill tax. It seems that the increased amount of money which results from inflationary trend which is stronger in the utility industry that probably the increased percentage was not necessary. However, I am not disgruntled with the fact that it is there.

Mr. Craddock's condensation of the Wall Street Journal Articles is attached as EXHIBIT B.

Mr. Nicholas stated for the record that he would like to submit his personal compliments to the subcommittee and its Chairman on the handling of this particular bill.

Mr. Dini stated that on behalf of the committee in general he would like to thank the subcommittee for their diligence and hard work and the fine product that they turned out. I feel that this is an outstanding bill. The subcommittee and the staff should be commended for the outstanding job that they did.

Mr. Dini asked all of the committee members who were in favor of the motion to signify by saying "aye". The motion carried unanimously.

Mr. Mello asked for the feeling of the subcommittee that when the bill goes to the floor that we will pass it as is.

Mr. Dini stated that he believed that the committee should support the bill as it is and not allow any amendments to be placed on it. Mr. Dini stated that the bill had been heard and heard.

Mr. Mello indicated that the reason he said that was that there could be people will try to amend the bill, delay the bill and hopefully delay it enough, or try to send it to other committees. If so, it will not get out of the Assembly.

Mr. Schofield stated that he would like to go on record to say that with the efforts of everybody involved in this room, we have come out with a clean bill that would be workable and acceptable by the people of the State of Nevada representing by the Consumer Advocacy everything that was in the Initiative Petition, plus additional things, and I think with that we have come out with something that is going to be very, very acceptable by everybody involved. I agree with Mr. Mello. You can kick everything around that we try to do and everybody had a different idea. We have had a lot of input into this bill, I think it is a clean bill, it is something that we are putting out on the floor and I agree with Mr. Mello that we should not fool around with this bill. It is a good bill, it is a workable solution to the problem that has been expressed by the people. I believe Andy (Barbano) would agree with everything that I have said.

Mr. Mello questioned Andy Barbano with regard to Section 10.

Mr. Barbano indicated that he had talked to Senator Wilson about it.

Mr. Redelsperger asked if Section 10 was left in if Mr. Barbano felt that he could support this bill.

Mr. Barbano stated if it were a question of leaving it in or losing the bill, I would say leave it in.

Mr. Redelsperger asked if he would support this bill in place of the Initiative Petition on the ballot.

Mr. Barbano stated with the exception of Section 10, yes.

Mr. Dini asked for a show of hands of the people in the audience who are going to support this bill.

The showing of hands was unanimous.

Mr. Dini indicated that the committee had some additional business to take care of. BDR 1250*. Mr. Mello moved for committee introduction of BDR 1250, which was seconded by Mr. Schofield. The motion carried unanimously. Mr. Dini indicated that he would like to discuss BDR 21-1246** for committee introduction. Mr. Schofield moved for committee introduction of BDR 21-1246, which was seconded by Mr. Mello. The motion carried unanimously.

Mr. Dini stated that he would again like to commend the committee for the fine job that they did on the Consumer's Advocate Bill.

Mr. Mello indicated that the subcommittee had worked very, very hard on this and it is the first time that a member is not here, not because he does not support it, but because he is right now involved in tax matters. (Mr. Mello was referring to Paul May).

*AJR 36

**AB 484

(Committee Minutes)

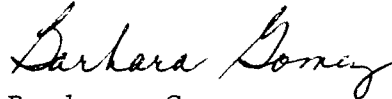
Mr. Prengaman stated that this bill had a lot of fathers, some legitimate and some illegitimate but it was Dr. Mello that delivered it, and Barbara. Mr. Prengaman stated that some days the material on Barbara's desk was higher than she was.

Mr. Mello indicated that he would like it to be part of the record that the secretary worked hard and long on this bill and that she knew every bit of it. As an example, a question was asked in the last meeting and she went right to it in the minute book.

A copy of AB 473, together with a copy of the Letter of Intent is attached to the minutes of this meeting as EXHIBIT C.

There being no further business to come before the meeting, the meeting adjourned at 10:03 A.M.

