

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Third Session
April 14, 2005**

The Committee on Transportation was called to order at 1:30 p.m., on Thursday, April 14, 2005. Chairman John Ocegüera presided in Room 3143 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office 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. John Ocegüera, Chairman
Ms. Genie Ohrenschall, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. John Carpenter
Mr. Jerry Claborn
Ms. Susan Gerhardt
Mr. Pete Goicoechea
Mr. Joseph Hogan
Mr. Mark Manendo
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

Mr. Chad Christensen (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Kirkpatrick, Assembly District No. 1, Clark County (part)

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Angela Flores, Committee Attaché

OTHERS PRESENT:

Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau
Ross Johnson, Chief Financial Officer, Transit Systems Management, Las Vegas Monorail Company, Las Vegas, Nevada
Sydney Wickliffe, Director, Nevada Department of Business and Industry
Dawn Lietz, Supervising Auditor II, Audit Section, Motor Carrier Division, Nevada Department of Motor Vehicles

Chairman Ocegüera:

[Meeting called to order. Roll called.] The first bill on the agenda today is A.B. 406.

Assembly Bill 406: Requires Legislative Auditor to conduct audit of Las Vegas Monorail Company. (BDR S-800)

Marjorie Paslov-Thomas, Committee Policy Analyst:

[Read from Exhibit B]

The Committee requested that I present A.B. 406. This bill directs the legislative auditor to conduct an audit of the Las Vegas Monorail Company. The audit must include an examination of the methods and procedures used to ensure that all money obtained through authorized financing by the state is expended solely for the purpose of the finance project. Further, the bill directs the legislative auditor to present a final report of the audit to the Audit Subcommittee of the Legislative Commission no later than February 5, 2007. The bill also requires the officers and employees of the Las Vegas Monorail Company to make available to the legislative auditor all of their books, accounts, claims, reports, vouchers, and other records of information, confidential or otherwise, which the legislative auditor deems necessary to conduct the audit.

Further, the Las Vegas Monorail Company has six months after the period for the submission of a plan for corrective action to submit to the legislative auditor a report specifying the extent to which the recommendations have or have not been carried out, and the reasons for failing to carry out the recommendations. In addition, if the legislative auditor requests, the Las Vegas Monorail Company

will be directed to transfer to the audit division \$50,000 to carry out the audit. Any remaining balance must not be committed for expenditure after February 7, 2007, and must be transferred back to the Las Vegas Monorail Company.

Chairman Ocegüera:

I would like to handle this almost as a work session. Are there questions about the bill from the Committee?

Assemblyman Sherer:

If it doesn't have any fiscal impact, why does it require a two-thirds majority?

Assemblyman Goicoechea:

Would the monorail system normally be audited by this Body?

Paul Townsend, Legislative Auditor, Audit Division, Legislative Counsel Bureau:

No. This is a special request. This is not a state agency that would normally be in our schedule of audits.

Randy Stephenson, Committee Counsel:

As to why the bill requires a two-thirds majority vote, if you look at Section 2 of the bill, as you know, the constitutional provision says that any measure which creates, generates, or increases any public revenue in any form, has to be adopted by two-thirds majority vote. It appears in Section 2 that there's a possibility the sum of \$50,000 could be paid to the Legislative Counsel Bureau for conducting the audit, so in a sense, that would be public revenue that would be raised by this bill. I think that's probably the reasoning.

Assemblyman Sherer:

Is this going to be a 30,000 foot audit or a 10,000 foot audit? How in-depth is the audit going to be?

Paul Townsend:

The audit is fairly specific in Section 1. It states that we would be looking at the methods and procedures to ensure all money obtained through financing authorized by the state is expended solely for purposes of the project. That is the direction provided by the audit, so it's fairly narrow in scope.

Ross Johnson, Chief Financial Officer, Transit Systems Management, Las Vegas Monorail Company, Las Vegas, Nevada:

We have bond covenants that require, essentially, the same types of things. We've covenanted to do what's identified there already. The testing of that is included in our independent audit that we already had done by Deloitte.

