

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

**Seventy-Third Session
April 1, 2005**

The Committee on Government Affairs was called to order at 9:13 a.m., on Friday, April 1, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, 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. 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:

Mr. Chad Christensen (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Harry Mortenson, Assembly District No. 42, Clark County

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Susan Scholley, Committee Policy Analyst
Nancy Haywood, Committee Attaché

OTHERS PRESENT:

David K. Morrow, Administrator, Division of State Parks, Department of Conservation and Natural Resources, State of Nevada

Nicole Lamboley, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, Carson City, Nevada

Andrew A. List, Executive Director, Nevada Association of Counties (NACO)

D. Gary Longaker, Executive Director, Nevada Rural Housing Authority

Wayne Carlson, Executive Director, Nevada Public Agency Compensation Trust and Public Agency Insurance Pool, Carson City, Nevada

Stephen C. Balkenbush, Attorney, Reno, Nevada

Thomas P. Beko, Attorney, Reno, Nevada

Douglas W. Sonnemann, Assessor, Douglas County Assessor's Office, Douglas County, Nevada

Alan Glover, City Clerk-Recorder, Carson City, Carson City, Nevada

Madelyn Shipman, Legislative Advocate, representing Nevada District Attorneys Association

Lieutenant Stan Olsen, Executive Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada

LeRoy Goodman, Commissioner, Lyon County Board of Commissioners, Fernley, Nevada

Michelle Poché, Assistant County Manager, Office of the County Manager, Washoe County, Nevada

Bob Milz, Chairman, Lyon County Board of Commissioners, Dayton, Nevada

Lowell Patton, Public Works Director, City of Fernley, Nevada

Daniel C. Holler, Douglas County Manager, Douglas County, Nevada

Mary C. Walker, Legislative Advocate, Representing Carson City, Lyon County, and Douglas County, Nevada

Alvin P. Kramer, City Treasurer, Carson City, Nevada

Chairman Parks:

[Called the meeting to order. Roll called.] The hearing on A.B. 351 is now open.

Assembly Bill 351: Requires adoption of certain regulations concerning display and sale of art in state, county and municipal parks. (BDR 35-555)

Assemblyman Harry Mortenson, Assembly District No. 42, Clark County, Nevada:

At the end of the last special session, there was an art exhibit across the street, and my wife and I went over to that exhibit. One of the artists saw the license plate on my car, and he started haranguing me, saying that this country is really hard on artists compared to Europe. Almost anywhere in the world, an artist is able to exhibit his wares free of charge. In France, you can walk through the parks, and there are artists displaying their wares, paintings, and sculptures, but in this country, artists have to jump through a million hoops to get to exhibit in a park.

I started looking into it and contacting some artists. Information came in torrents. Apparently, a federal court case, called *Bery v. New York* [97 F. 3d 689 (2d Cir. 1996)], made a decision that an artist's work is fully protected under the First Amendment. Many local governments have taken the idea that if a piece of art work did not express a political philosophy, a religious philosophy, or a philosophical philosophy, it did not deserve protection under the First Amendment.

That particular case, as noted above, looked at works of very abstract artists. Arnold Schönberg was a musical composer with some types of music hardly recognizable as music. They used the poem "Jabberwocky" by Lewis Carroll, which makes no sense at all when you read it—a great poem that you ought to read if you haven't. They said this was protected under the First Amendment. They took paintings by various artists, which had just dabs of paintwork from the palette, dabs of color. The court said that just because you don't think it has a message doesn't mean it doesn't have a message, and therefore, it is protected under the First Amendment. In another case, the Supreme Court said that parks are the quintessential place for an artist or anyone to express their First Amendment rights. Having these judgments from the Supreme Court, it seemed like this bill was doing nothing more than squaring the law of land with our laws in this state.

I also learned that there had been a case in Sparks ([Exhibit B](#)). An artist named Steven White asked if he could exhibit his wares—his creations—in a park. As Mr. White told me, the authorities said that he could exhibit, but he must get a vendors' permit, he must have a resale license, and he needed additional licenses. Then he would be allowed to exhibit over the tracks and behind a portable toilet.

Mr. White took it to court, and the Ninth Circuit Court said that the City of Sparks was incorrect. He had a perfect right to exhibit. The city could have a reasonable "where, when, and how," but putting him over the tracks and

behind the toilet was not reasonable, because the City had already allowed art exhibits in the area where he had asked to be able to exhibit. As a consequence, Mr. White pretty much won his case. The District Attorney in Sparks tried to say—to use the old adage—that if it wasn't political, religious, or philosophical, it was not protected under the First Amendment, but Judge David Warner Hagen of the U.S. District Court said that his interpretation was too restrictive and must be read broadly to encompass exhibits, abstract expressionists, and others. In other words, abstract expressionists create types of art where you are obviously not conveying a political message. Mr. White won this case.

[Assemblyman Mortenson, continued.] Again, I believe this law does nothing more than square local law with the decisions made by the Supreme Court. I have another letter here from the ACLU [American Civil Liberties Union] ([Exhibit C](#)), dated November 18, 2002: "The trend among circuit courts may be emerging, which recognizes a true distinction between the street vendor and a street artist."

That is a point I wanted to bring up. This does not mean that Joe Blow can walk down to the art store and buy a dozen prints of something, frame them, and go into the park demanding that he can sell these paintings without a fee. You must be vending your own creation in order for you to be considered as having the First Amendment right to express yourself. It is only an artist's creation, ones that he himself has done, that can be sold under these circumstances. Again, this refers to the *Bery v. New York* case, that artists have a First Amendment right to sell and display art in public.

I kind of got a shock yesterday. I had been told that no one was going to oppose this bill. Then I heard late yesterday that there will be some opposition to my bill. As I understood it, the opposition came when the opponents had not been able to verify the Supreme Court decision. Therefore, they were not sure that this was a justifiable law. Last night, in a panic, I called the Legal Division, and Legal said that they were going to see if they could put together some research to determine whether the Supreme Court decisions are legitimate. I hate to ask, but I wonder if Ms. [Eileen] O'Grady has any information.

Eileen O'Grady, Committee Counsel, Legislative Counsel Bureau:

I looked into this concern briefly last night. The *Bery v. New York* case that you are citing is a Second Circuit case, not a United States Supreme Court case. But, there are other Supreme Court cases that haven't quite been decided. In the dicta, they have recognized First Amendment protection for various types of art. The statement in here that the Supreme Court recognizes art as a form of expression protected by the First Amendment is true. However, as in the

second clause, it is subject to reasonable restrictions on time, place, and manner.

