

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Third Session
March 10, 2005**

The Committee on Government Affairs was called to order at 8:06 a.m., on Thursday, March 10, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada and, via simultaneous videoconference, in Room 4412 of the Grant Sawyer Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Ms. Peggy Pierce, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. Chad Christensen
Mr. Jerry D. Claborn
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joe Hardy
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Lynn Hettrick, Assembly District No. 39, Douglas County

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Eileen O'Grady, Committee Counsel

Kiz Malin, Committee Attaché

OTHERS PRESENT:

Russell Rowe, Legislative Advocate, representing the Nevada Association of Engineers

Jeanette K. Belz, Legislative Advocate, representing the Associated General Contractors of America, Nevada Chapter

Troy Dillard, Administrator, Compliance Enforcement Division, Nevada Department of Motor Vehicles

Randy L. Potts, Chief Information Security Officer, Department of Information Technology, State of Nevada

Chairman Parks:

[Meeting called to order. Roll called.]

Assembly Bill 156: Revises provisions governing terms of certain contracts between public bodies and certain design professionals. (BDR 28-858)

Chairman Parks:

There was some discussion yesterday as to some possible changes to the wording of this bill, and there was a possibility that the wording had not been completely agreed upon. In the interest of those that might be here today, I would like to get some opening remarks.

Russell Rowe, Legislative Advocate, representing the Nevada Association of Engineers:

I just wanted to come this morning and ask the Committee's indulgence to delay the hearing on this bill. We have been working with local governments and public bodies on the language, and we are actually close to compromise on some of the provisions. We are working on one final portion of the bill, and we would like time to work that out and come back to you, hopefully, with a bill that we all agree upon or, at a minimum, to where we have narrowed the issues to just a few and be able to address those more directly with the Committee.

Chairman Parks:

Because of the shortness of time, I didn't want to put out a revised agenda and remove this bill. In the interest of allowing those who may be here to testify on the bill, what I would like to do is to offer that opportunity to anyone who feels compelled to put something on the record at this point. From the sign-in sheet,

nobody had indicated their interest in speaking with the exception of Ms. Belz, who indicated with a question mark.

Jeanette Belz, Legislative Advocate, representing the Associated General Contractors of America, Nevada Chapter:

It depends on what they said.

Chairman Parks:

If that is agreeable with all the parties, I think that is fine with us. When you have some wording, bring it back to us and we will reschedule it and act on it at that time. [Closed the hearing on A.B. 156 and opened the hearing on A.B. 158.]

Assembly Bill 158: Requires state agency to provide notice of access to computer of officer, employee or contractor under certain circumstances. (BDR 23-1008)

Assemblyman Lynn Hettrick, Assembly District No. 39, Douglas County:

Before I let all of you sit there and read A.B. 158, don't read A.B. 158. Let me tell you what the intent is and let you know that I have been working with DoIT [Department of Information Technology] and with the Executive Branch to try and accomplish what we are after here and still do it in a way that lets them do their job, without having an undue burden upon their ability to do what they need to get done.

I have received a phone call from a State employee saying, "I went back to work after some time out of the office and found, in going through and working in one of my files, that someone had accessed one of my files in my computer while I was not in the office. So, I knew someone had gotten in my computer while I was not there. I don't think that was appropriate, because I don't know what they were after. It is a State computer; I don't have any problem with them going in and doing whatever the State needs to do, but I don't know what they accessed my computer for. I don't think that is right."

I thought about that a little bit, and my first feeling was that it was State property; nothing should be going on. On State property, that is inappropriate. We need to be able to find that out. We shouldn't have it so people can go out and do fishing expeditions if they are out to try to get a whistleblower or employee that they are unhappy with for some reason, or potentially a boss that they are not satisfied with for some reason. They should not be able to access computers without someone knowing it and there being a record, and the like.

