

Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System

(Nevada Revised Statutes 218E.555)

WORK SESSION DOCUMENT

(Includes Attachments)



November 4, 2016

Prepared by the Research Division
Legislative Counsel Bureau

Agenda Item VII A (TAHOE)
Meeting Date: 11-04-16



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Legislative Committee for the Review and Oversight of the Tahoe Regional
Planning Agency and the Marlette Lake Water System
(*Nevada Revised Statutes* [NRS] 218E.555)

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The following “Work Session Document” was prepared by the staff of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System. The recommendations listed in this document are in no particular order and do not necessarily have the support or opposition of the Committee Chair or members. The Committee may accept, reject, modify, or take no action on any of the proposals. Actions available to the Committee members include: (1) approving bill draft requests (BDRs); (2) including statements in the Committee’s final report; and (3) sending letters of recommendation or support to specific persons or entities.

The members of the Committee may vote to send as many letters as they choose; however, pursuant to NRS 218D.160, the Committee is limited to ten BDRs, including requests for the drafting of legislative resolutions. On August 10, 2015, the Legislative Commission approved the waiving of the deadline for interim committees to meet after August 31 of even-numbered years, which is found in subsection 1 of NRS 218E.560. On September 9, 2016, the Legislative Commission approved the Committee’s request for an extension of the statutory deadline to submit committee BDRs that is found in subsection 3 of NRS 218D.160.

This document contains a summary of proposals for BDRs or other actions that have been presented during public hearings, through communication with individual Committee members, or through correspondence or communications submitted to the Committee. The source of each recommendation is noted in parentheses unless the proposal was raised and discussed by numerous individuals and entities during the course of the Committee’s meetings.

Committee members should be advised that Legislative Counsel Bureau staff may, at the direction of the Chair, coordinate with interested parties to obtain additional information for drafting purposes or for information to be included in the final report. If action is taken to

adopt a recommendation, it will become part of the Committee's final report. The approved recommendations for legislation resulting from these deliberations will be prepared as BDRs and submitted to the 2017 Session of the Nevada Legislature.

Additional recommendations may be considered based on discussions held and presentations made at the November 4, 2016, hearing. Please see the agenda for details concerning scheduled presentations.

Subsection 5 of NRS 218E.560 requires that any recommended legislation proposed by the Committee be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

RECOMMENDATIONS

FOREST HEALTH

- 1. Request the drafting of a bill** to clarify the intent of NRS 528.053 as being applicable to timber owners/agents conducting logging operations near bodies of water. The proposed definitions and statutory revisions are intended to ensure that residential landowners may create defensible space on their properties without obtaining a variance from a committee composed of the State Forester Firewarden, Nevada's Division of Forestry (NDF), State Department of Conservation and Natural Resources (SDCNR); the Director of the Department of Wildlife; and the State Engineer, Division of Water Resources, SDCNR. (See Attachment A.)

(This issue was brought to the attention of the Committee on May 26, 2016, by several individuals during public comment and during testimony provided by Forest Schafer; Forester, North Lake Tahoe Fire Protection District; John Pickett, Forester, Tahoe-Douglas Fire Protection District; and John Christopherson, Resource Management Program Manager, NDF, SDCNR.)

LAKE TAHOE ENVIRONMENTAL IMPROVEMENT PROGRAM

2. **Request the drafting of a bill** to extend the authority by ten years to June 30, 2030, for the issuance of the general obligation bonds authorized but not yet issued to fund Nevada's apportioned share of the costs for the Lake Tahoe Environmental Improvement Program (EIP). The Lake Tahoe EIP is a partnership between Nevada and California, the federal government, local governments, and the private sector. The bond revenue is used to leverage continued investment of federal dollars in the Lake Tahoe Basin.

The 2009 Nevada Legislature enacted Assembly Bill 18 (Chapter 431, *Statutes of Nevada*), which authorized the issuance of not more than \$100 million in general obligation bonds for the State's apportioned share of the costs for the second phase of the Lake Tahoe EIP between July 1, 2009, and June 30, 2020. Assembly Bill 18 was structured so that each legislative session, the Division of State Lands, the coordinating entity for the Lake Tahoe EIP, would return to request legislative authorization for each installment of those bond sales. For the past two biennia and the current biennium, a majority of the general obligation bonding affordability has been allocated to the State's Capital Improvement Program. Some bonds for the Lake Tahoe EIP have not been issued despite legislative authorization to do so because of the limited general obligation debt capacity.

