

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-third Session
April 21, 2005**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:39 p.m. on Thursday, April 21, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Warren B. Hardy II
Senator Bob Beers
Senator Dina Titus
Senator Bernice Mathews
Senator Valerie Wiener

GUEST LEGISLATORS PRESENT:

Senator Dean A. Rhoads, Northern Nevada Senatorial District
Senator Maurice E. Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michael Stewart, Committee Policy Analyst
Jonathan Sherwood, Committee Secretary

OTHERS PRESENT:

Steve Robinson, Advisor on Wildlife, Conservation and Rural Nevada Issues,
Office of the Governor
Hugh Ricci, P.E., State Engineer, Division of Water Resources, State Department
of Conservation and Natural Resources
Allen Biaggi, Director, State Department of Conservation and Natural Resources
Edwin James, Carson Water Subconservancy District
Lawrence Werner, P.E., City Engineer/Surveyor, Carson City

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Steve K. Walker, Truckee Meadows Water Authority
Lorne J. Malkiewich, Director, Legislative Counsel Bureau

Chair Cegavske opened the hearing on Senate Bill (S.B.) 320.

[SENATE BILL 320](#): Creates Legislative Committee on Water Resources.
(BDR 17-619)

Senator Maurice E. Washington, Washoe County Senatorial District No. 2, said water has always been an important issue in the State. He said the Committee should create an ongoing statutory committee to deal with the water issues in the State. He said numerous studies had been conducted during the interim in prior years, but the situation remained the same. He said it was time to take a serious look at the water issues within the State. Senator Washington emphasized S.B. 320 did not hinder the jurisdiction of the various conservancy groups within Nevada. He said it was important for Legislators to make informed decisions on water rather than "off the cuff." Senator Washington referred to a listing of various interim committees ([Exhibit C](#)). He said the Office of the Governor had voiced some concerns over the creation of an ongoing statutory committee on water issues. He said the first concern was on interbasin water transfers, and the committee's ability to examine prior contracts. The Office of the Governor stated that prior contracts on interbasin transfers should not be examined by Legislators. Senator Washington disagreed with that assessment and said Legislators should be reviewing the contracts. He said the second concern from the Governor was to change it from a statutory committee to an interim-study committee. Senator Washington said numerous interim studies had been done before. The final concern, he said, was that the Governor would veto the bill if passed. Senator Washington said he hoped the Governor would not veto the bill because it was important for the State.

Chair Cegavske said the studies were important, and she agreed water was a critical issue for the State. She asked if a representative from the Governor's Office had spoken to Senator Washington about the bill. Senator Washington said yes.

Senator Titus agreed with Senator Washington and said the State should take a bigger role in water issues. She asked how the membership of the proposed committee was determined. Senator Washington said the model had been taken from other statutory committees.

Senator Hardy said he agreed the Legislature was not as involved in water issues as it needed to be. He said he was concerned the proposed committee would sectionalize the debate of water in the State. Senator Hardy said the current water law was good, and changes were not necessary. He said the committee might feel pressured to make unnecessary changes. He said more study was necessary on water issues in order to gain a better understanding of what was available in the State. He expressed concern over further politicizing the issue of water. Senator Washington said while many bills had been proposed in regard to water, many were reactionary bills from the pressure of constituent concerns. Senator Washington said the proposed committee would ensure the water law remained on course. Senator Washington said the State Engineer's office was already in the middle of politics, and the proposed committee would remove the issue of politics from the office and allow him to do his job.

Chair Cegavske asked what Senator Washington meant when he said prior water contracts needed to be reviewed. Senator Washington said a number of interbasin transfer contracts between groups such as the Southern Nevada Water Authority and Lincoln County, should be reviewed in order to ensure one group was not hurting another group in regard to water. Chair Cegavske asked if contracts were currently being reviewed. Senator Washington said the oversight was in the State Engineer's office.

Senator Hardy said water, by its very nature, is political, but the State Engineer's office had managed to stay above the politics and make sound decisions. Senator Washington said he did not disagree with Senator Hardy's assessment of the State Engineer's office.

Senator Dean A. Rhoads, Northern Nevada Senatorial District, said the Legislative Committee on Public Lands had made a recommendation to create an interim committee to study water issues in the State. He commended fellow Legislators for their proposals on water issues, but the Legislative Committee on Public Lands had been working on their proposed interim committee for some time. He suggested the Committee wait until the proposed interim committee details were finished before processing S.B. 320.

Steve Robinson, Advisor on Wildlife, Conservation and Rural Nevada Issues, Office of the Governor, said vetoing any bill was the last measure to be exercised by the Governor. He said the term was not used lightly, and he hoped to work with Senator Washington to come up with something to satisfy

everyone. He said the Governor appreciated that water was the most important issue facing in the State. He said the Governor also understood the oversight role of the Legislature. He said S.B. 320 would threaten to usurp Executive Branch duties and responsibilities. He specifically mentioned that oversight into interbasin transfers would send a message to the State Engineer to carefully consider any decision as justification before a committee would be required; he said that is the wrong message to be sending. He said he respectfully disagreed with Senator Washington's assertion that politics had entered the office of the State Engineer. He said Governor Kenny C. Guinn had judiciously fought to protect the State Engineer from politicization; the Governor wanted the State Engineer to retain independence. Mr. Robinson said the check and balance to the State Engineer was in judicial review. He said the State Engineer was not perfect and should be subject to accountability and improvement. Mr. Robinson suggested the Committee follow Senator Rhoads' approach to the issue. Chair Cegavske asked who the State Engineer answered to regarding his decisions. Mr. Robinson said the State Engineer answered to several committees.

Senator Hardy said the State Engineer was an Executive Branch office and a case could be made that S.B. 320 would create a problem of separation of powers.