Assemblyman Mortenson:

We certainly would want it to have reasonable restrictions on time, place, and manner. I have no objection to that.

I was hoping that maybe the ACLU would show up. I asked a few people to show up, but I gave them short notice, and I am not sure that they have had the time to organize and get here. Again, I have to apologize for two things. First, because of the huge problem that the Legal Division was having with getting things done in a timely manner, because they were messed up by the Governor's case against the Controller [Kathy Augustine], I did not tax them very hard in doing research. In fact, I tried to stay away from them. I think I have my facts straight anyway on this, and I had no opposition until late yesterday. I had too much of a laissez faire attitude about this. We will see what happens.

Assemblyman Hardy:

Will the bill allow artists to sell their wares without having a fee to do so in a public place? Is that the gist of it?

Assemblyman Mortenson:

Yes. I think that some of the concerns of the cities and counties are that, in the past, they have had various organized events where they provide a service, a contract, to artists that provides space—maybe a cubicle, some shade, and other things. In return, the artist pays a fee to exhibit his wares. This bill should, in no way, interfere with the contract between the artist and the entity that's doing the exhibit. This should, in no way, impair that. In fact, I have asked Legal to prepare an amendment—and they haven't had time to do it yet, to my knowledge—that would stipulate this, that the bill would not impair these organized events.

As far as I can see, the only person that this is going to help is the well-organized artist, the one that's recognized and pays his \$300 to \$400 fee for a cubicle at these exhibits. He can afford to do that. He will continue to do that, because he sells a lot, and it's worth his while. What I am looking to is the poor, starving, young artist just trying to break into the field. He creates a painting, and he can go out into the park and place it on an easel while he is working on another one. If he sells it, he is going to be very happy and will buy some canvas and paint, and he is on his way. That's what this bill is intended to help. The intent is not to impede any organized exhibits, and the amendment will state that.

Assemblyman Hardy:

I like the idea of fostering art, and along what you are trying to get at, let me put a scenario by you. If there were somebody who did not create something but bought something and used that in an "arty" way—not truly their own creation but the display of the thing that they bought now becomes art—they wouldn't be able to do it because they didn't "create" it. Having been an observer of art, it has fascinated me what one man's art is—the famous soup can—art made of junk that becomes "arty." I am envisioning our parks with the person who may not have a domicile, who displays a boot and calls that art. Now, it is problematic to try to figure out how to allow the park to have a conducive atmosphere for other people who want to use it for recreational purposes. It is that scenario that I struggle a little bit with, trying to figure out the language—how you do that—as well as if I were in business and I said, "I sell art, and I have somebody who can go to the park and sell art, because it is his own, but I can't do it, because it is my business." I don't think that is fair. Those are the two things that I see looking at the bill. I don't know if I can suggest wording or a word that you would go with, but those are two of my concerns.

Assemblyman Mortenson:

This, again, changes nothing. This law absolutely changes nothing that exists. The law of the land exists that art is an expression of your First Amendment right. Whether a municipality chooses to regard that as so and avoid litigation, that's up to them. This bill might convince municipalities or local governments that they shouldn't spend millions and millions of dollars collectively to fight this when it is the law of the land. The gentleman who wants to display the boot can do that anyway. It is his constitutional right to do that. First of all, I am not sure—the boot, if it wasn't created by him, maybe he can be thrown out.

Actually, there are some nuances to this bill that I wasn't going to go into, but I will. A person could make the case that, if he was selling bumper stickers, for example, and all of those bumper stickers were directed in one direction toward the extreme right or the extreme left, he is making a political statement, and he could probably make a case for this being a political expression of his First Amendment right. I wouldn't argue one way or the other. Still, this bill doesn't change anything. This bill is just trying to reinforce what exists already. He has the right to do this with this bill, if he had the right to do it without the bill. The bill tries to set square our laws in this state with federal laws. Hopefully, local governments won't waste tons of money litigating things of this nature as Sparks did.

Assemblywoman Kirkpatrick:

When I look at this bill, I envision Huntington Beach [California], where you have everything from a beer can to make a hat out of, or you can take a piece of metal and make something out of it. My real concern is, if a fee is paid to use a park, it is more like a check and balance. I know that I have to pay a fee to use the park. It is a liability issue, and now the park knows why I am there and what I'm doing. If anyone is hurt, they can go right back to me and say that you were in charge and ask what happened. I have three kids who are very much into art, and art is really not just painting. If you ask my daughter if art is music, she will say art is very broad. We don't want to limit it to just painting. That's where I hear that we are going.

My concern is about liability. When you are out there and you have your music, your guitar, and you are sitting in the play area playing your guitar and having a good time, and a kid comes, wants to see what you are doing, and he falls, trips, breaks a leg, then nobody at the park knows where the liability stands. This only addresses criminal liability. I am wondering about civil liability. Does it say, in your research, who would be responsible for that?

Assemblyman Mortenson:

Again, I have to reiterate, the bill changes nothing. That same group, if this bill becomes law or not, can go into the park and do exactly the same thing. The little kid breaks his arm. It doesn't matter if this bill is intact or not. They have the right to do now whatever this bill says they have the right to do. It's just squaring our laws with the federal laws. Our laws must be the federal laws anyway, and if we are disobeying the federal laws, we are illegal if we don't pay attention to what the federal courts have said.

Assemblywoman Kirkpatrick:

I guess I left out the big word "sell," because they would be selling their service no matter what they are doing. I just think that when you sign up—I have participated in many events where you sign up to have a booth—more often than not, it is a true liability issue. If you sell something and someone cuts their hand on it, then the city or the county goes right back to you and says, "This happened here," and we had plenty of insurance to cover the situation. I just wanted to clarify that.

Assemblyman Mortenson:

The point is that it would be no different with or without the bill. The exact same situation would occur.

David K. Morrow, Administrator, Division of State Parks, Department of Conservation and Natural Resources, State of Nevada:

We have remained neutral on this bill. I have discussed it on several occasions with Assemblyman Mortenson. We believe that much of what is being requested is occurring in parks at the present time. Our only concern would be the issue of fees.

Nicole Lamboley, Legislative Relations Manager, Office of the City Manager, City of Reno, Nevada:

Our council has not yet taken a formal position. They do have a special meeting today to go over legislative issues. I did want to inform the Committee that we will be bringing an ordinance before our council on April 13 that will regulate the time, place, and manner of artisans and speakers protected under the First Amendment.