Once the bonds approved for the 2015-2017 Biennium (\$1.5 million) are sold in November 2016, the total bonding authority approved to be issued for the second phase of the Lake Tahoe EIP will be \$7.4 million, and the overall total bonding authority remaining will be \$92.6 million.

(Discussed at the May 26, 2016, meeting by James R. Lawrence, Deputy Director, SDCNR, and Charles Donohue, Administrator and State Land Registrar, Division of State Lands, SDCNR.)

3. **Send a Committee letter** to the State Board of Finance to urge the issuance of the bonds authorized, but not yet issued, for the support of the Lake Tahoe EIP. Include a policy statement that a dependable, consistent amount of funding is necessary to ensure program success.

(Issue discussed at the November 30, 2015, and May 26, 2016, meetings.)

4. **Request the drafting of a bill** to amend subsection 2 of NRS 322.160 to allow all revenue collected by the Division of State Lands for piers and buoys in the Lake Tahoe Basin to be deposited in a separate budget account to be used only for projects or programs that benefit the Lake Tahoe Basin.

The revenue that the Division of State Lands has received from pier and buoy fees in the Lake Tahoe Basin and deposited into the State General Fund over the last 3-year period is the following:

Fiscal Year 2014: \$52,375
(piers \$7,965 and buoys \$44,410)

Fiscal Year 2015: \$51,642.50
(piers \$9,262.50 and buoys \$42,380)

Fiscal Year 2016: \$55,180
(piers \$9,337.50 and buoys \$45,842.50)

(Data provided by the Division of State Lands. Requested by Chair Kieckhefer.)

QUESTION 1 PROGRAM

5. **Request the drafting of a bill** to extend the authority by five years to June 30, 2024, for the issuance of the general obligation bonds authorized, but not yet issued, for the Conservation and Resource Protection Grant Program, commonly referred to as the “Question 1 Program.”

In 2001, the Nevada Legislature approved A.B. 9 (Chapter 6, *Statutes of Nevada, 17th Special Session*), which required that a proposal be submitted to the voters of Nevada to issue general obligation bonds to protect, preserve, and obtain the benefits of the property and natural resources of Nevada. The total bonding was not to exceed \$200 million. The bill also provided for the creation of the Fund to Protect Natural Resources in the State General Fund to be administered by the Director of the SDCNR. The voters approved Question 1 on November 5, 2002. Most recently, S.B. 489 (Chapter 251, *Statutes of Nevada 2013*) extended the date for the issuance of general obligation bonds for the Question 1 Program to June 30, 2019. The money from the bonds was to be allocated to seven areas, including \$65.5 million to the Division of State Lands to provide grants for State agencies, local governments, or qualifying private nonprofit organizations for various programs, including conservation easements. Budgetary constraints resulted in a temporary suspension of bond sales. The remaining bond authority includes approximately \$18.5 million for a grant program administered by the Division of State Lands, and \$1.15 million of that is designated for the Stateline-to-Stateline Bikeway in the Lake Tahoe Basin.

(Discussed at the May 26, 2016, meeting by James R. Lawrence, Deputy Director, SDCNR, and Charles Donohue, Administrator and State Land Registrar, Division of State Lands, SDCNR.)

TAHOE SCIENCE ADVISORY COUNCIL

6. **Include a statement** in the Committee’s final report in support of Nevada’s participation in the bistate Tahoe Science Advisory Council. The Council was established through a memorandum of understanding between California and Nevada on February 12, 2015, for purposes of promoting and enhancing the best science available on matters of mutual interest to both states.

(Zachary Hymanson, Program Officer, Tahoe Science Advisory Council, California Natural Resources Agency, provided the Committee an overview of the Tahoe Science Advisory Council on July 15, 2016.)

TECHNOLOGY

7. **Include a statement** in the Committee’s final report urging that fiber optic cable be installed whenever feasible in conjunction with road construction in the Lake Tahoe Basin to improve connectivity while minimizing soil disturbance.

(At the Committee meeting on March 4, 2016, Joanne S. Marchetta, Executive Director, TRPA, discussed efforts to complete other projects, including the installation of fiber optic cable, in conjunction with road construction in the Lake Tahoe Basin. At the Committee meeting on April 13, 2016, Betty “B” Gorman, President/Chief Executive Officer, Tahoe Chamber of Commerce, and Member, Board of Directors, Tahoe Prosperity Center [TPC], noted that the TPC, through a grant from the California Public Utilities Commission, is working to expand high-speed Internet service to the entire Lake Tahoe Basin.)