Pursuant to Senate Bill 362 of the 72nd legislative session, we already provide an annual report to the legislative commission that includes our audited financial statements, and then there's a list of 10 or 12 other items that are specified in that particular Senate bill. Being instituted in 2003, the first year we were required to file would've been for 2003. We are a calendar year entity. That provides that we file those before June 30 of the following year. In June of 2004, we did file the response to that. I didn't bring it with me, but it's a loose-leaf book of information. We will also file in a timely basis for the year ending December 31, 2004. Likely, that will be late May or the early part of June when we'll have that filing information accumulated and completed. We're willing to cooperate in helping the legislative auditors—the legislative commission—gather information they think they need. The majority of that we already have in the audit, as I mentioned. We pay \$75,000 to \$100,000 for our independent audit. We'd like not to have to have another fee imposed upon us at this time. I do have a little presentation ([Exhibit C](#)) I will leave, if you're interested. Many of you heard most of it a month or so ago when I was up here.

Chairman Oceguera:

One of the reasons we decided to move forward with this bill was because of some of those answers that were given to some of the questions that were presented at that meeting. When we talked about the secured bonds for your project, I asked the people that were here, "a major credit company put the project on credit watch; what's the status?" They gave their answer, basically saying everything was good. Then I said, "I've heard that the IRS [Internal Revenue Service] may revoke the tax exempt status," and the answer was, "No, everything's good." Then I read in the press that the monorail firm's rating has been lowered and that Moody's Investors Service has lowered those to a junk bond category. How would you respond to that?

Ross Johnson:

With respect to the tax exempt status that you mentioned, Mr. Chairman, we at the Monorail Company have heard nothing about that whatsoever, and I think that was our response at the time. We just haven't heard anything about it. Where that's coming from, I don't know. With respect to the bonds, we have ratings by two of the three major ratings agencies on the Monorail first tier revenue bonds. The two rating agencies are Moody's and Fitch. Moody's is the one who did a downgrade.

Last year, during the untimely shutdown that we had because of safety and mechanical issues on the monorail system, both of those rating agencies put us on credit watch with a negative outlook. The rating agencies do not like to leave that kind of rating on an indefinite basis. Moody's felt compelled that they

needed to take some action. They had their own credit committee meeting call us and say, this is what we're planning to do. They said they were dealing with outdated information. They did not have current operating information from us. We provided that to them, and whereas they were going to downgrade us two notches in their initial meeting, they downgraded us one notch. Our position was that they were a little preliminary in doing that. If you read closely their press release, they say some very positive things except right at the end where they say, "We're downgrading the bonds." Moody's has downgraded the bonds.

[Ross Johnson continued.] Fitch was at our facilities two weeks ago. We met with them, provided them current operating information, and they will probably have a credit committee meeting sometime around the end of April or first part of May. The outcome of that, I can't predict. The only thing I can tell you is, during the month of March and continuing into April, our revenues are exceeding what we budgeted. January and February were below what we budgeted, and that was the information that Moody's was dealing with.

We're hopeful that Fitch rating would leave us on a status quo, but I don't know what they'll do until that rating's finally done.

Assemblyman Sherer:

I don't remember what came out of the last audit. Can you tell me what things you needed to fix on the last audit, and have they been fixed?

Ross Johnson:

If you're talking about the internal controls and financial things that are reported in the audits, there were no comments in a management letter to the Monorail Company concerning that, which needed to be fixed at that time. If you're talking about the wheels on the monorail, those have been fixed, we believe. We had no management comments from Deloitte on our last audit, and we received none from the State on the submission that we gave to the State.

Assemblyman Hogan:

The scope of this audit seems to be rather narrowly directed to examine as to whether the financing that was obtained was devoted exclusively to the purpose for which the bonds were issued. Was there any suggestion or concern expressed by the independent auditor with respect to the funds going astray, or not being devoted to the main purpose?