The City of Reno has been very dedicated to arts and culture as a priority. We have the Arts and Culture District and the Arts and Culture Commission. We actually, in our redevelopment agency, created the Artists' Loft downtown. We took an old hotel-casino that had been closed and converted it to living workspace for artists, and it is subsidized housing for artists. We also, in City Hall, have the Metro Gallery that each month changes artists, and they are able to show their work, which can be purchased by the general public.

I think that one of the concerns that we might have, and we would like to work with the bill's sponsor on, is the issue of fees, in that if this is a person's primary income, they may be subject to being required to have a business license—or something of that nature—which would not violate their First Amendment rights of expression. I think what we would like to do is to clarify some of the issues, because we are aware of the Supreme Court case, and I do think we should be compliant with that. If we could just have the opportunity to work with the bill's sponsor, maybe we could make this so that all the concerns are addressed, because I do think that cities and municipalities in this state do have public art as components of public work projects in various buildings. I would just like to put this on the record that we want to work with the sponsor and examine the issues raised by the Committee's members as well, regarding liability and all of that.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, Carson City, Nevada:

We have made a collective decision that we are not going to have all of our cities get up. Although I am here to speak in opposition to the bill, we have made that decision to not have all of our cities come up and be negative about

that, though they did ask me to express that they do have concerns about the bill.

[J. David Fraser, continued.] The League of Cities and Municipalities, our members, and I respect Ms. Lamboley's testimony, as I believe Reno is a good example of our communities and what they do to forward the arts. We believe, as a league, that the arts are very important to our communities and to our culture. We are supportive of Mr. Mortenson's intent to make sure that artistic expressions are not unconstitutionally curtailed.

Mr. Mortenson and I have discussed this several times, and I want to commend him not only for that, I want to applaud him for his intention in regard to the arts, and I also want to compliment him for his openness and communicativeness with us. Mr. Mortenson's intention, as I understand it, is to simply square state law with case law. We don't have any problem with that per se.

Our concern is simply that we haven't been able to really put the research in that would indicate to us that that is all that this bill does, to square state law with case law. Ms. O'Grady can correct me, but in the absence of statutory law, we are still bound by case law. Case law would still be the standard to be held to. That being the case, again, our cities don't have the concern with abiding by the decisions of the Supreme Court and other case law that applies. They, in fact, want to do that.

To that end, the simple suggestion that I was going to make, since we are not comfortable with all of the revisions of this bill in terms of meeting the intention of the sponsor—and I have mentioned this to Mr. Mortenson; I've discussed with Andrew List, the Executive Director of NACO [Nevada Association of Counties]—he and I are willing, on behalf of our organizations, to go on the record and state that, as an alternative to this bill, rather than spend all the time that would be necessary to make sure that this bill, in every respect, simply met that stated intention, we would be willing, either through our own legal resources or in cooperation with the Legislative Counsel Bureau (LCB), if the Committee is more comfortable with that, to offer that we put together an issues paper that would indicate and delineate all of the case law in this matter, as well as the implications to local government. We would then promulgate that to all of our members. One of the missions of the League is to help in training our local officials and to distribute uniform information to all of our members.

Again, using our own resources or in cooperation with LCB, NACO and the League would be very willing to put that issues paper together and put it out to our members so that they understand what they are required to do under case

law. The City of Reno is a good example, but not the only example, of our members that are progressive in promoting the arts. I know that they would be happy to get the information, and they would want to abide by that case law. That's my offer as a simple alternative to this bill.

Chairman Parks:

Since we have to have all of our bills out of Committee in two weeks, I don't know that we have a whole lot of time to look at case law on the issue. We are going to be up against a deadline, and we will have to push these things out. I request that the parties work to come up with some kind of an agreeable compromise that does satisfy the legal departments and get that back to us so that we can put that into a work session. I would like to ask the interested parties to continue working and find out what alternatives would better satisfy Mr. Mortenson.

We will close the hearing on A.B. 351 and open the hearing on A.B. 372.

Assembly Bill 372: Revises provisions relating to powers and duties of Rural Housing Authority. (BDR 25-598)

Andrew A. List, Executive Director, Nevada Association of Counties (NACO):

We have before you today A.B. 372, a bill that relates to the Rural Housing Authority. This is a good bill, we think. It was endorsed by our full Board of Directors at our August board meeting and supported by all 17 counties in the state. What the bill does is to clarify some of the authority that the Rural Housing Authority already has, such as floating bonds and also doing mortgage loans. It also allows the Authority to operate in the more rural areas of our larger counties, the rural areas of Clark County and Washoe County. Again, the bill was supported by the full Board of Directors, and we think it is a good bill to expand rural housing and affordable housing in the state of Nevada.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities, Carson City, Nevada:

I will keep my remarks short. I just wanted to indicate to you that being distributed to you right now is a resolution (Exhibit D), passed by the League's membership at our annual meeting in October, supporting this legislation. As was presented to you earlier in the session, when the Rural Housing Authority presented, the League and NACO have some statutory authority of responsibility for the Rural Housing Authority, and I just wanted to voice my support and give to you this resolution, passed by the entire membership supporting this legislation.

D. Gary Longaker, Executive Director, Nevada Rural Housing Authority (NRHA):

At our request, the Nevada Association of Counties has brought forth A.B. 372. The Nevada League of Cities and Municipalities has also passed a resolution in support of the legislation (Exhibit D).

[Read from written testimony, Exhibit E.]

The NRHA was created in 1973. The legislative declaration that created NRHA stated that it is the policy of this state to promote the health, welfare, and safety of its residents; to develop more desirable neighborhoods; and alleviate poverty in the counties, cities, and towns of the state.

In 1995, the 1973 original legislation was amended, and the NRHA was separated from the State to give it greater flexibility, make it more responsive to the needs of the rural areas, and enable it to secure grants from federal agencies, state, and local entities, as well as the private sector.

The 1995 legislation, NRS [*Nevada Revised Statutes*] 315.983, stated the following: “. . . The Authority shall be deemed a public body corporate and politic, and an instrumentality, local government, and political subdivision of the state, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out the purposes and provisions of NRS 315.961 to 315.996 inclusive, but not the power to levy and collect taxes or special assessments. The authority is not an agency, board, bureau, commission, counsel, department, division, employee, or institution of the state.”