[Assemblyman Hettrick, continued.] Initially, I requested a draft for a bill saying that you cannot access a computer without notifying the person who that computer was assigned to, within 48 hours. Immediately I got a call from Keith Monroe, who said, "What happens if we are doing a criminal investigation? We certainly don't want to have to notify that we think they are a crook, because then they will hide everything. We don't want to do that. I said, "Okay, we will put in an exception. We will go to a login procedure. As long as you login in advance, you can go ahead and access and you don't have to notify." Then they immediately get a call from DoIT, and they said, "Wait a minute. We have to be able to go into all these computers on a regular basis, and we have to look for viruses, clean up viruses, clean up problems. You can't have us having to write an email or a login every single time we access a computer. It just won't work. We will spend our whole day writing logs and sending emails."

We have gone back and forth a couple of times. Randy [Potts], Terry Savage, and I met last night and went over this again. Randy has spent all night writing language that he can live with that will accomplish what we need to get done, which is go back and then I will stop. We do not want to allow fishing expeditions looking for something to use against someone who has a State computer. At the same time, we want to allow access by those who need to get to the computer to service it, fix it, take care of viruses, or whatever. In addition, we decided that we ought to add something that says if you are in there doing what you ought to be doing—looking for a virus, fixing a virus—and you see something that you think is not legal, then it should be immediately logged. Then there may be a procedure to move on from there.

We have tried to come up with all the things that we think we need to do to allow these folks to do their job, and at the same time protect people who use the computer from just having that as a source of some way to try and get to them. We do not think that is appropriate. That is what we are trying to do, and with that, I would suggest to you that we let Randy talk to you about how he thinks we can do that language and go from there.

Randy Potts, Chief Information Security Officer, Department of Information Technology [DoIT], State of Nevada:

As Mr. Hettrick alluded, we definitely have reviewed this several times and had several comments, both internally as well as with Mr. Hettrick's office. The first and easy part that I wanted to mention is just some general maintenance cleanup. We have, as you are seeing on the sheets in front of you ([Exhibit B](#)), removed the term "head of the State agency," and replaced it with "appointed authority of a State agency" throughout the document.

[Randy Potts, continued.] The other cleanup we did is in Section 4, which has been renumbered Section 5. Section 4 previously stated that a State agency has the meaning ascribed in it in NRS 242.300. That particular definition of "State agency" is actually only explicit of the Executive Branch, so we have taken similar language and applied as meaning "all State government," and the appointed authority associated with those separate subdivisions.

The substantive change that we have proposed—and I do have an investigator from the Department of Motor Vehicles here with me today—would be to address what Mr. Hettrick described as the difficulties from the technical world. As an example, not just viruses, but a virus definition file, which looks for the viruses, is updated many times a day, up to 4 to 8 times a day. You could just imagine what it would be like to have it track down an appointed authority of an agency saying, "Hey, I need to update that file again." That would be impractical.

We have put in the additional language, as it reads, that an employee who has a regular or routine responsibility of their assigned duties, who gains access to the agency's, officer's, employer's, or contractor's computer, may do so without providing that notice, or creating a log file, except if the inappropriate information was discovered. Then, we would go back to the previous provisions of how we deal with that. Do you have any questions on that particular section?

Chairman Parks:

I am not seeing anyone at this point that has any specific questions. The fact is that we are seeing this for the first time, and we may need to think about it for a little while. If you have something to proceed on, we can come back.

Troy Dillard, Administrator, Compliance Enforcement Division, Nevada Department of Motor Vehicles:

We conduct most of the investigations. I am sure in the past you have seen where DMV [Department of Motor Vehicles] employees have been arrested for fraudulent activities, selling licenses inappropriately, et cetera. We are typically the branch that investigates those from the internal basis in a criminal aspect. With the amendatory language—I also am viewing this language for the first time, otherwise we would have prepared our portion for you prior to the hearing—in Section 4 ([Exhibit B](#)), what it basically indicates is that as an investigative body, we would be able to look at the information when we are conducting an investigation. If we did not find anything, we would not have to log that information. However, if we did find something, which in most cases when we are conducting an investigation we are already operating under probable cause, then we would have to create a subsequent log of that information. In fact, that information is already going into a formal case file.