Ross Johnson:

There was not. As I mentioned, in our financing documents, we've covenanted to use the funds from the proceeds to build the project. There is a footnote in

the audited financial statements that says we are in compliance with all the covenants that we've made under the bonding situation.

Chairman Ocegüera:

I think that the reason this bill is a positive thing is because the State is probably ultimately responsible. There's some argument on that, but I believe that they're ultimately responsible for the \$650 million in bonds. We want to make sure we're covered, and make sure they're doing the right thing. With the recent mechanical and human failures, we want to ensure the safety to the public; I think that's important, and that the dollars are being spent appropriately in those areas. We want to make sure this is a viable transit system. The monorail is not going to ask us to pay a subsidy if the ridership doesn't end up what they want it to be. We don't want them to do anything that's going to spend this money in a way that places the State at risk. That's why I think this is an important bill.

Sydney Wickliffe, Director, Nevada Department of Business and Industry:

I was asked to come today in order to explain to you my role in the oversight of the Las Vegas Monorail Company. As you may or may not know, I'm the one who issued the bonds. There is a tax agreement in place that Ross did not allude to between the Office of the Director of the State of Nevada and the Las Vegas Monorail Company that requires the proceeds only be used for the building and functioning of the Monorail. They have found to be in compliance with that throughout.

I have been a CPA [certified public accountant] since 1981. My career emphasis has been as an auditor. Those of you who have experience with auditors know that we're in the business of looking at the people's dirty laundry, thinking about it, and expressing an opinion on it. After my stint in public accounting, I spent 20 years with the Gaming Control Board, which obviously is a very strong regulatory agency. I've been in the position of director for the last five and a half years.

Our Department has 16 agencies, one of which is the Office of Business Finance and Planning that issued the bonds for the Monorail. The Department of Business and Industry has an annual budget of a little over \$100 million a year, and about 665 employees. I would like for you to know that the Governor approves the annual budget of the Las Vegas Monorail Company at a public meeting that's held in December every year. He also appoints each of the members of the board of directors, who direct the activities of the company. I do this on behalf of the Governor after consultation with him.

[Sydney Wickliffe continued.] During the construction phase, which lasted some four years, I spent a lot of time pouring over their schedules of their financing, verifying the bond proceeds were being spent as was required, and as was represented. Since that time, I have attended every board meeting that the Monorail Company has had, that's once a month. In fact, we have another one next week. I am also privileged to attend the meetings the board has that do not involve their management company, TSM [Transit Systems Management]. I've been privy to very private discussions that they have. They have been very open with me and have never denied me access to anything at all, any records, any part of the company. I've ridden on the trains, I've walked in the hard-hat area, I've talked to their chief engineer, I've talked to their financial people at length, and at the end of every meeting they ask, "Sydney, are there any questions? Is there anything you need to know? Is there anything the Governor would like to know?"

I brought along with me today the materials from last month's board of directors meeting. Let me just fan through them and show you the nature of the information. [Sydney Wickliffe held up a large stack of paperwork.] Here we've got a listing of all the checks that were written in the course of a month, numerically sequenced. As you can see, I've made some notes on there, and have asked some questions about it. We've got their monthly financial statements that we go through and discuss in detail, a very lengthy written and oral explanation each month on the system operations status, which has some interesting charts and so forth in it. I've got a summary of the marketing activities, and a summary of the advertising, both of which impact the revenues and the ridership directly. Here at the end, in the really fine print, we've got an analysis of the revenue by station, which means, by resort hotel, by day. This is gone over in detail in every monthly meeting.

The Governor's oversight of this company extends for the life of the bonds, which is 40 years. I don't intend to be doing this 40 years from now, or even 35; nowhere close. But I do intend to be doing it for as long as he wishes me to, and as long as I am director. It's been an interesting project for me; unlike anything I've been involved with during the prior portion of my career. It's not been a hardship at all for me; as I say, it's been very interesting. I have an office in Las Vegas and an office in Carson City, so it's very easy to attend their meetings.