Hugh Ricci, P.E., State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources, spoke from a prepared statement in opposition to S.B. 320 ([Exhibit D](#)). Chair Cegavske asked who Mr. Ricci answered to. Mr. Ricci said he was appointed by the director of the State Department of Conservation and Natural Resources.

Allen Biaggi, Director, State Department of Conservation and Natural Resources, spoke in opposition to S.B. 320. He said none of the committees referred to by Senator Washington in [Exhibit C](#) had oversight over a regulatory program or a quasi-judiciary program. He said there had been an implication that interim study groups had not produced results, and he disagreed with that assessment. Mr. Biaggi said water law was not perfect and needed to change as times did. He said the interim study groups had outlined the changes necessary. He said Mr. Ricci had never made decisions based on politics. He said Mr. Ricci's decisions were always based on science and in accordance with the directives of the Legislature and statutes. Mr. Biaggi said his preference was for Senator Rhoads' proposed interim committee, but he had offered an alternative

to Senator Washington for consideration in the form of an amendment to S.B. 320 ([Exhibit E](#)).

Chair Cegavske asked who reviewed the interbasin transfer contracts and under what conditions. Mr. Biaggi said the State Engineer did not have the authority to review the contracts. He said the State Engineer's responsibility was to allocate water resources fairly, within science and the State and public interest. He said review of contracts occurred between the two entities bound by the contract.

Edwin James, Carson Water Subconservancy District, spoke in opposition to S.B. 320. He said water issues were already complicated, and adding more oversight would make the decisions made by the State Engineer more difficult. He said the State Engineer needed to remain independent in order to make sound decisions. Mr. James agreed with Senator Washington that education was important to understand water issues in the State.

Lawrence Werner, P.E., City Engineer/Surveyor, Carson City, spoke in opposition to S.B. 320 from a prepared statement ([Exhibit F](#)).

Steve K. Walker, Truckee Meadows Water Authority, spoke in support of S.B. 320. He said the proposed committee could improve proposed legislation on water by taking time for a more thorough examination of the issues.

Senator Raggio said after 32 years in the Legislature, he found the people serving as the State Engineer and the director of the State Department of Conservation and Natural Resources to be dedicated individuals who constantly must resist political pressures. He said the individuals in those positions had made many difficult decisions over the years, and Mr. Ricci and Mr. Biaggi, as well as their predecessors, were people of integrity who had done an outstanding job.

Senator Washington said he wanted to be clear that he was not there to denigrate the office of the State Engineer or any other office. He agreed that the State Engineer had done a good job and should be commended. He also said it was important that when Legislators answered questions from their constituents in regard to water issues, they should be well versed in the topic. He said to be well versed required more than an interim study group. Senator Washington proposed a change to S.B. 320 using a document he provided to the Committee ([Exhibit G](#)). He said creating a subcommittee and designating four meetings of

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the Legislative Committee on Public Lands to water issues for this subcommittee would be a good alternative.

Chair Cegavske said she would allow the proposal by Senator Rhoads to come before the Committee before action was taken on S.B. 320. Chair Cegavske closed the hearing on S.B. 320 and opened the work session on S.B. 477.

SENATE BILL 477: Makes various changes relating to Legislature and Legislative Counsel Bureau. (BDR 17-371)

Michael Stewart, Committee Policy Analyst, gave an overview of S.B. 477 using a work session document provided to the Committee, "Work Session, Senate Committee on Legislative Operations and Elections, April 21, 2005" (Exhibit H, original is on file at the Research Library).

Senator Raggio said he thought section 9 in the bill was not necessary. Chair Cegavske said she personally did not have a problem with section 9, but wanted to see how the Committee felt. Senator Beers said section 9 would provide more work and did not provide the public with any more information. He said the enhanced information would not be any more meaningful.

Lorne J. Malkiewich, Director, Legislative Counsel Bureau, said the reason for section 9 was that lobbyists were already reporting every expenditure by Legislator. He said if the amount spent in one month was more than \$50 per Legislator, section 9 would require a detailed expenditure. He said if the Committee wanted to amend the bill or remove any section, he did not have a problem with it.

Senator Mathews asked if section 1 was necessary, as it seemed like very little time would be saved. Mr. Malkiewich said section 1 could be removed entirely or in small parts. He said if the Committee preferred Legislative Commission approval on specific items, those could be changed in the bill. He said section 1 was a result of timing, as when there were no Legislative Commission meetings and pricing needed to be set on items. Brenda J. Erdoes, Legislative Counsel, emphasized a portion of the budget for the Legal Division was funded with an authorized expenditure of money earned through publications, and pricing was a critical issue so costs were covered. Senator Raggio said it was important to cover the costs of the Legal Division, and section 1 should remain. Senator Raggio said he had no problem with the bill except for section 9.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 477.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Cegavske opened the work session on Senate Joint Resolution (S.J.R.) 10.

SENATE JOINT RESOLUTION 10: Proposes to amend Nevada Constitution to create Reapportionment Commission. (BDR C-1327)

Mr. Stewart gave an overview of the bill using Exhibit H. Senator Beers described the proposed amendments using Exhibit H. Senator Raggio said he wanted more time to examine the proposed amendments to S.J.R. 10, as there was too much information to try to process in a single day. Senator Beers said the proposed committee in S.J.R. 10 could act as a backup for legislative failure to conduct reapportionment, as Senator Raggio had suggested.

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Chair Cegavske closed the work session on S.J.R. 10, and adjourned the meeting of the Senate Committee on Legislative Operations and Elections at 4:04 p.m.

RESPECTFULLY SUBMITTED:

Jonathan Sherwood,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: _____