[Troy Dillard, continued.] We have a bit of language that we would offer to supplement that as well, that we have discussed with the body from DoIT this morning and are in agreement with. We would request that subsection 3, under subsection 4 in the amendatory language, the information be added: "unless the information is obtained through duly authorized investigative practices, and the information is maintained within the investigative case file by the duly authorized investigative agency." We feel that this will provide agencies that are charged with doing investigations the ability to not have to keep a separate file somewhere and have potential that that information may leak out as well to a sensitive investigation, but would prohibit agencies from conducting investigatory matters that weren't duly authorized to do so.

Assemblyman Goicoechea:

I need you to walk back through that just a little bit slower. I don't know that I really understood. We do not have that amendment in front of us that you are offering.

Troy Dillard:

I received the amendment from DoIT just this morning.

Assemblyman Goicoechea:

Could you walk back through that again, a little slower?

Troy Dillard:

Just my amendatory language? My amendatory language would be, and I will start with their subsection 3 that says, "The agency appointed authority must follow provisions set within subsection 3(b) 1 through 5." Those are the provisions for logging the information. When is it going to occur, who is going to access it, et cetera, on an investigative matter that is basically going to be when it occurs, as opposed to a planned search of the computer. The amended information that we would offer would be, "Unless the information is obtained through duly authorized investigative practices, and the information is maintained within the investigative case file by the duly authorized investigative agency," so there is still a record of the information.

Chairman Parks:

I have a general overall question, and it deals with the applicability of this bill. Would it apply to the administrative, legislative, and judicial arms of the State? Would it be applicable to all agencies within the State?

Assemblyman Hettrick:

Yes. It would apply to everyone. It is a State-owned piece of equipment, just the same as a car or anything else where you have rules and regulations about

how it can be used. The difference, of course, is that this is data that can be looked at and could be detrimental. I think that all of us have had, at times, claims of information sent to us of data that was obtained somewhere, given that somebody, obviously, in some of those cases, has either mined data or whatever, and they have done it illegally. That is what we are trying to address here. If you find something, you should log it. If you are going in there, there should be a reason. You cannot just go fishing to see if you can find something that is detrimental to the person that you are dissatisfied with, whoever it might be.

Chairman Parks:

[Closed the hearing on A.B. 158 and opened the work session.]

Assembly Bill 20: Increases amount of general obligation bonds that State Board of Finance may issue to support program to provide grants for water conservation and capital improvements to certain water systems. (BDR 30-753)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

This is the first bill on the work session, and there are copies of the Work Session Document (Exhibit C) available for the public. A.B. 20 increases the amount of general obligation bonds that the State Board of Finance may issue for the fund for grants for water conservation and capital improvements to certain water systems. This bill was sponsored by Assemblyman Grady and was heard by this Committee on February 21. A.B. 20, in its original form, would have increased the cap from \$90 million to \$100 million, but at the hearing Assemblyman Grady proposed an amendment (Exhibit D) to raise the tax to \$125 million to be consistent with S.B. 18.

In response to a request for some information from the Committee, the State Treasurer's Office provided some information (Exhibit E), which is in your packet, on the amount of bonds that have been issued to date and are currently outstanding. In connection with that information request, a suggestion was made that a further amendment be proposed to change the cap, from a set amount to a "not to exceed at any one time" cap. This change was intended to provide for more flexibility to the board, because they often approve grants for projects that take several years to develop, and it also would avoid the increasingly frequent requests to raise the cap. Leo Drozdoff and the Nevada Department of Environmental Protection are aware of the proposed amendment regarding changing the form of the cap and support the amendment.