John Haycock, who appeared before you Tuesday afternoon [April 12, 2005] representing Haycock Distributing on the bill that you heard on the dyed fuels, is the present chairman of the board of directors, just to give you a little perspective on people you've met in the past.

Chairman Ocegüera:

I think it's wonderful that that information is readily available to you, but I think there are probably some people in this Body that would like that to be readily available to them, as well.

Sydney Wickliffe:

The reason I got up and came to the table was because you made a statement about the State being on the hook for these funds, and that is absolutely not the case. The State has zero liability for these bonds. They were issued by Solomon Smith Barney. They're issued to institutional investors. The first two tiers, the first \$600 million of them, are insured. They're in \$100,000 increments, and the State under no set of circumstances ever has any liability for the repayment of these bonds, and I wanted to make certain that that was on the public record.

Chairman Ocegüera:

I will close the hearing on A.B. 406.

ASSEMBLYMAN ATKINSON MOVED TO DO PASS ASSEMBLY BILL 406.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Christensen was not present for the vote)

Chairman Ocegüera:

We'll move to our work session. We'll start with A.B. 504.

Assembly Bill 504: Exempts owner or operator of motor vehicle that is used for transportation of passengers or property from provisions governing fully regulated carriers under certain circumstances. (BDR 58-1236)

Marjorie Paslov-Thomas:

Assembly Bill 504 exempts owners or operators of motor vehicles that are used for transportation of passengers or property governing fully-regulated carriers under certain circumstances. This bill was sponsored by the Assembly Committee on Transportation, and it was heard on Tuesday [April 12, 2005]. As

introduced, this bill would exempt an owner/operator of a vehicle I just mentioned from the provisions governing fully-regulated carriers.

[Read from [Exhibit D](#)]

If the owner/operator holds a nonrestricted license and is a resort hotel, the vehicle is related to the business, is not in the business of transporting passengers, does not charge a fee, and places on the vehicle identifying information such as a decal, the TSA [Transportation Services Authority] must issue a decal sticker identifying the owner and the motor vehicle will be operated as previously mentioned. The TSA may charge a fee of not more than \$50.

[Marjorie Paslov-Thomas continued.] There are some proposed conceptual amendments. The Nevada Resort Association proposes three amendments. The first one is to amend the bill to add a provision that the motor vehicle is not subject to the provisions of a fully-regulated carrier if it also—in addition to the other ones—provides transportation only to its customers and marks the vehicle with the name or logo of the owner or operator.

Amend the bill to delete the provision requiring an owner or operator to apply to the TSA for a decal that is valid for one year and pay a fee of not more than \$50.

Amend the bill to add a new section that requires an operator of a vehicle to regularly inspect each vehicle operated, and keep a record of the inspection. All records of inspection must be maintained by the operator of the vehicle for at least three years and are subject to inspection or audit by the TSA or its designated agent at any time during regular business hours.

Chairman Oceguela:

If you could hand the secretary the amendment that was proposed and worked on by Ms. Gerhardt ([Exhibit E](#)). I also have a letter from Mr. Mark James ([Exhibit F](#)) from Las Vegas, if we could hand that out to the Committee members. That just came in over email a couple minutes ago.

The Chairman will entertain a motion.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 504 AS DESCRIBED UNDER TAB C OF THE WORK SESSION DOCUMENT ([EXHIBIT D](#)).

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Christensen was not present for the vote.)