Respectfully submitted,



Barbara Gomez
Assembly Attache

JOINT MEETING OF THE
SUBCOMMITTEE OF GOVERNMENT AFFAIRS AND
THE SUBCOMMITTEE OF WAYS AND MEANS ON
THE CONSUMER'S ADVOCATE

April 10, 1981

INDEX OF EXHIBITS

- Exhibit A - Proposed language of Letter of Intent submitted by Larry Struve of the District Attorney's Office with regard to Section 8.
- Exhibit B - Condensation of Wall Street Journal Articles submitted by Mr. Craddock.
- Exhibit C - Copy of Assembly Bill 473, together with signed copy of Letter of Intent with regard to Section 8 of A.B. 473.

April 10, 1981

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

Re: A.B. 473

It is the intent of the Subcommittee on Government Affairs that the statutory powers and authority conferred on the consumer advocate in Section 8 of A.B. 473 are intended to enable the office of advocate for customers of public utilities, which is created in Section 3 of the bill, to carry out all of the purposes of A.B. 473 in protecting the "public interest" and the interests of utility customers represented by the consumer advocate. In this connection, the Subcommittee interprets the term "consumer's advocate" as used in Section 8 to include staff members and consultants who are employed by the consumer advocate in his official capacity and who are working under his supervision and direction pursuant to Section 5 of the bill.

Mr. Chairman &
members,

In the interest of
making sure that
the long range
effects are considered
I have condensed
a brief statement
from ~~the~~^{two} Wall Street
Journals one dated
Feb 2, 1981 and the
other March 13, 1981,

for the record.

The indications are
the long range
financial health
of the electric
utilities is bad.

ELECTRIC UTILITIES - SUMMARY

ELECTRIC UTILITY COMPANIES ARE IN FINANCIAL TROUBLE AND SOME MAY FACE BANKRUPTCY. MANY ARE RELYING UPON DEPRECIATION FUNDS AND BANK LOANS TO PAY SHAREHOLDERS' DIVIDENDS. THEIR CREDIT IS DETERIORATING, AND THEIR SOURCES OF FUNDS ARE "DRYING UP". CUSTOMER INTOLERANCE OF INCREASED RATES MAKES THE PROBLEM WORSE.

THE INDUSTRY'S PROBLEMS STEM PARTLY FROM CHANGES IN THE ECONOMICS OF ELECTRICITY. FOLLOWING THE 1974 OIL EMBARGO, UTILITIES WERE SHORT OF CASH; CURRENTLY, INFLATION, SLUGGISH ECONOMIC ACTIVITY, AND STAGNANT DEMAND FOR ELECTRICITY EXACERBATE THE INDUSTRY'S FINANCIAL PROBLEMS.

CONSTRUCTION COSTS ARE A MAJOR BURDEN. BUILDING COSTS, CHANGING FEDERAL REGULATIONS REQUIRING COMPANIES TO REDESIGN CURRENT FACILITIES, AND DELAYS ARISING FROM BLOCKING ACTIONS BY ENVIRONMENTALISTS OR THE UTILITIES' INABILITY TO RAISE MONEY, ARE AMONG THE PROBLEMS THAT MAKE FINANCIAL PLANNING ALMOST IMPOSSIBLE.

CAPITAL SPENDING ESTIMATES FOR THE NEXT DECADE RANGE UP TO \$700 BILLION, ABOUT THREE TIMES THE CURRENT INVESTMENT IN ALL EXISTING ELECTRIC FACILITIES. ALSO, THE AVERAGE UTILITY'S ABILITY TO GENERATE MONEY INTERNALLY HAS WEAKENED, AND THE COMPANIES ARE HAVING TROUBLE PAYING STOCK DIVIDENDS. AN INCREASING SHARE OF REPORTED EARNING ISN'T CASH, BUT COMES AN ACCOUNTING CREDIT KNOWN AS THE ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION (AFUDC); IN 1979, THIS FUND ACCOUNTED FOR

14% OF INCOME AVAILABLE TO SHAREHOLDERS, AND FOR ABOUT 50% IN 1980. AFUDC DOES NOT HELP A COMPANY PAY BILLS, AND, BY PUSHING UP REPORTED EARNINGS, MAY BLOCK RATE INCREASES.

UTILITIES ARE PLANNING TO SELL LONG-TERM DEBT AND COMMON STOCK, BUT THEIR PROBLEMS MAKE THEM UNATTRACTIVE INVESTMENTS. MOST OF THEIR STOCK NOW SELLS AT BELOW BOOK VALUE. CURRENT INFLATION RATES ALSO MAKE BOND ISSUES TOUGHER TO SELL, ESPECIALLY SINCE UTILITIES' CREDIT RATING DECLINES. FINALLY, EVEN IF UTILITIES ACQUIRE THE CASH TO COMPLETE CONSTRUCTION PROJECTS, REGULATORS MAY REFUSE TO ALLOW THEM TO CHARGE CUSTOMERS FOR THE INVESTMENT.