This means that in 1995, NRHA became a quasi-governmental entity, still responsible for the development of affordable housing programs without receiving funding from the State budgetary process. The Authority receives no General Fund revenues. NRHA funds salaries, retirement, and benefits for its employees. The employees do participate in the State retirement; however, NRHA matches the employees' contribution using no State funds. The programs that NRHA implements or administers derive their sole income from the proceeds of the programs it provides to the rural parts of the state. Presently NRHA generates over \$10 million in economic activity for the state through the programs it administers and subsidized properties it operates and manages.

[D. Gary Longaker, continued.] Assembly Bill 372 has two primary purposes. First, Section 9 of A.B. 372 expands the jurisdiction of the Nevada Rural Housing Authority and, thus, their ability to provide affordable housing services to persons of low and moderate income in rural areas. If enacted, A.B. 372 would allow the NRHA to serve the public in the rural areas of Clark and Washoe Counties, which would include communities like Mesquite, Searchlight, Boulder City, and Gerlach. Section 8 of A.B. 372 specifies that NRHA will not operate in areas already served by a housing authority unless given specific permission, via resolution, by the existing authority.

Secondly, A.B. 372 clarifies the ability to make mortgage loans and issue bonds for affordable housing in furtherance of NRHA's purpose.

The need for A.B. 372 was documented in the "Nevada Rural Housing Needs Assessment Report" that was just recently completed on behalf of the NRHA and accepted by the Board of Commissioners on March 23, 2005. The report, which was funded by grants from the private sector, found:

- An affordability crisis in several of the rural counties
- A lack of affordable home ownership opportunities, particularly for the local work force and first-time home buyers
- That single-family production is not keeping up with demand
- Very little production of multi-family dwellings over the last decade

Assembly Bill 372 would help address these findings. Furthermore, A.B. 372 is truly non-threatening and non-intrusive. It is not a duplication of services, but simply a clarification of the scope of NRHA services. The passage of this legislation is critical for NRHA so that it can finally begin to fulfill its public purpose, as was intended in its formation, and to give it the additional flexibility to be more responsive to the rural areas of the state.

The NRHA seeks your support and prompt passage of A.B. 372.

Assemblyman Grady:

I wish to disclose that a nonprofit group that I was involved with in the Yerington area just turned all of our properties over to the Nevada Rural Housing Authority for ownership. I have no direct involvement with the organization.

Chairman Parks:

As far as the language goes in this bill, is much of it is new language that was extracted from existing language for any other portion of the statute?

Andrew List:

What most of the language does is to relate to the bonding authority of the Rural Housing Authority and its ability to issue mortgage loans. That is existing power. That's power that the Rural Housing Authority has had since their inception. What this language does is simply clarify and articulate a little better how that particular authority works and how they can exercise that authority. We are adding, other than the population limit, an ability to go into the rural areas of urbanized counties. None of this is really new and different to the Rural Housing Authority. It is a clarification of existing powers.

Chairman Parks:

We will close the hearing on A.B. 372 and open the hearing on A.B. 477.

Assembly Bill 477: Revises provisions relating to authority of deputies appointed by certain public officers. (BDR 20-584)

Andrew List, Executive Director, Nevada Association of Counties (NACO):

Assembly Bill 477 was approved by our Board of Directors at our August board meeting and has the full support of all 17 counties in the state of Nevada. This bill corrects what we believe is an erroneous decision of the Ninth Circuit Court of Appeals. It redefines who a policymaker is as far as elected officials. As we think it should be, the elected official is the policymaker. Deputies to that elected official should not be policymakers. That is the crux of the issue.

To discuss the issues in a little more detail, to discuss the case and where it came from, I have Wayne Carlson, Nevada Public Agency Compensation Trust and Public Agency Insurance Pool. We also have two local attorneys, Tom Beko and Stephen Balkenbush, who will address the issue for you.

Wayne Carlson, Executive Director, Nevada Public Agency Trust and Public Agency Insurance Pool, Carson City, Nevada:

Handed out to you was a proposed amendment ([Exhibit F](#)). The reason for the amendment is that when we discussed this ourselves, we had proposed language to the bill drafter, and then the bill drafter chose different language. We rereviewed the bill drafter's language and believe that the originally proposed language better accomplishes what we need to accomplish in terms of correcting the decision that we faced in the case in point and its subsequent cases. We do want to amend the bill as proposed in my testimony ([Exhibit F](#)).

Stephen C. Balkenbush, Attorney, Reno, Nevada:

I have been representing municipalities and counties for over twenty-five years in civil rights litigation. My firm participated in an amicus brief before the Ninth Circuit Court on *Webb v. Sloan* [330 F.3d 1158 (9th Cir. 2003)], the case that we are here about today. I thought it might make some sense to discuss a little of the background and how the civil rights law works in this state and throughout the country.

Under Nevada law, the municipalities and, for that matter, the officers and prosecutors enjoy a cap on damages of \$50,000. That cap is not enjoyed under the federal law, which is commonly referred to as the Civil Rights Act, Title 42, USC [United States Code] section 1983. That's the context of this *Webb* case, which was a civil rights action, and it was a case that rose out of a pursuit of an automobile. Someone got out of the car, there was a subsequent arrest, and it turns out the person who was arrested wasn't the person who committed the crime. In any event, the case went to trial under the Civil Rights Act in federal court in Reno.

The law is really interesting. Under the Civil Rights Act, respondeat superior liability doesn't apply; that is, the employer is not responsible for acts of the employee. That is just one of the nuances of the federal law, but that's not the way it is under our state law. Employers are not responsible for the acts of the employees under the Civil Rights Act unless you can prove that there was a custom, policy, or practice that gave rise to that violation. If a county has a policy of arresting people without probable cause, or something like that—no county has that, but if they had a policy like that—then you could still establish liability against the county for the act of an employee.

Another way to do that is to show that the employee is a final policymaker. If you have an employee who is sued, and it's determined, as a matter of law, that the employee is a final policymaker, then you can still get to the municipality, the city, or county. That's what happened in the *Webb* case. The jury held, in that case, that the individual had been arrested without probable

cause, that there was a policy to arrest people without probable cause, and that there was a policy of falsely imprisoning individuals.

[Stephen Balkenbush, continued.] One might ask how they proved that type of a policy. Obviously, Carson City does not have that policy of arresting people without probable cause or falsely imprisoning individuals, but the Ninth Circuit looked to the statute that is before this Committee today, NRS [*Nevada Revised Statutes*] 252.070. From that language, both the district court judge in Reno and the judge of the Ninth Circuit found that the language in existing statute, which provides that all district attorneys are authorized to appoint deputies who may "transact all official business relating to the offices to the same extent as their principals," determined that deputy district attorneys have the plenary authority of the district attorney, and because of that, they are final policymakers.

