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

GUESTS: Mr. Joe Melcher, Washoe Recorder
Mr. Patrick Pine, Clark County

Chairman Dini called the meeting to order at 8:10 A.M. The first bill to be heard is SB-64: Limits transfer of water rights affecting irrigation districts.

Former Senator Carl F. Dodge testified that within the counties of Pershing, Lyon, Churchill and Storey Counties are the only three irrigation districts under the Irrigation District Act Chapter 538, the Pershing Water Conservation District, the Truckee-Carson Irrigation District and the Walker River Irrigation District. These districts impound waters of three separate river systems and they are all on the lower end of the stream. We have an entirely different set of considerations involved when we talk about the transfer or regulation of water rights within a irrigation district than we do with single appropriators along a stream system. In the case of a single appropriator, if somebody wants to buy his water right, transfer it for municipal or industrial purposes or to other agricultural land, it doesn't really infringe much upon the rights of any other water right owners. They are not paying the operation and maintenance cost to an irrigation district. Many other factors are involved. But in the case of an irrigation district, the district is operated through a central system where all water right owners pay operation and maintenance costs to the district, bond for capital improvements which is a debt retirement against water right acreage. These things are not involved in the case of a single appropriators. It appeared to me that it was timely to try to place guidelines in the state engineer's act concerning the handling of water rights which would offer some safeguards concerning the transfer of these water rights within irrigation districts.

Water right owners are assessed annually for debt retirement to the federal government and for operation and maintenance. So, it is important to try to sustain the amount of that acreage in an irrigation district. If it shrinks through the non-use of the water right or the transfer for some other use, it places a greater burden financially on the other owners to sustain the operation and maintenance costs. This is the primary reason for the first of these two provisions in the bill, commencing on Line 10, which speaks of the transfer of water rights if it does not adversely affect the cost of water for other holders of water rights in the district. The second guideline is one to improve the efficiency of the delivery or use of water within an irrigation district. The district, for example, should not be forced to deliver water under a transfer approved by the state engineer to land which is isolated or which requires an unreasonable extension of existing delivery ditches. These situations increase water transportation losses. Likewise, the district should not be forced to serve new land which has a high annual water requirement. That is counter-productive, where you have a limitation on water and someone wants to apply a water right to some sandy ground that is a very high use area and is not in the best interests of anybody. Neither should the district be forced to serve by virtue of approval of a change, attachment of a water right to some other land, marginal or unproductive lands. We should be looking more in the future towards maximum productivity with whatever water we do have available. These districts all experience short water years. The Truckee-Carson Irrigation District is probably the most arid area in the United States. In those years, farmers on a reduced water supply have a difficult time sustaining themselves financially on limited production and everyone needs to stretch the water as far as it will go. All these districts, remember, are at the lower end of the stream systems.

For all of these reasons, these guidelines written into the law are protective of the overall interests of the many farmers involved and places an emphasis on the desirable objective of better water management in the future. It in no way precludes legitimate considerations of the transfer of water.

Mr. Dini stated: Say, that the City of Carson City came to Fallon and bought a 500 acre ranch with water rights and wanted to transfer it to Carson City. Under this bill, how would that work?

Senator Dodge: There is nothing to prevent such a transfer except that there needs to be some plan in that negotiation to minimize the financial impact on the rest of that agricultural acreage if in fact it is transferred out for municipal and industrial purposes. There is nothing to preclude in this bill

a use upstream, either in the Carson area or in the Reno-Sparks area, to be transferred from agricultural land in Fallon for the highest use there is for water and that is domestic, municipa and industrial use. There is no vetoe authority on the part of the district to prevent that transfer. Hopefully, through a negotiation, the district would be compensated to some extent over the years, on an annual basis, maybe just the assumption of the O & M charge that historically would be levied against that land, so that it does not have to be assumed by the remaining water right owners. There could be some sort of identification of the areas within the irrigation districts where you might want to detach that water right for transfer away. I have in mind some of the sandy areas that we do have, which are high use areas. So, that plus the fact that we don't want to have a checkerboard situation where Sierra Pacific Power Company or Carson City came in and would try to negotiate with a little block of land here and some other block of land there which could impair the efficiency of the delivery of water.