TRANSPORTATION

8. **Request the drafting of a bill** to amend Article IX (“Transportation District”) of the Tahoe Regional Planning Compact, which is codified in NRS 277.200, to delete the language prohibiting the Tahoe Transportation District “from imposing any other tax measured by gross or net receipts on business, an ad valorem tax, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices.” The prohibition is found in subsection (f)(8) of Article IX of the Compact. According to subsection (h) of Article IX of the Compact, “The legislatures of the states of California and Nevada may, by substantively identical enactments, amend this article.”

(Submitted by Carl Hasty, District Manager, Tahoe Transportation District, on August 12, 2016.)

9. **Request the drafting of a bill** to establish a recreation travel demand fee similar to that found in NRS 244A.800 through 244A.830 on car rentals to be used by the Tahoe Transportation District for its transportation program. **(See Attachment B.)**

(The attachment was submitted to Committee staff by Carl Hasty, District Manager, Tahoe Transportation District, on September 30, 2016.)

DOUGLAS COUNTY SEWER IMPROVEMENT DISTRICT NO. 1

10. **Request the drafting of a bill** to expand ratepayer governance of the Douglas County Sewer Improvement District No. 1 (DCSID) as requested per the attached correspondence from DCSID, Kingsbury General Improvement District, Round Hill General Improvement District, and Tahoe Douglas District dated September 22, 2016. **(See Attachment C.)**

(This issue is on the agenda for the Committee meeting on November 4, 2016, which is to immediately precede the work session. The attachment was submitted to Committee staff by James R. Cavilia, Esq., General Counsel for the DCSID, Allison MacKenzie, Ltd., on behalf of the DCSID on September 23, 2016.)

ATTACHMENTS

Submitted by Forest Schafer, Forester, North Lake Tahoe Fire Protection District, on September 20, 2016 in coordination with the Tahoe-Douglas Fire Protection District, subsequent to discussion with the Division of Forestry, State Department of Conservation and Natural Resources.

Proposed revisions to NRS 528 to clarify the intent of the statute:

Add into definitions the following terms:

“Logging operation” defined. Logging is the felling, skidding, forwarding or yarding, onsite processing and loading of trees or logs onto trucks. Synonym of harvesting.

“Timber owner” defined. A timber owner means a person or entity who owns a tree dominated landscape which is naturally capable of supporting adequately stocked stands of native trees in perpetuity, and is not otherwise devoted to non-forestry commercial or urban uses.

NRS 528.042 Logging permit: Requirement; application.

1. Prior to any logging ~~or cutting~~ operation, any timber owner or the agent of the timber owner shall secure a logging permit from the State Forester Firewarden.
2. Application for such permit shall be made to the nearest office of the Division of Forestry of the State Department of Conservation and Natural Resources.

(Added to NRS by 1971, 1445)

NRS 528.053 Certain activities prohibited near bodies of water; exceptions.

Every timber owner, or their agent, conducting logging operations within this state shall conform to the following;

1. No felling of trees, skidding, rigging or construction of tractor or truck roads or landings, or the operation of vehicles, may take place within 200 feet, measured on the slope, of the high-water mark of any lake, reservoir, stream or other body of water unless a variance is first obtained from a committee composed of the State Forester Firewarden, the Director of the Department of Wildlife and the State Engineer.
2. The committee may grant a variance authorizing any of the activities prohibited by subsection 1 within a 200-foot buffer area if the committee determines that the goals of conserving forest resources and achieving forest regeneration, preserving watersheds, reaching or maintaining water quality standards adopted by federal and state law, continuing water flows, preserving and providing for the propagation of fish life and stream habitat and preventing significant soil erosion will not be compromised.
3. In acting on a request for such variances, the committee shall consider the following factors:
 - (a) The extent to which such requested activity is consistent with good forestry management for the harvesting of timber;
 - (b) The extent to which such requested activity significantly impedes or interrupts the natural volume and flow of water;
 - (c) The extent to which such requested activity significantly affects a continuation of the natural quality of the water pursuant to state and federal water quality standards;
 - (d) The extent to which such requested activity is consistent with the prevention of significant soil erosion;
 - (e) The extent to which such requested activity may significantly obstruct fish passage, cause sedimentation in fish spawning areas, infringe on feeding and nursing areas and cause variations of water temperatures; and
 - (f) The filtration of sediment-laden water as a consequence of timber harvesting on adjacent slopes.