That is a very troubling holding, because every deputy district attorney is determined to be a final policymaker for every county and every city in this state, and, for that matter, perhaps even deputy treasurers, deputy recorders, and deputy assessors, because the language is quite similar. Because of that, we have a really bizarre result for prosecutors. They have immunity from prosecution, but, if they are a final policymaker, the county could still be responsible for their acts, even though they themselves are immune as a prosecutor. The Ninth Circuit Court had no trouble with the language with the statute saying that it is broad and you are a final policymaker. The district court judge did not have a problem with saying that it is broad and you are a final policymaker, either.

The solution that the Ninth Circuit Court suggested was a legislative solution. If you want to get it changed, make it the way you believe it reads, and then take it back to the Legislature. In fact, in Hawaii, there is a statutory scheme where the deputy district attorneys are held not to be final policymakers, as the language is not quite so broad.

That is why we are here today. We also believe that the language proposed by Mr. Carlson ([Exhibit F](#)) would be more appropriate language for this Committee and the Legislature to adopt, because it specifically provides, through the appointment of a deputy district attorney, that a deputy district attorney is not a policymaker as a matter of law under Nevada statute. The language that is in the current bill, [A.B. 477](#), isn't quite as specific. I must tell you that the Ninth Circuit judge and the District Court judge looked at the specific language of the statute, and that is precisely what they will look at the next time around.

[Stephen Balkenbush, continued.] The problem this decision creates is huge, because you can now have a deputy district attorney creating liability for a county or a city as a final policymaker. You could have, quite frankly, deputy district attorneys just hired out of law school, and you can have their decisions becoming the official decisions for a county or a city. I don't think that was ever the intent of the Legislature when they initially adopted NRS 252.070. The language that is proposed by the Nevada Public Agency Insurance Pool by Mr. Carlson, in our view, would resolve that problem.

Thomas P. Beko, Attorney, Reno, Nevada:

I have been practicing law for nearly 20 years and practicing, primarily, in the field of civil rights defense. I want to expand a bit on what Mr. Balkenbush said, because I think there is a common misunderstanding of people of what is really civil rights litigation. A lot of people sort of group it in with tort litigation. It is really a completely separate creature in and of itself.

Civil rights litigation, as Mr. Balkenbush indicated, is based upon a statute, 42 USC 1983, which is basically nothing more than an enabling statute that gives citizens the right to commence a civil action to obtain and recover money damages for a deprivation of their constitutional rights. The statute itself doesn't define anything as far as what the right of recovery is; that's based on the *Constitution*. All the various amendments in federal laws, if a person is the victim of a violation of one of those, he has the right to recover money damages including punitive damages. As Mr. Balkenbush indicated, that right of recovery is not limited by the \$50,000 cap on damages. The exposure to public entities under the Civil Rights Act is, essentially, a "sky is the limit" right. It is very, very dangerous litigation.

In many ways, civil rights litigation has been called "constitutional tort law," because the conduct that can give rise to a constitutional violation is in many ways very similar to conduct that gives rise to a tort. For example, if a person is subjected to a false arrest by the police, that person would have the right of causative action against the police and, possibly, the entity as well for false arrest. It is just a common law tort. That very same conduct would likely expose the actor to a constitutional violation for violation of the Fourth Amendment.

The flip side of that is, for example, if a public employer were to terminate an employee in retaliation for that employee engaging in protected First Amendment speech, there would be no state law claim for relief. However, there would be a cause of action under Section 1983, again with unlimited liability for the individual actor. The biggest difference between these two, except for the cap on damages, is that under the Civil Rights Act, the entity is

not automatically liable for the conduct of the individual actor. The case law that has interpreted Section 1983 has held that the Civil Rights Act only imposes liability upon a municipality where deliberate action attributable to the municipality is the moving force behind the deprivation of federal rights.

[Thomas Beko, continued.] In order to establish that liability, one has to show that the municipality itself is somehow responsible for the deprivation and not merely the act of the one individual actor. That's a very difficult thing to prove in a lot of ways. There are basically three ways that our federal courts have established to make that proof:

- There is an official act by the promulgating body, such as a city council, board of commissioners, or whomever. If they enact some law or regulation that violates a person's rights, then clearly, that entity can be found to be the motivating factor behind the deprivation.
- Alternately, if there is a custom or practice in which the relevant practice is so widespread and common that it becomes a customer policy of the entity, then, again, the entity can be found to be the driving force.
- The third way in which the entity can be held liable, and this is the theory that Mr. Balkenbush spoke of, is if the individual actor is found to be a policymaker for that entity, then that entity becomes liable for that person's act.

Prior to the *Webb* decision, in litigating these cases, we spent a tremendous amount of time trying to determine who became a policymaker for the entity. Usually it had to be a high-level person, who truly was responsible for setting policy for that specific branch of the government. What the *Webb* decision did was to go back and look at specific statutes on deputy district attorneys and said that because of this statute, it gave the deputy district attorney such broad authority that it meant these deputies are, in fact, policymakers for the public entity. In the context of a district attorney's office, a deputy district attorney does have a great deal of discretion. In that situation, it may not be so heinous to say that we're going to let the deputy district attorney make policy.

Our concern is much greater than that. The same analysis of the *Webb* case would apply to deputies in virtually every department. My biggest concern is with deputy sheriffs. It is possible to apply the *Webb* analysis across the board, which I see no reason why subsequent courts would not do, and I have personally seen many lawsuits after the *Webb* decision where counsels for the plaintiffs have attempted to use the holding of the *Webb* case to establish that

frontline deputy sheriffs and police officers become policymakers for the entire entity.

[Thomas Beko, continued.] Clearly, under the language of the *Webb* decision, that's the kind of holding that you are going to see. We are going to see it over and over and over until someone comes in and clarifies this, making it very clear that by merely appointing a deputy, you are not giving that deputy policymaking authority. The language of Mr. Carlson's original bill made that very clear and very explicit.

The changes in the bill made it much more vague. I am very concerned that if the bill is adopted as drafted, when the federal courts look at this in the future, they are going to say, "You put this before the Legislature. You asked them to basically change this law. They came in and weren't very explicit about it. Because they weren't very explicit, we are going to assume that they really didn't believe it was necessary to change the holding of the *Webb* decision."