[Susan Scholley, continued.] At the hearing on the bill, there was no testimony in opposition to the bill, and as noted in your summary, there was quite a bit of testimony in favor of the bill. I did provide a little bit of background on the raising of the cap over the last four years. It has been raised three times. Again, the memorandum from the State Treasurer's Office, which has been provided to you, indicates that approximately \$55.3 million in bonds have been issued since the inception, and \$41.2 million is estimated to be outstanding at the end of fiscal year 2005. I would like to note that the Treasurer's Office indicated that they put these numbers together pretty fast, so they are estimates. They would like that to be understood.

As has been discussed, there are other Senate bills that also affect the same section of NRS. S.B. 18 proposed to raise the cap to \$125 million and also made some other changes to that section. S.B. 147 proposed raising the cap from \$90 million to \$100 million. There is no fiscal impact identified at the state or local government level. There is a proposed mockup in your packet, using language suggested by Assemblyman Grady, so you can see roughly where the changes would be, although the Legal Division reserves the right to do a little work on this.

Assemblyman Grady:

I appreciate all the input that I have received from everyone involved. I think that we have taken a good bill and made it a much better bill to bring forward. I wish to go on record thanking everyone for their help on this.

Chairman Parks:

We can see from the memo that was provided by Robin Reedy that there is somewhere in the neighborhood of \$55 million in securities issued to date. I only have one question. Since we are going to a revolving program, do we still want to leave the \$125 million as the cap amount for that?

Assemblyman Grady:

The thinking on that was, because of coming back every couple of years and that amount going up from year to year, and the fact that they have some big projects that they are looking at right now, that \$125 million would be a good figure. Then there would be no reason to come back because it is on a rotating basis. I have talked to Senator McGinness; he has taken the dollar amount of his bill and used the cleanup language. I have also talked to Senator Rhoads, and he said "Well, let's see where your bill goes." If it goes through the Committee, then he would look at possibly doing something else with his bill.

ASSEMBLYMAN GRADY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 20.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Parks:

[Opened hearing on Assembly Bill 49.]

Assembly Bill 49: Authorizes issuance of revenue or general obligation bonds to finance capital costs of improving Marlette Lake Water System. (BDR 27-309)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

A.B. 49, Work Session Document ([Exhibit F](#)), was sponsored by the Assembly Committee on Government Affairs on behalf of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System. A.B. 49 authorizes the director of the Department of Administration to request the issuance of bonds to finance the capital costs of improving or modernizing the Marlette Lake Water System and provides further that the aggregate principal bonds cannot exceed \$25 million.

This bill was heard in Committee on February 17. No amendments have been proposed. Assemblyman Hettrick testified in support of the bill as the Chairman of the Interim Oversight Committee. It was also noted in the record that the Interim Committee had voted unanimously to recommend this legislation. Other testimony in support of the bill came from Ed James of the Carson Water Subconservancy and Richard Backus, Public Works Director for Storey County. After the bill hearing, and I have included it in your notebook, a letter of support from the Storey County Commission ([Exhibit G](#)) was received. I also provided you a copy of Mr. Hettrick's summary of the history of the water system and the discussion for the need for some of the improvements ([Exhibit H](#)).

In responding to some questions from Committee members, some additional information that you may be interested in is that the water system supplies water to Storey County under the Franktown Decree. This decree was issued by the State Engineer, pursuant to a contract with the State of Nevada. That is a 10-year term contract that currently goes out to 2012, with a renewable period of another 10 years, which would take it out to 2022. There is no fiscal impact at the state or local government level.

ASSEMBLYWOMAN PARNELL MOVED TO DO PASS
ASSEMBLY BILL 49.

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Assembly Bill 80: Revises provisions relating to wells. (BDR 48-982)

Susan Scholley, Committee Policy Analyst, Legislative Counsel Bureau:

A.B. 80 was sponsored by Assemblyman Goicoechea along with a joint sponsor in the Senate, Senator McGinness. It was heard in this Committee on February 23. A.B. 80, Work Session Document ([Exhibit I](#)), authorizes the State Engineer to allow the temporary abandonment of an agricultural well, provided certain criteria are met. The measure would also create a continuing education requirement for well drillers and would require at least two members of the Well Drillers' Advisory Board to be members of the Nevada Ground Water Association.