Assembly Bill 240: Makes various changes relating to regulation of certain motor carriers by Transportation Services Authority. (BDR 58-55)

Marjorie Paslov-Thomas:

Assembly Bill 240 was sponsored by Assemblyman Hettrick and had to do with the TSA. It was heard on March 31, 2005. As introduced, it clarifies the jurisdiction of the Transportation Services Authority by specifically exempting charter bus services from regulation by the TSA, as such services are regulated by federal law. This measure also clarifies certain terms and further clarifies that the TSA's jurisdiction through the issuance of certificates of public convenience and necessity applies only to fully-regulated carriers and certain operators of tow cars. The Chairman has proposed three amendments. There is a copy of that behind Tab A ([Exhibit D](#)).

[Read from [Exhibit D](#)]

1. Amend the bill to delete all current provisions.
2. Add a new section that requires each owner or operator of a charter bus who is not a fully-regulated carrier of passengers to comply with the provisions of Chapter 706 of Nevada Revised Statutes, and any regulations adopted by the TSA relating to safety. Submit evidence satisfactory to the TSA that he has obtained liability insurance, a certificate of insurance, bond of a surety company in the time, amount, and form required by the TSA. Submit within 30 days after changing any schedule or tariff setting forth the rates established by the owner/operator a copy of those changes to the TSA.
3. An owner or operator who violates these provisions would be guilty of a misdemeanor.

Chairman Ocegüera:

Basically, what I did was gutted out the whole bill and reworked it with what I thought would work. If you recall, I made a speech where I thought the proponents of the bill were correct that there were some issues with the federal law and the state law, and I thought we should move toward deregulation of

the buses. I've left in some of the language to give some sensitivity to the safety and the insurance, but not much regulation there.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 240 WITH THE AMENDMENTS OUTLINED UNDER TAB A OF THE WORK SESSION DOCUMENT ([EXHIBIT D](#)).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Christensen was not present for the vote.)

Assembly Bill 255: Revises provisions relating to dyed special fuels. (BDR 32-1258)

Marjorie Paslov-Thomas:

Assembly Bill 255, this is the one that relates to dyed special fuels.

[Read from [Exhibit D](#)]

Generally, this bill provides for the licensing and regulation of purchasers of dyed special fuel in bulk. The measure also requires each purchaser of dyed special fuel in bulk to submit to the DMV a monthly report setting forth certain information related to dyed special fuel. This bill requires the Department to cancel certain licenses that have been surrendered to the Department.

There are several proposed conceptual amendments. Those are proposed by Edgar Roberts, the administrator of the Motor Carrier Division of DMV. DMV has prepared a mock-up behind Tab B ([Exhibit D](#)). If you want to follow along, it might make more sense.

[Read from [Exhibit D](#)]

1. Amend the bill by deleting definitions for dyed special fuel in bulk and purchaser of dyed special fuel in bulk.
2. Amend the bill by adding definitions for "controlled access," "retail station," and "retailer."

3. Amend the bill to add a provision requiring a retailer who transports or stores special fuel to keep records, receipts, invoices, and other pertinent papers as required by the DMV.
4. Amend the bill to restrict the sale of dyed special fuel from any location to which controlled access is not provided by the seller or other responsible party.
5. Amend the bill to provide that all amounts determined on the refund of the tax on special fuel must be equal to the tax paid by the applicant less the percentage allowed the special fuel supplier. Additionally, if the applicant for the refund is a special fuel supplier, the amount of the refund or credit must be equal to the amount of the tax paid by the special fuel supplier, less the percentage allowed the special fuel supplier.
6. Amend the bill to provide an increase in the administrative fine for misusing or altering dyed special fuel.
7. Amend the bill to change the effective date to January 1, 2006 for provisions relating to refunds, and July 1, 2005 for all other provisions.

Chairman Ocegüera:

Ms. Kirkpatrick, would you like to tell us about your negotiations that went well into the night? I really appreciate your working together on this and figuring out a solution, instead of just imploding it. It looks like you might have come up with a real workable solution.

Assemblywoman Kirkpatrick, Assembly District No. 1, Clark County (part):

It was with your backing that we were able to all come to a good solution. The entire industry came together. They actually had most of it worked out before 5:00 when you were still in Committee.