My purpose in speaking here today is to really make it very clear that I think it is extremely important that you follow the language that Mr. Carlson had in the original draft, because it is very, very explicit in saying that although you have the right to appoint deputies that can conduct your business for you, that does not give them the ability to make policy for that department or that entire entity.

Again, what we see—and I have seen it in the last 20 years—is that litigating civil rights cases becomes extremely expensive for the smaller counties. I was born and raised in Tonopah, so I end up getting assigned the defense work of these smaller entities. Civil rights litigations are very costly when it comes to proving and disproving who is a policymaker and whether there is a customer policy. By enacting the language that is proposed here, I think you will make our jobs much easier in doing two things: minimizing the unintended exposure to these entities and keeping their litigation costs at a minimum.

Assemblyman Goicoechea:

I realize the intent of the bill. Typically, in a sheriff's office, you would have an undersheriff, lieutenants, and others. Ultimately, the local entity has the deep pockets and ends up with the exposure. I don't know how you have a deputy and, although he wouldn't be truly creating policy, it just comes right back up that ladder. Could you comment on that?

Thomas Beko:

I think you have identified the point exactly. If the *Webb* decision is allowed to continue in the manner that I think it is going to, and I have seen many attorneys attempt to use it in this very way, they are attempting to establish

that the frontline deputy, right out of POST [Peace Officers Standards and Training], who is out on the street, maybe making some mistakes in what he is doing, becomes a policymaker for that county. The problem that you have is in instances—and over my 20 years, there have been only 2 cases that I recall where the conduct of the individual officer was so far outside the course and scope of their employment, that the entity wasn't willing to step up to the plate and be responsible for it—where the officer's conduct was so bad, and I mean it was heinous and terrible, it would expose a county to millions of dollars of exposure. In that situation, if the *Webb* decision were allowed to continue, if that deputy were allowed to be a policymaker for that county—and, just hypothetically, let's assume you have a deputy who walks into a school and fondles a number of children—that public entity would be liable for that conduct, even though it is so far outside of the normal course and scope. Without this type of a ruling, the entity would be responsible for that conduct.

[Thomas Beko, continued.] In most instances, the entity will step up to the plate and be responsible for the conduct of its employees. It is required to do so, first under Chapter 41 of NRS, and also, as a practical matter, most of these entities are covered by liability insurance. If individual officers are liable for constitutional deprivation, the insurance pays on their behalf. It is kind of immaterial that the county or the city also becomes responsible. It is in that rogue case that the *Webb* case becomes so very dangerous.

Chairman Parks:

Am I to understand that the proposed amendments are agreeable? The language that Mr. Carlson submitted is the preferred language to be incorporated into this bill?

Wayne Carlson:

Yes. This was the language that we had crafted with a lot of attorney involvement to help us narrow this down to make clear what the legislative intent really was. We submitted that through Andrew List as part of the bill draft, but, as often happens, the bill drafter chose a different approach and may not have fully understood the dynamics behind this case. That is why I wanted these attorneys here to explain that aspect of it. The language on the amendment would be the language that we are proposing to you.

Chairman Parks:

Ms. [Eileen] O'Grady will have staff take a look at this, and we have contact numbers to reach you as we proceed forward.

Douglas W. Sonnemann, Assessor, Douglas County Assessor's Office, Douglas County, Nevada:

On behalf of the Nevada Assessors' Association, we wish to indicate our support of the bill.

Alan Glover, City Clerk-Recorder, Carson City, Nevada:

I am here representing the county fiscal officers, which are the clerks, treasurers, auditors, and recorders in the state. We are also in support of the bill and would like to give you an example of an area that we feel we may have exposure.

The clerks have field deputy registrars who work for us as clerks. They get about an hour of training on how to register somebody to vote, and they represent our office. While they are out there, it certainly is not our policy or the policy of any county in the state to discriminate on who and which applications to register to vote that they will accept. If they decide that they don't feel that this person is a Democrat or a Republican or they look liberal or conservative and refuse to register them to vote, that is certainly not our policy or state law. We have an exposure.

All of the clerks and the recorders have lots of deputies—including those that are full-time paid employees—and many hourly employees who come in to fill in. They are sworn deputies who act on behalf of the marriage bureau or the recorder's office. We want to make it very, very clear that they do not set policy for either our offices or for our counties.

Madelyn Shipman, Legislative Advocate, representing Nevada District Attorneys Association, Carson City, Nevada:

On behalf of the Nevada District Attorneys Association, we support A.B. 477 with the amendments that were presented by Mr. Carlson ([Exhibit F](#)). To put this in its real context, when our statutes refer to deputies in all of our various chapters for the recorders, the assessors, district attorneys, and public administrators, it is because they work for an elected official. It is a word that really stands for "employee." Do you want employees setting policy?

We don't believe the intent was ever to have employees of an agency, bureau, or office to be setting policy. When I worked for Washoe County District Attorney Richard A. Gammick, as high a regard as I believe he had for my judgment, I did not make the final call on policy in our office. I would not have been, as Assistant District Attorney, a policymaker for the District Attorney.

Chairman Parks:

Have you seen Mr. Carlson's handout that he provided today and his proposed amendments?

Madelyn Shipman:

Yes, I have. Our support is with the amendments. We believe the amendments really are necessary to establish the intent of this legislation.

**Lieutenant Stan Olsen, Executive Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**

The Las Vegas Metropolitan Police Department and the Nevada Sheriffs and Chiefs Association also stand in support of the bill with the amendments. Having been in law enforcement for over 34 years and realizing now what this could do to law enforcement in the state and some of the things that can happen within law enforcement involving police officers, this is pretty frightful.

Chairman Parks:

We will now send this back to see if we can get a revision on this bill. The hearing on Assembly Bill 477 is closed. We will open the hearing on A.B. 440.

Assembly Bill 440: Revises boundary line between Washoe County and Lyon County. (BDR 20-1019)

**Assemblyman Tom Grady, Assembly District No. 38, Carson City (part),
Churchill County (part), Lyon, and Storey Counties:**

[Submitted [Exhibit G](#), [Exhibit H](#), [Exhibit I](#), [Exhibit J](#), [Exhibit K](#), and [Exhibit L](#).
Assemblyman Grady then read from [Exhibit G](#).]