(Added to NRS by 1971, 1446; A 1973, 461; 1979, 913; 1993, 1700; 2003, 1580)

**Recommendation for Possible Consideration by the Legislative Committee
for the Review and Oversight of the Tahoe Regional Planning Agency
and the Marlette Lake Water System**

DUE: THURSDAY, SEPTEMBER 29, 2016, BY 5:00 P.M.

What is the recommendation? Please provide a detailed description of the recommendation and provide copies of any background information, as necessary. Sufficient detail will assist staff to better understand the purpose of the recommendation. Establish a Recreation

Travel Demand Fee on car rentals from the Reno-Tahoe

International Airport to be used by the Tahoe Transportation District
for Tahoe's transportation program.

Does the recommendation revise one or more current Nevada Revised Statutes (NRS)?

If "Yes," please provide the reference to the NRS citation(s) affected by the recommendation.

We believe so, NRS 244A.800-830

What group or person is making the recommendation? Tahoe Transportation District

What is the name and contact information of the person who should be contacted to obtain additional information for the recommendation, if necessary? _____

Carl Hasty, District Manager

The recommendation may be sent via e-mail to: jruedy@lcb.state.nv.us. If you have any questions concerning the submission of the recommendation, please contact Jennifer Ruedy at (775) 684-6825.

Date: September 22, 2016

To: Honorable Members, Nevada Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System (NRS 218E.555)
Senator Ben Kieckhefer, Chair
Assemblyman Jim Wheeler, Vice Chair
Senator James Settelmeyer
Assemblyman Michael Sprinkle
Senator David Parks
Assemblywoman Robin Titus

Fr: Douglas County Sewer Improvement District #1 (DCSID)
Kingsbury General Improvement District (KGID)
Round Hill General Improvement District (RHGID)
Tahoe Douglas District (TDD)

Re: Request for Legislative Amendments to Expand Ratepayer Governance of the Douglas County Sewer Improvement District #1 (DCSID)

The four special districts identified above are each involved in the collection and conveyance of wastewater within the Tahoe Township of Douglas County. DCSID operates the wastewater treatment plant that serves the entire Township.

Management of these districts have reached general agreement on the purposes and guiding principles we offer for your consideration as you examine revisions to NRS 309, Local Improvement Districts, to expand the ratepayer governance of DCSID. Our shared goal, with your support and guidance, is to accomplish the following:

- Revise NRS 309 to allow the expansion of the boundaries of DCSID for the election of directors to represent the entire wastewater collection area in Tahoe Township, including DCSID and the improvement districts that utilize DCSID wastewater treatment.
- Revise NRS 309 to allow the Casino Core directors to be representatives of the landowners of record in the casino district or designees of those landowners with one director from each of DCSID's existing divisions 1 and 2.
- The other three DCSID directors shall be elected from and by registered voters in the newly expanded DCSID electoral territory (all of Tahoe Township).

These changes would bring the number of DCSID directors to five and provide for ratepayer governance from throughout the DCSID electoral area.

Background

Douglas County Sewer Improvement District #1 was established in 1953 pursuant to NRS 309, Local Improvement Districts, to have district directors who were landowners within the service territory. The district's service territory included the Stateline casino district. Casino owners paid for the development of DCSID and its facilities.

Subsequent to the original construction, DCSID was expanded to include several residential neighborhoods and the service area was expanded to include the entire Douglas County portion of the Lake Tahoe Basin (Tahoe Township).

Each neighborhood, GID or homeowners association (HOA) that has tied into DCSID for wastewater treatment has a customer relationship with their local wastewater collection utility, and, ultimately, with DCSID.

Property owners in the DCSID service area have no choice for wastewater treatment services and should have a voice in the operation of DCSID. Over the years, property owners in the service area have contributed to the capitalization of DCSID through the rates that have paid. The casino district generates 38 percent of the wastewater flows treated by DCSID (2015 flow rates).

DCSID has done a competent job of managing the wastewater treatment operations, making capital improvements, keeping up with evolving federal and state regulations, and keeping rates at or below those charged by other wastewater treatment districts.

The boards of directors of DCSID, KGID, RHGID, and TDD agree it is timely to make changes in the governance structure of DCSID to reflect ratepayer input from throughout the Tahoe Township.