I think this is going to give us a requirement so that we can see what's going on in the next few years. The industry is okay with this because they already have most of these records on file. This secures the cardlocks a little bit more, and the retail stations. With that, I urge you to pass it.

Assemblyman Claborn:

I just wonder if this will put this thing to bed. Are we going to get it two years from now if we're all back? I certainly hope so. This is the fourth session we've

had this thing. I think we're running out of alternatives. I sure hope this puts it to bed.

Dawn Lietz, Supervising Auditor II, Audit Section, Motor Carrier Division, Nevada Department of Motor Vehicles:

Everyone has come together on this and I think it's going to put it to rest. I do have to make a disclosure, though, that there is going to be a fiscal note. It's been submitted and it has not yet been released by administration. The fiscal note is basically the additional revenue that'll be generated by the increased fine and it runs with the assessments on fines that we did from July of 2003 to current. It will increase that by about \$77,000. There's also a fiscal note on the refund part for Section 17 that could increase the revenue by \$234,636.97 in 2006, \$241,667.07 in 2007, and \$497,852.71 in future biennia. That is for the difference between the 27 cent refund tax that we currently have, and reducing it down to the 26.46 cents that would be proposed if we don't allow what the suppliers were allowed to keep.

Assemblyman Claborn:

How much did you say that was, \$200,000; the fiscal note?

Dawn Lietz:

The fiscal note is \$234,000. Currently, our IFTA [International Fuel Tax Agreement] carriers, the commercial vehicles that travel through our state, pay taxes in other states and when they buy their fuel in Nevada and use it in other states, we have to refund that tax. We allow the suppliers to keep 2 percent of all the fuel that's put in the retail stations, so this bill would not allow them to have that portion back as part of their refund.

Assemblyman Carpenter:

If the DMV and the Highway Patrol and all the rest of them would go after all of the other people operating illegally out there, as you went after dyed fuel, you'd probably get in the millions. There are all kinds of trucks running around out there that aren't licensed in Nevada that stay in Nevada all the time. There's all kinds of contractors and workers who are supposed to register and license their vehicles in Nevada, that aren't licensing at all, and we're losing all kinds of money, and so I think you ought to take after them just as you did the dyed fuel users.

Assemblyman Goicoechea:

I'm dropping back to where the jobbers don't receive the 2 cents. Are we going to see a price increase in that? Typically, those guys have been getting 2 cents to do the paperwork, I assume. You don't think we'll see an increase? That's the last thing we need with the high price of fuel.

Dawn Lietz:

There will not be an impact to the 2 percent, because the 2 percent is done at the supplier level and this is at the user level.

ASSEMBLYMAN ATKINSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 255 WITH THE AMENDMENTS PROPOSED BY
ASSEMBLYWOMAN KIRKPATRICK.

ASSEMBLYMAN SHERER SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Carpenter abstained.
Assemblyman Christensen was not present for the vote.)

Assembly Bill 277: Revises certain presumptions relating to abandoned vehicles. (BDR 43-1041)

Marjorie Paslov-Thomas:

Assembly Bill 277 relates to presumptions relating to abandoned vehicles. Generally, this has to do with rebutting presumption for a stolen vehicle and allows a sheriff to go ahead and remove abandoned vehicles from public lands.

The proposed conceptual amendment is proposed by Assemblyman Carpenter. The first one is to delete all the provisions in the bill. As you'll recall, many of these provisions were suggested by the sponsor and he said he was willing to remove them and put them in another bill. The second one is to amend the bill to provide that an abandoned recreational vehicle with or without a vehicle identification number (VIN) and located on private property may be removed by a tow car operator, automobile wrecker, or the private property owner. A person in possession or control of private property may remove that abandoned recreational vehicle at his own expense.

Chairman Oceguela:

As you remember, Mr. Hettrick's bill was similar to Mr. Denis' bill. We've amended that on the floor today, as a matter of fact, taking out most of the provisions from this bill and putting them in that bill. Now we're adding, basically, Mr. Carpenter's amendments and his concerns about abandoned vehicles, abandoned trailers, those kinds of things, into this bill to see if we can help him a little bit.