Mr. Dick Lattin, a former member of the Truckee-Carson Irrigation District Board and has been its manager for a number of years, testified that his district agrees with Senator Dodge's summation. We have been allowed to transfer water rights in our district through the district board and Department of Interior. When the (Gozelle) decision came out, it said that if we violated any aspect of the decision, we would not be allowed to transfer water rights. So, for the last ten years, we have not been able to transfer water rights. So, in the case of homes or buildings been constructed, we could not transfer the water rights involved from that to a productive area. We have been sitting stagnant. The decision on the Alpine case ruled on by Judge Thompson gives the state engineer the authority to transfer those water rights within our district. We like the guidelines on the state engineer so that we can retain a viable project.

Mr. Mello asked where the problem actually exists.

Mr. Lattin stated that a mechanism was worked out for the transfer within the district with the Department of Interior on the assumption that they had the authority because it was a federal reclamation project. Seven transfers were made through the district. With the (Gozelle) decision, it substantially reduced the annual water allowance of the Truckee-Carson Irrigation District from around 400,000 acre feet to 288,000. The decision further stated that until such time as the district complied with that 288,000 acre foot operating criteria, they could not transfer any water rights. We don't really know what the status of that decision is at this point or will be in the future.

When Judge Thompson came down with the Carson River decree he specifically dealt with that, citing several cases which said that where the water right was attached to the land, as opposed to being delivered, the authority was with the state engineer. If that is sustained, (the government has filed a notice of appeal) this authority will be with the state engineer.

Mr. Pete Morros, Department of Conservation, testified that his department supports the concept of SB-64. Under this bill, the state engineer would consider the impact on the orderly distribution of the water rights. Sometime back, we had a situation with the City of Carson City where they had purchased Carson River water rights. In the administrative hearings that were held on those applications to change, there was extensive testimony concerning the effect of removing those rights and what effect that would have on the return flows and in turn what effect that would have on the downstream users. There were some adjustments made in the appropriation that was allowed under those applications to change to take into account the return flows that would have an impact on the downstream users.

Mr. Jim Wysep, Manager of the Walker River Irrigation District, testified that his district agrees with the original intent of the bill, and that is, that the irrigation district should have direct approval or disapproval of any transfers that affect our water. The bill puts the burden on the state engineer to assess the effective cost and efficiencies that a transfer may present. Only with a detailed hearing of the district's functions, can a state engineer become qualified to evaluate the real effect that a transfer may have. We need some support to protect the existing water rights; therefore, we feel by state statute have the right to approve or disapprove any of the transfers.

Mr. Dini asked if he would like to go back to the original bill?

Mr. Wysep answered that they would like to go back to the original version of the bill. There are not enough teeth in this one. It is, however, an improvement over the original statute.

Senator Virgil Getto, a water right owner and farmer, testified he supports the bill, although the original bill would have been better for the irrigation districts. The most important part of it is that agriculture is diminishing in the state of Nevada and there is pressure on all sides as the water situation gets more critical, the competition gets greater. It is a compromise bill. The only way to make it better is to get the original bill back.

This concluded testimony on SB-64.

The next bill to be heard is SB-14.

Senator Getto indicated that he Mr. Lattin and Mr. Wysep would all testify on this bill.

Senator Getto stated that he wanted the committee to take a look at sub-section 2, on Page 1, regarding the 2/3 approval. He questioned the need for that language.

Mr. Lattin stated that they had attended several meetings on the amount of money that our directors were paid which was $35.00 a day and they would like to have it raised to $50.00. It seems that it costs that to hire a farm hand to replace you for the day to go to a meeting. The other thing is that we couldn't spend over $50,000 without going to a vote of the irrigation district. $50,000 doesn't buy you much in the way of equipment today.

Mr. Wysep stated that by restricting the indebtedness limit from $100,000 to $160,000 would not be harmful. He reviewed the same changes that Mr. Lattin had presented before him.

Mr. Mello asked for the number on the irrigation district board.

Senator Getto answered that the number is seven. There are approximately 2,300 farmers represented.

(THE CORRECT SPELLING OF MR. WYSEP'S NAME IS: WEISHAUPT).