Today I bring you A.B. 440 from Lyon County. The joint sponsors are legislators who represent those areas mentioned in the bill: Senator Washington, Senator Amodei, and Assemblyman Goicoechea, whose district will now be part of Lyon County after this bill is processed, so he will be up to eight counties within his district.

First, for those of you that are not familiar with the area, let me take you on a short tour. Leaving Reno, you travel east along Interstate 80, following the Truckee River through Washoe County, Storey County, back to Washoe County, then on to Lyon County. We stop briefly on Interstate 80 to see the town of Wadsworth in Washoe County, once a major railroad community between

Salt Lake City and Sacramento. The railroad moved their operation to Sparks—houses, employees, and all. The town of Wadsworth remained a proud community. This is also the area where a narrow piece of the pie comes together, joining Washoe County, Storey County, and Lyon County. The area also borders the sovereign nation of the Pyramid Lake Paiute Indian Reservation.

[Assemblyman Grady, continued.] The east boundary of the reservation is the west boundary of the property in question. Travel a few miles west and you are at the west boundary of Churchill County. To the south are the Lyon County boundary and the city of Fernley, the boundary of the property in A.B. 440.

Now that we have made this trip, let me address A.B. 440. Lyon County Commissioner LeRoy Goodman approached me with this idea some six to eight months ago. Since that time, Fernley and Washoe County have been in the loop. Numerous public hearings have been held in Fernley and Wadsworth seeking input. Commissioner Goodman has continued to meet with Washoe County Commissioners and staff, the city of Fernley, and his own Lyon County Commissioners.

We felt we had agreement, the bill was requested, and letters of support were received from Lyon County Commissioners (Exhibit H), City of Fernley (Exhibit J), and Washoe County Commissioners.

Some conditions were placed in the Washoe County letter (Exhibit H), and those are being addressed by the counties and the major property owner in the affected area. Please keep in mind that the present property has no development, no residences, and no improvements at the current time.

Fernley, being Nevada's newest incorporated city, is one of the fastest growing areas in the state percentagewise. Have they had growth challenges? Yes. Mayor David Stix, Jr., his council, and staff pride themselves with working with the community, the developers, the county, and the state to face the challenges and to move ahead.

Water, parks, open space, transportation, schools, and infrastructure are all on their agenda for consideration to meet the

quality-of-life demands of today's residents. They met the issues head on and worked in open government to meet these challenges.

[Assemblyman Grady, continued.] With a major private successful industrial park in Storey County, at the Lyon County border, with a well-established major private industrial park in Fernley, and with the need for affordable housing for the working families, Fernley has come forward to meet this need. With the many successful developers and builders in and around Fernley, this will open up another development to affordable housing for the workers in Lyon, Storey, Churchill, and Washoe counties and for our expanding industrial base.

Mr. Chairman, we have maps and aerial views of the area, and other short presentations by our local officials from the area ([Exhibit K](#)).

LeRoy Goodman, Commissioner, Lyon County Board of Commissioners, Fernley, Nevada:

There are two section lines north along the Pyramid Lake Reservation ([Exhibit K](#)) that would be the west boundary of this, up to the section line, over to the Churchill boundary, and back down—approximately 5,100 acres. This is an aerial photo that we took in 1980.

I have a smaller one today that was taken about 3 weeks ago that looks exactly the same. This looks exactly the same as it did in 1861, when this boundary line between Washoe and Lyon County, through the original nine counties of the state, was established. This actually followed the Emigrant Trail; that's why this boundary line was established. That is the only reason for it, as there was nothing there. Wadsworth was founded a few years later as a hub for the Central Pacific Railroad. Fernley was founded in 1905, as the Central Pacific Railroad moved its line, which was straightened out, and they moved all of the roundhouses and other things into the city of Sparks, as the city of Reno had decided that it didn't want it.

With that, it is pretty straightforward. It's kind of common sense. The city of Fernley, with approximately 15,000 people and growing every day, borders all of this on the south. Its sphere of influence is Lyon County and the city of Fernley. This is up off the river. It does not border the Truckee River or anything close to it. To me, this is one of those things you look at and say that this is where the boundary should have been to start with, but 145 years ago, there wasn't anything there.

Assemblyman Goicoechea:

There are some conditions established by Washoe County. Have you agreed to those?

LeRoy Goodman:

We are working with Washoe County on the MOUs [memoranda of understanding]. We do this currently right now. Public buildings are used by the people of Fernley and Wadsworth, as they have been joined at the hip forever because we are so close to each other. A county line for us doesn't mean a thing. Little League, schools, the whole thing—we are mashed together. The other things, I think, the developers have addressed, and we are working with Washoe County to address the other ones. These are things that are actually outside of legislation, and between the two counties and the city, we can resolve these ourselves.

Chairman Parks:

What is the total amount of acreage?

LeRoy Goodman:

Just over 5,100 acres, not quite 8 sections total. About half of this is BLM [Bureau of Land Management] land. It is not privately owned.

Chairman Parks:

Would there be an effort to seek BLM sale of this property?

LeRoy Goodman:

Not at this time and not to my knowledge. This BLM land is under the jurisdiction of the Winnemucca district. The BLM land in Lyon County is under the jurisdiction of the Carson City district. There again, it doesn't make much sense, as Winnemucca is 125 miles away and Carson City is 50 miles away. At this time, there are no plans for any of that sale of BLM land. It will probably remain quite a bit of open space.

This land, I might add, kind of looks like the top of your counter or the rug; there are no trees on it, very little vegetation, and it truly is part of the desert and part of the original Lake Lahontan from millennia before. It is a continuation of the basin. As you come south from Silver Springs on Highway 95 Alternate, looking into Fernley, you see that land behind Fernley to the mountains. That's just how the land flows. It is sloping from the south to the north with a gradual decline.

Chairman Parks:

What services does Washoe County currently provide?

**Michelle Poché, Assistant County Manager, Office of the County Manager,
Washoe County, Nevada:**

Washoe County currently provides very minimal services in the area, because there are no residents in the area. There is no one to serve. We provide services to the residents of Wadsworth within the parameters of the Indian reservation to the west of the area in question. We would continue to do so, regardless of the boundary line change.

I want to confirm for the record that the Washoe County Board of Commissioners did take a position of support for the bill. The conditions that were described in the letters in your packet are indeed issues that we have been working out with Lyon County and with the developers, and I feel fairly confident that my board is becoming fairly satisfied with those issues. Their position continues to be one of support.

