

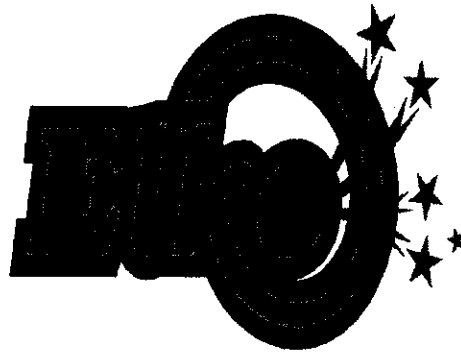
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March 25, 2003

The Honorable Assemblyman David Parks, Chairman  
Assembly Taxation Committee

Re: Assembly Bill 361, a bill that requires local governments that acquire certain public utilities or expand certain facilities for utility service to make certain payments or provide certain compensation in lieu of taxes and franchise fees.

Dear Assemblyman Parks:

I apologize for not being able to attend the March 25, 2003 meeting of the Assembly Taxation Committee at which Assembly Bill 361 will be discussed. Unfortunately, I have a City Council meeting that afternoon, and my responsibility to the City of Elko must come first.

As a member of the Technical Advisory Committee for the Committee for Local Government Taxes and Finance, I lead a workgroup directed to examine the fiscal impact to local governments of governmental entities acquiring private utilities, and further, to identify methods for mitigation of those impacts.

The following is the conclusions and recommendations reached in our investigation and subsequent discussions:

1. There is a clear impact on state and local governments when a private utility is acquired by a local government. A local government is not required to pay property taxes, sales taxes or franchise fees, thus, a loss in tax revenues to affected local government is certain.
2. If a method of mitigation is not identified and implemented, the utility will not be required to pay state and local taxes, and as a result, the user fees will be reduced. This represents a shift of tax burden away from ratepayers to other taxpayers. To

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ASSEMBLY COMMITTEE ON TAXATION  
DATE: 3/25/03 ROOM: 3148 EXHIBIT D  
SUBMITTED BY: LINDA KITTEL VIA DAVID PARKS

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March 25, 2003

make up for the loss, a local government may be required to increase property taxes or other fees. In the case of School Districts, additional state levied funds may come into play.

3. The method of mitigation should be fair, consistent and in the case of water and sewer systems, the vehicle for mitigation should be flexible. In many cases, a local government is required to assume the operations of water or sewer systems for public health related reasons. In these cases, the affected local government should be given the flexibility to negotiate an interlocal agreement with the utility owner to mitigate any fiscal impacts. In one instance, we saw water services provided to the affected government entity in order to offset the loss in tax revenues.
4. The assessed valuation of a utility once assumed by a government entity should continue to be calculated and included in the formulas for distribution of local government revenues. When calculating the distribution from Consolidated Taxes, total assessed valuations are a factor. If the valuation of a utility is suddenly dropped due to acquisition by a local government, the entity in which that utility is located is impacted through a possible reduction in consolidated taxes. Thus, the impact of the acquisition is magnified.
5. Expansion of government owned utilities should be considered in cases where the expansion moves retail customers from a private utility to a publicly owned utility. But, again, some flexibility should be provided in the case of water and sewer systems acquired for public health reasons.
6. In situations where an interlocal agreement is required, it was recognized that there could be situations in which affected local governments are not able to reach agreement. We concluded that a "mediation" process should be offered in order to address these situations.

Assembly Bill 361 meets the intent of the recommendations adopted by our workgroup and the Committee on Local Government Taxes and Finance. I humbly ask that this committee seriously consider passage of this bill.

Sincerely,

Linda Ritter  
City Manager

cc: Rick Combs, LCB

Guy Hobbs, Chairman, Technical Advisory Committee to the Committee on Local Government Taxes and Finance.

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