Mr. Pete Kelly stated that on Line 23, Page 1, relative to the publishing of a notice in a newspaper, it would seem in order to be consistent with SB-41, we should incorporate the language that SB-41 has, into SB-14.

This concluded the testimony on SB-14.

SJR-26

Mr. Pat Pine, Clark County, testified in support of SJR-26. His testimony is attached hereto as EXHIBIT A, and made a part of it.

Mr. Mike Cool, City of Las Vegas, testified in support of SJR-26. He indicated that they see no harm in eliminating the requirement that the county and township government be uniform throughout the state, and supports SJR-26 in its amended version. The uniform

government requirement is clearly outmoded. It is unrealistic in the 1980's where counties differ so strikingly is their size and needs. Nevada may now be the only state in the union which still requires is conformity. States have allowed counties the power to frame governments appropriate to their circumstances, by permitting counties to frame and adopt charters by providing optional forms of county government for adoption by the voters, or, through general constitutional grants of home rule powers. More than two-thirds of the states leave the important decisions concerning the form of their local government up to the voters in one way or another.

This concluded the testimony on SJR-26.

The next bill to be heard is SB-368.

Mr. Jim Lien, Clark County, and Business Manager of the Las Vegas Metropolitan Police Department, testified that this bill would allow the county controller, who is the Metro's fiscal agent, to pay the claims of the department in the same manner as claims against the county are paid. Chapter 274 of 1979's statutes amended NRS 244.210 to allow the controller to process claims after an audit and to disburse warrants with the county commission receiving copies of those voucher sheets after the fact. When Chapter 274 went into effect, Metro's claims were going to be processed, and were processed, the same as the county's. We later found, however, that Chapter 280, which is the chapter creating the Metropolitan Police Department prohibited that procedure and requires prior Police Commission approval. Presently, what we do is that secure the voucher sheets from the county controller and then we go to the city offices and then to the county officers to secure signatures of the several police commissioners in order for those vouchers to be processed and the warrants released. That certainly is a very questionable act because, in essence, we are receiving signatures and approval, although there is not a meeting of the Police Commission at that particular time.

It also prolongs the process of paying our vendors, etc. Normally, just to secure signatures on the register can take up to ten days' time. The processing time in our own offices and the controller's office and the time necessary for securing signatures can be up to thirty days before we are able to actually pay the bill itself. SB-368, as amended, will allow the department to process its 400 or so claims a month on a rather daily basis, with the exception of those that the Police Commission has, by resolution, decided it wants to approve in advance. 95% of our claims could be processed on a regular basis and the warrants disbursed and the balance of about 5% classified as 'special' would go before the Commission prior to those warrants being drawn. It will allow the department to pay its demands or claims on a regular basis with the Commission being advised after the fact, just as Clark County and Washoe County do.

In answer to Mr. Dini's question as to what 'contested claim' meant, Mr. Lien answered that this could be one that could be contested by the department as being a problem claim, or a vendor has contested an adjustment made or it can be an outside contest of a claim submitted to the department.

Mr. Pat Pine, Clark County, testified he wanted to be on record as supporting the bill, as amended, from two standpoints. First, as assistant controller of the county, as it will make the functioning of my office much easier. Approximately 25% of the paperwork that goes through the controller's office is related to Metro, so anything eases that process will in turn not only help Jim Lien's office, but will help my office. Secondly, speaking on behalf of the County Commissioners, with the inclusion in the amended version of the ability for them to specify by resolution which claims must come before the Commission prior to payment, would have their support.

Mr. Mike Cool, City of Las Vegas, testified in support of the bill.

This concluded testimony on SB-368.

The next bill to be heard is SB-364.

Mr. Joe Melcher, County Recorder for Washoe County, testified that the bill was put together by the county recorders at our meeting in May, 1980, at the fiscal officers' meeting in Reno. We again approved these suggested increases in our fees at the Nevada Association of Counties meeting held last fall in Winnemuca. It is a very conservative approach. There has not been a basic fee increase in the recording of documents since about 1967 and feel it is a necessary function based on inflation and costs of handling all these items. The increase in fees goes into the general fund for the counties, not into our coffers.

Mr. Pat Pine, Clark County, indicated support for SB-364.