Bob Milz, Chairman, Lyon County Board of Commissioners, Dayton, Nevada:

Our board did vote on this, and the vote was five to zero in favor of A.B. 440. Although we want this to be a clean bill, we do not want amendments attached to this. We feel that we can work out issues at a later time. We would like to see this go through cleanly.

Chairman Parks:

Are there other issues that we should be aware of?

Assemblyman Grady:

I believe the Commission Chairman is referring to the three items in Washoe County's letter (Exhibit H, page 2), and those are being addressed. Those will not be part of this bill.

Lowell Patton, Public Works Director, City of Fernley, Nevada:

I am here to represent the Fernley City Council's view and to echo the concern of Commissioner Milz. The City Council of Fernley stands in support of this bill as it sits before you today. Their support is limited to the wording as it stands, as Assemblyman Grady mentioned. We initially had some concerns over these various and sundry conditions that were floating around outside of the bill, but we do support it as it is listed today.

Chairman Parks:

We will now close the hearing on A.B. 440 and open the hearing on A.B. 402.

**Assembly Bill 402: Makes various changes relating to municipal obligations.
(BDR 30-594)**

Andrew A. List, Executive Director, Nevada Association of Counties (NACO):

This bill is sponsored by NACO, was approved by the NACO Board of Directors unanimously, and has the full support of all 17 counties. A.B. 402 would, quite simply, allow counties to bond against franchise fees. The bill is important to provide some fiscal flexibility in times of fiscal uncertainty.

Daniel C. Holler, Douglas County Manager, Douglas County, Nevada:

We had requested this bill through NACO to be brought forward for consideration. We are looking for an additional stable revenue source that we can actually levy bonds against. Also, we wanted a revenue source that tends to grow with the growth of a community, which franchise fees do over time. As the community grows, they grow with that.

We can currently use franchise fees for debt payment, but we can't use them as a pledge for revenue. The need for the pledge revenue is outlined in a letter that was handed out to you from Marty Johnson ([Exhibit M](#)). It touches on a number of the reasons and how pledged revenues are utilized.

The primary purpose for us looking at that is that the interest rate may be lower, depending on the type of revenue and the security of that revenue that you can pledge to your bonds. Having this kind of stable revenue source, we believe, would enhance that issue. As a stable revenue source, it allows us to work with our capital planning more effectively. It also adds to the list of revenues that can be pledged. Currently, we can pledge state consolidated tax, room tax, gas tax, and other such revenues that can be pledged.

The other aspect for Douglas County, in particular, while looking at this: we have looked at utility fees for specific purposes, one of those being the construction of a senior center. One of the questions that comes up for residents is, "How do we guarantee the dollars are used for that?" If we can show that the revenues have been pledged for that purpose through a bond covenant, we believe that provides an extra level of comfort with our citizens in terms of the use of those revenues for that purpose.

I encourage you to support A.B. 402.

Assemblywoman Pierce:

Is this usual? Do other states do this? Is this a normal financial practice?

Daniel Holler:

In terms of allowing pledged revenue, it is extremely normal. I do not know if there are other states that have franchise fees particularly culled out. That

would take some research to look at. In terms of the pledging of revenues, that is very normal.

Mary C. Walker, Legislative Advocate, Representing Carson City, Lyon County, and Douglas County, Nevada:

On the record, all three of the Boards of Commissioners of each of the counties I represent did unanimously approve this bill. It is an important stable revenue source. It is perfect for bonding. We currently use, for some of our bonding, sales taxes, which are not as stable. This is actually a much better avenue, and now that we have ad valorem taxes that will be capped, there will probably be less ability for us to use that ad valorem tax for bonding. This is kind of a replacement. It does provide us with a little more flexibility.

Chairman Parks:

I believe there is more than one bill floating around this House, or this building, that deals with abolishing such things as franchise tax. While we don't normally comment on other pieces of legislation, since this does deal with that, any particular thoughts you might have relative to that?

Mary Walker:

In particular, on the Senate side, we are working with the sponsor of the bill in regard to that. There is also a lot of talk about an actual vote to eliminate ad valorem taxes, too. That affects our bonding ability. We are always going to have discussions on our revenues. What is important here, with the imminent ad valorem tax caps, is that we are going to have less ability to use those tax revenues for bonding, and this is a good replacement revenue to help us compensate for that.

Alvin P. Kramer, City Treasurer, Carson City, Nevada:

I believe that everything I needed to say has been said by the group before me.

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Chairman Parks:

Further discussion? Are there any additional comments on A.B. 402? We will now close the hearing on A.B. 402. There is no further business, so the meeting is adjourned [at 10:55 a.m.].

RESPECTFULLY SUBMITTED:

Paul Partida
Transcribing Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 1, 2005

Time of Meeting: 9:13 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
<u>A.B. 351</u>	B	Assemblyman Mortenson	News article, 8/13/04, <i>Sparks Tribune</i> , "Artist Wins Constitutional Case Against Sparks"
<u>A.B. 351</u>	C	Assemblyman Mortenson	Letter, American Civil Liberties Union, 1 page
<u>A.B. 372</u>	D	J. David Fraser / Nevada League of Cities and Municipalities	Nevada League of Cities and Municipalities Resolution No. 04-262 pages
<u>A.B. 372</u>	E	D. Gary Longaker / Nevada Rural Housing Authority	D. Gary Longaker's testimony, 2 pages
<u>A.B. 477</u>	F	Wayne Carlson / Nevada Public Agency Compensation Trust and Public Agency Insurance Pool	Testimony and proposed amendment of Wayne Carlson, 4 pages
<u>A.B. 440</u>	G	Assemblyman Grady	Prepared testimony, 2 pages
<u>A.B. 440</u>	H	Bob Milz / Lyon County Board of Commissioners	Letter, Lyon County Board of County Commissioners and a letter from Washoe County Manager, 2 pages, stapled
<u>A.B. 440</u>	I	Assemblyman Grady	Letter from Sonterra Development Co., signed by Patricia M. Snyder, 4 pages
<u>A.B. 440</u>	J	Lowell Patton / City of Fernley	City Manager's Office, City of Fernley, letter
<u>A.B. 440</u>	K	Bob Milz / Lyon County Board of Commissioners	Aerial map of proposed changes of boundary lines, 1 page
<u>A.B. 440</u>	L	Assemblyman Grady	"Declaration of Restrictions

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			Regarding Land Uses," Washoe Co., 6 pages
<u>A.B. 402</u>	M	Daniel C. Holler / Douglas County	Memorandum to Dan Holler, 1 page