At the request of the Chair, Assemblyman Goicoechea offered to work on amendments to the bill to address concerns raised by the State Engineer and the Truckee Meadows Water Authority. The proposed amendments, in a mockup ([Exhibit J](#)) prepared by Eileen O'Grady of the Legal Division, are attached and were worked out by Assemblyman Goicoechea with the other parties. If you look in Section 1, subsection 7 would delete the references to the specifics of the temporary abandonment of an agricultural well and instead, in Section 2, require the State Engineer to provide regulations regarding the plugging of an abandoned well.

The second amendment is on page 4. In lieu of a statutory requirement for continuing education for well drillers, the bill requires the State Engineer to adopt regulations for continuing education. The third component of the amendment deletes the requirement to add members of the Ground Water Association to the Well Drillers' Advisory Board. It was decided that this reference to a specific association, which is not created in the statute, was perhaps inappropriate, because the Ground Water Association could cease to exist at some point in the future, and that would cause a problem.

That explains the amendments. As I indicated earlier, the State Engineer testified and expressed concerns, which I understand have been addressed in the proposed amendment. Steve Walker from the Truckee Meadows Water

Authority had also stated his opposition to the bill, but I believe that he has been involved in the negotiations. As for the fiscal impact, there was initially, on the original version of the bill, a fiscal impact identified. I have included a copy of the fiscal note ([Exhibit K](#)) in your materials, but the State Engineer has advised us that the amendments would eliminate the fiscal impact of the bill. I see the State Engineer is here today, if you would like to hear from him on this.

Assemblyman Goicoechea:

I think that we did work the problems out with it. I do think that working with the state engineer and revising the regulations in NAC [*Nevada Administrative Code*], rather than the statute, will give us a lot more flexibility, both for the State Engineer and those water right holders in Nevada. I think it is a good bill, and I appreciate the work that the State Engineer and Steve Walker, from Truckee Meadows Water Authority, did on this. I want to thank them and thank the Committee.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 80.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Parks:

[Meeting adjourned at 8:51 a.m.]

RESPECTFULLY SUBMITTED:

Nancy Haywood
Transcribing Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS				
Committee Name: <u>Assembly Committee on Government Affairs</u>				
Date: <u>March 10, 2005</u> Time of Meeting: <u>8:00 a.m.</u>				
Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
A.B. 158	B	Randy Potts, Chief Information Security Officer, DoIT, State of Nevada		Mockup of A.B. 158 and proposed amendments. 3 pages
A.B. 20	C	Susan Scholley, Legislative Counsel Bureau (LCB), Committee Policy Analyst		Work Session Document, A.B. 20. 2 pages
A.B. 20	D	Susan Scholley, LCB, Committee Policy Analyst		Proposed amendment to A.B. 20
A.B. 20	E	Susan Scholley, LCB, Committee Policy Analyst		Memorandum from the Office of the State Treasurer dated March 3, 2005. 1 page
A.B. 49	F	Susan Scholley, LCB, Committee Policy Analyst		Work Session Document on A.B. 49. 1 page
A.B. 49	G	Susan Scholley, LCB, Committee Policy Analyst		Letter of Support from Storey County Commissioners dated March 7, 2005. 1 page
A.B. 49	H	Susan Scholley, LCB, Committee Policy Analyst		Summary of the Bill by Assemblyman Lynn Hettrick, 3 pages
A.B. 80	I	Susan Scholley, LCB, Committee Policy Analyst		Work Session Document on A.B. 80. 5 pages
A.B. 80	J	Susan Scholley, LCB, Committee Policy Analyst		Executive Agency Fiscal Note, Division of Water Resources, Department of Conservation and Natural Resources, 1 page

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A.B. 80	K	Susan Scholley, LCB, Committee Policy Analyst		Executive Agency Fiscal Note, 1 page
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