I'll accept a motion.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 277 WITH THE AMENDMENTS PROPOSED BY MR. CARPENTER.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Christensen was not present for the vote.)

Chairman Oceguela:

If you recall, we had A.B. 140 in front of us. It talked about the Union Pacific Railroad and some of the issues there. We had several people from the railroad come and discuss their concerns and their problems. It was presented by Mr. Anderson. If it's the pleasure of the Committee, I think maybe a better way to deal with that specific problem is to send a letter. I've drafted a letter, and I'll read it for the record to see what you think. If we can do that, I think that will dispense with moving forward with A.B. 140.

[Chairman Oceguela read from [Exhibit G](#)]

Assembly Bill 140 is currently pending before the Nevada Legislature. Currently, Nevada law requires railroads to report certain railroad accidents to the Public Utilities Commission of Nevada. The bill would make it unlawful for an officer, manager, employee, or agent of a railroad to harass or intimidate another employee with the intent to discourage or prevent the person from reporting railroad accidents, safety violations, or injuries; conceal or destroy evidence with the intent to hinder or prevent investigations concerning railroad accidents, safety violations, and injuries; or retaliate in any way against another person for reporting railroad accidents, safety violations, or injuries.

Assembly Bill 140 was heard in the Assembly Committee on Transportation on March 10, 2005. Anecdotal information provided by railroad employees indicates that railroad companies may be engaging in activities that discourage or prevent employees from reporting railroad accidents, safety violations, or injuries. If these allegations are true, then the railroad companies are in direct contravention of the law.

As you are aware, the Federal Railroad Safety Act of 1970 (FRSA) requires railroad companies to report certain accidents and any

related injuries to the Federal Railroad Administration. However, the FRSA does not preempt states from allowing railroad employees to report railroad accidents, injuries, or safety violations to a state agency. Moreover, it is clear that the FRSA does not expressly preempt states from giving statutory protections to railroad employees who make such reports.

[Chairman Oceguela continued.] I, not only as a citizen of the state of Nevada, but also as Chairman of the Assembly Transportation Committee, wholeheartedly support the railroad industry. Therefore, I urge you in your capacity as the Special Representative of Union Pacific Railroad to continue your efforts to comply with federal and state law by requiring your employees to report all accidents, injuries, or safety violations.

The Legislature is very concerned with this issue and will be keeping abreast of the situation. Should the Legislature become aware of an increase in violations, then similar legislation will be introduced next session.

Assemblyman Claborn:

I was torn between that bill, and I didn't know how I was going to get out of that. I think you just pulled me out of that.

Chairman Oceguela:

I don't think we need a motion. We'll just send this letter with the unanimous support of the Committee. It's the Committee's intent and feeling that we'd like the railroad to pay attention. Mr. Guild is nodding his head. I'll give this letter directly to Mr. Guild and he can hand deliver it.

Chairman Oceguera:

Today we won't adjourn. I'll recess just in case there's something for the floor tomorrow. We'll recess [at 2:36 p.m.].

[The meeting adjourned at 12:35 p.m. on April 15, 2005.]

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblyman John Oceguera, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: April 14, 2005

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	Agenda	
A.B. 406	B	Marjorie Paslov-Thomas, LCB Committee Policy Analyst	Opening remarks
406	C	Ross Johnson, CFO of TSM	Monorail presentation.
	D	Marjorie Paslov-Thomas, LCB Committee Policy Analyst	Work Session Document
A.B. 504	E	Assemblywoman Susan Gerhardt	Proposed amendments from the Nevada Resort Association
A.B. 504	F	Mark James, Private Citizen from Las Vegas, Nevada	Letter to the Chairman
A.B. 140	G	Chairman John Ocegüera	Letter to the Union Pacific Railroad