This concluded testimony on SB-364.

Chairman Dini presented a BDR 23-1488* for introduction by the committee, which abolishes the Personnel Division and creates a Department of Personnel. Mr. Mello moved for introduction. Motion was seconded. Motion carried.

There was a 15 minute recess at 9:25 and the meeting reconvened at 9:55.

Mr. Dini asked the committee's desire on SB-64. Mr. Schofield moved a DO PASS, seconded by Mr. Nicholas. Motion carried.

*AB477

On SB-368, Mr. Jeffrey moved a DO PASS, seconded by Mr. Prengaman. Motion carried.

On SB-364, Mr. Polish moved a DO PASS, seconded by Mr. Mello. Motion carried.

On SJR-26, Mr. Jeffrey indicated that he and Mr. May have a proposed amendment. He said: our concern is that in a vote that might affect our area, as far as a consolidation or merger is concerned, we might be lumped into a county-wide vote, or could be. The amendment would reflect that no existing charter city may be merged or consolidated or absorbed in any other political subdivision without the majority vote of the district voters at a regular or special election.

Mr. May said it would protect the sanctity of existing charter cities in a consolidation move to give notice to the people in that city and a right for them to either vetoe or approve such a proposal.

Mr. May moved to AMEND, seconded by Mr. Jeffrey. Motion carried.

Mr. Mello moved to AMEND AND DO PASS, seconded by Mr. Nicholas. Motion carried.

On SB-14, Mr. Dini stated that on Line 21-23, Page 1, we need to put the same language that was put in SB-41, which said: 'to be published in a newspaper of general circulation in the area, or if there is no newspaper, then a newspaper of general circulation'. On Page 2, on Line 18, increasing the amount to $200,000.

Mr. Mello moved to AMEND as indicated. Mr. Schofield seconded. Motion carried.

Mr. Mello then moved an AMEND AND DO PASS, seconded by Mr. Schofield. Motion carried.

On AB-410, Mr. Dini asked Mr. Redelsperger for a report. Mr. Redelsperger stated that the subcommittee is reviewing the material. Mr. Dini suggested that he call Lyon County Courthouse, Betty, the administrative assistant to the County Commission, and talk to her about the boards work in Lyon County.

Mr. Dini announced that tomorrow, the subcommittee on the Consumer Advocate will be meeting here at 9:00 A.M. This is AB-473. The subcommittee will conduct the meeting. I want the entire committee here during that subcommittee meeting. As soon as the subcommittee is done with their work, we will convene the whole committee and take up action on the bill.

Mr. Mello reported on the committee hearing on AB-139 by the Senate Government Affairs committee. This bill put the vote of the people on how they wanted their council to run, by wards or be nominated by a ward and elected at large. At the time, they were opposed to the bill, but when I suggested those amendments, I asked each one of them if they would oppose the bill if it went to the vote of the people, and they said 'no'. At the Government Affairs meeting last night, they gave all indication that they were not even aware of that. That they were opposed to the bill, period. They indicated that they weren't even asked about it.

Mr. Dini adjourned the meeting.

Respectfully submitted,

Lucille Hill

Lucille Hill
Assembly Attache

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date 4-9-81

PLEASE PRINT

PLEASE PRINT YOUR NAME	PLEASE PRINT REPRESENTING:		I WISH TO SPEAK FOR	AGAINST	BILL NO.
JOE MELCHER	WASHOE RECORDER		✓		SB 364
PATRICK PINE	CLARK COUNTY		✓		SJR 26

Clark County
Testimony on SJR 26
Presented by Patrick Pine
April 9, 1981

Clark County strongly supports SJR 26. Over the past decade, it has become apparent that due to drastically varying population size and density within the state of Nevada, the state constitutional mandate of uniform statutes for all of Nevada's 17 counties is nearly impossible.