ANALYSTS ESTIMATE THAT RESTORING THE COMPANIES' FINANCIAL HEALTH WOULD REQUIRE RATE INCREASES OF \$5 TO \$8 BILLION A YEAR BEYOND ANY COST.

*Information condensed from
Wall Street Journal Feb 2 + March 13, 81*

A. B. 473

ASSEMBLY BILL NO. 473—ASSEMBLYMEN WESTALL, DINI, MELLO, SCHOFIELD, MAY, PRENGAMAN, REDELSPERGER, JEFFREY, POLISH, DuBOIS, CRADDOCK, NICHOLAS, VERGIELS, THOMPSON, PRICE, FOLEY, HORN, KOVACS, BARENGO, BREMNER, HAYES, HICKEY, BERGEVIN, SADER, STEWART, ROBINSON, MARVEL, BANNER, BENNET, BEYER, CHANEY, COULTER, GLOVER AND HAM

APRIL 8, 1981

Referred to Committee on Government Affairs

SUMMARY—Creates office of advocate for customers of public utilities within attorney general's office. (BDR 58-1683)

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

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public utilities; creating the office of advocate for customers of public utilities within the office of the attorney general; defining his powers and duties; imposing an annual assessment upon public utilities for the support of his office; creating the fund for the consumer's advocate and transferring money to that fund; creating a legislative committee to review the performance of his office; providing for independent counsel for the public service commission; and providing other matters properly relating thereto.

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

- 1 SECTION 1. Chapter 228 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this act.
3 SEC. 2. 1. "Consumer's advocate" means the advocate for customers
4 of public utilities.
5 2. "Cooperative utility" means a cooperative association or nonprofit
6 corporation or association which supplies utility services for the use of its
7 own members only.
8 3. "Public interest" means the interests or rights of the State of
9 Nevada and of the citizens of the state, or a broad class of those citizens,
10 which arise from the constitutions, court decisions and statutes of this
11 state and of the United States and from the common law. As used in sec-
12 tions 2 to 12, inclusive, of this act, the term refers to those interests and
13 rights as they relate to the regulation of public utilities.
14 SEC. 3. The office of advocate for customers of public utilities is



Nevada Legislature

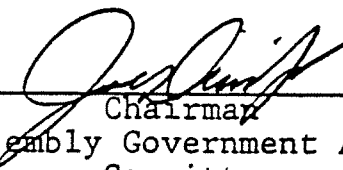
SIXTY-FIRST SESSION

April 10, 1981

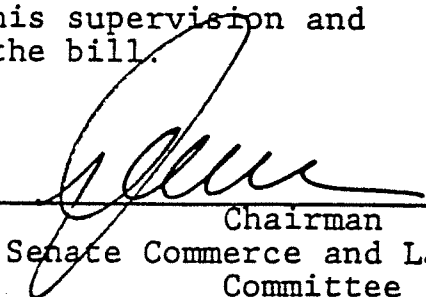
TO: The Attorney General of the State of Nevada

Re: A. B. 473

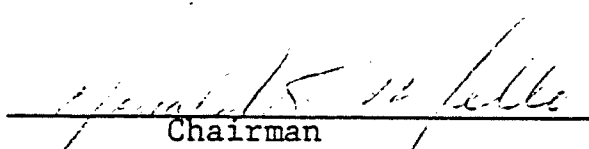
It is the intent of the Subcommittee on Government Affairs that the statutory powers and authority conferred on the consumer advocate in Section 8 of A.B. 473 are intended to enable the office of advocate for customers of public utilities, which is created in Section 3 of the bill, to carry out all of the purposes of A.B. 473 in protecting the "public interest" and the interests of utility customers represented by the consumer advocate. In this connection, the Subcommittee interprets the term "consumer's advocate" as used in Section 8 to include staff members and consultants who are employed by the consumer advocate in his official capacity and who are working under his supervision and direction pursuant to Section 5 of the bill.



Chairman
Assembly Government Affairs
Committee



Chairman
Senate Commerce and Labor
Committee



Chairman
Sub-Committee on Consumer
Advocate Bill