In fact, the Nevada statutes today are replete with references to the classification of counties and townships based on population. One need only to refer to SB 72 of last session to discern how pervasive population classifications are for Nevada's townships and counties in today's state statutes. Population classifications affect justices of the peace, marriage commisioners, jury commisioners, probation committee (NRS 62.100), recreational facilities (NRS 244.3081), development and maintenance of water, sanitation, and storm sewer systems (NRS 244.366), county fair and recreation board for our convention and visitor authority (NRS 244.647), providing offices of county controller (NRS 251.170), and public defender (NRS 260.010), our unincorporated towns (NRS 269.500), as well as the providing for Metropolitan Police Department (NRS 280) 318 districts, hospital trustees (NRS 450.090), etc. Statutes based on classification have been developed and utilized by the Legislature and are the very underpining for providing county and township services throughout the state.

Exhibit A 1512

The State Legislature has recognized that the concerns of the various counties and townships within the state are not uniform in nature and laws must be developed to efficiently and effectively provide services to our communities.

SJR 26 proposed to remove the uniformity clause from the constitution and allow for the classification by population or other reasonable method. This, in essence, places into the constitution what is already legislative procedure....a practice upheld on a number of occasions by the Nevada Supreme Court. It sould be noted that the Nevada Supreme Court has never overturned a statute simply because of a population classification. The problem encountered with certain statutes such as the County Commission Districts Act, the Fire Departments Consolidation Act, the City/County Consolidation Act, was one of special legislation, i.e., the Supreme Court found that act was so specific that it could not apply to other counties within the state besides Clark County.

Although the Nevada Supreme Court has upheld population classification, our county attorneys have spent numerous hours defending a number of challenges to various statutes inacted by the Legislature based on such classification. The proposed constitutional amendment would substantially eliminate these challenges by simply clarifying that population is a legitimate classification mechansim. (See Attachment A)

Currently before the Nevada Supreme Court are two major Legislative acts found to be unconstitutional by district court, the Metropolitan Police Department Act and the Taxicab Authority Act.

Section 2 of SJR 26 would allow for the Legislature to develop optional forms of county government but any such statute would have to be approved by the voters in the affected county. This provision we wholeheartedly support in that: (1) it gives the Legislature the flexibility to develop general or specific legislation for various county entities depending on their specific needs, but (2) within the protection that the electorate of that county will have the opportunity to vote for or against the actual enactment of the statute.

Thus, SJR 26 is significantly different from SJR 1, reviewed in the last session, in that SJR 1 simply deleted the uniformity clause from the constitution. SJR 26 deletes the uniformity clause but replaces it with specific verbage to: (1) classify townships and counties by population or other reasonably related methods - - a current legislative practice upheld by the Nevada Supreme Court, and (2) provide for optional forms of county government by statute and only after a vote of the people. end of testimony

We would recommend one minor change to section 2, however. The way the bill is presently worded is ambiguous as to whether the electorate voting on some potential optional form

measure is limited to the registered voters of the affected county or whether it would be a state-wide referendum. Since the intent is obviously to give the residents of the particular county input into the structure of their government and not the state as a whole, it would appear desirable to amend section 2 clarifying it to read "registered voters in the affected county". (See Attachment B)

Summary Review of Court Challenges to Classifications of Townships and Counties

1. Cases where population classifiers have been upheld:

State vs. Donovan

Constitutional population classification premised on a maximum number of votes cast in any general election - held constitutional

Fairbanks vs. Pavlikowski

An additional J.P. provided for any township in Nevada having a population of 100,000 or more - held constitutional

Reid vs. Woofter

Prohibition against any J.P. solemnizing marriages in any township which had 8,000 or more registered voters and was located in a county having 50,000 or more registered voters at the close of registration for the last preceding general election - held constitutional

Damus vs. County of Clark

Statutory authorization to any county with a population in excess of 200,000 persons to issue special and general obligation bonds without voter approval - held constitutional

2. Cases where statute held unconstitutional:

(1) County Commission Districts - specific legislation - the act described in detail, down to metes and bounds the districts, thus could only apply to Clark County.

(2) Fire Department Consolidation Act - The principal argument used by the Nevada Supreme Court in finding that this was specific legislation is that representation on the board violated the one man, one vote principle.

(3) City/County Consolidation Act - Found to be specific legislation principally due to one man, one vote issue as well as specifically designed districts.

3. Pending cases before the Nevada Supreme Court:

The following two acts were found unconstitutional by the Clark County District Court:

(1) Metropolitan Police Department Act

(a) Taxicab Authority Act

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