

**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 Exhibits)



May 21, 2010

Prepared by the Research Division
Legislative Counsel Bureau



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Planning Agency and the Marlette Lake Water System
(*Nevada Revised Statutes 218E.555*)

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The following “Work Session Document” has been prepared by the Chair and 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: legislation, statements in the Committee’s final report, and letters of recommendation or support.

The members of the Committee may vote to send as many letters as they choose; however, pursuant to *Nevada Revised Statutes* (NRS) 218D.160, the Committee is limited to ten bill draft requests (BDRs), including requests for the drafting of legislative resolutions. The Committee must submit its BDRs by September 1, 2010, unless the Legislative Commission authorizes submission of a request after that date.

The “Work Session 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 Legislative Committee for the Review and Oversight of the TRPA and the Marlette Lake Water System. 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 2011 Session of the Nevada Legislature.

Section 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

A. ENVIRONMENTAL IMPROVEMENT PROGRAM

- 1. Request the drafting of a bill** to release the next phase of bonds in an amount of \$12 million to carry out Nevada's portion of the Environmental Improvement Program (EIP) for the 2011-2013 biennium. The preliminary list of projects that will be submitted for consideration with this legislation includes:
 - \$1 million for continued forest health, restoration, and fuels management project implementation;
 - \$300,000 to control invasive terrestrial and aquatic species;
 - \$1,037,500 for recreation enhancements;
 - \$335,000 for protecting sensitive species and improving wildlife habitat;
 - \$8,827,500 for water quality, erosion control, and stream restoration/enhancement projects; and
 - \$500,000 for project contingencies.

The Administrator of the Division of State Lands is authorized to submit a request to the Legislature each biennium, as necessary, for an appropriation to the program. The bill would provide that the total bond value issued for the program may be reduced by the amount of money appropriated by the

Legislature. The costs of carrying out the EIP are apportioned between the federal government, the States of California and Nevada, local governments, and private property owners within both states.

(Requested by James R. Lawrence, Administrator, Division of State Lands, State Department of Conservation and Natural Resources, at the March 29, 2010, meeting. Specific amounts were provided to Committee staff prior to the Work Session.) (See Exhibit A.)

B. TRANSPORTATION

- 2. Send a Committee letter to California and Nevada's Congressional Delegation** to request support of Lake Tahoe Transportation Authorities in the Reauthorization of the Safe Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Include a statement that the Metropolitan Planning Organization (MPO) designation under the current federal SAFETEA-LU for transportation and the transportation project implementation funds the Tahoe MPO (TMPO) receives have been of tremendous benefit to the people and the environment in the Lake Tahoe Basin. Specify support of the Committee for the retention of all authorities currently designated for the Lake Tahoe Region in the reauthorization of the bill.

Express the concern of the Committee that the TMPO does not receive transit operating formula funds as do all other MPOs and request that the new transportation bill should add this authority for the TMPO.

Therefore, the committee supports the amendment of Section 5307 as follows:

Amend Section 5307(h) of Title 49, USC, Chapter 53 to add a new subsection 5307(h)(2):

(2) For purposes of this section, the Lake Tahoe Region, as defined in Title 49 USC 5309(f)(3)(A), shall be treated as an urbanized area with a population of 150,000 and a land area of 77 square miles, as defined in Section 5302.

Note that given the dominance of federal land ownership at Lake Tahoe (approximately 77 percent), the policy direction of the Tahoe Regional Planning Compact (Public Law 96-551) to provide alternatives to the automobile, and the large annual visitation that comes to enjoy Lake Tahoe, significant operating funds are necessary to provide an effective region-wide transit system.

(Requested by Carl Hasty, District Manager, Tahoe Transportation District, at the Committee meeting on March 29, 2010.)

3. **Include a statement in the final report** in support of turning or replacing the drop inlet grates with bicycle-friendly ones in the Tahoe Basin.

(Suggestion by Chair Lee to a representative from Nevada's Department of Transportation at the Committee meeting on March 29, 2010.)

C. REGIONAL PLAN INITIATIVE

4. **Send a Committee letter to TRPA** in support of the Lake Tahoe Regional Plan Initiative.

(Recommendation to be proposed by Steve Teshara at the Committee meeting on May 21, 2010.)

D. PROPERTY OWNERS' PROTECTIONS

5. **Request the drafting of a bill** to create a new ombudsman position in the Office of the Attorney General.

(Recommendation proposed by Jenny Reese, Government Affairs Director, Nevada Association of Realtors, at the Committee meeting on March 29, 2010.)
(See Exhibit B.)

6. **Request the drafting of a bill** to strengthen protections for lakeshore property owners in relation to the Public Trust Doctrine.

(Discussion at the Committee meeting on March 29, 2010.)

E. ACKNOWLEDGMENT

7. **Send a Committee letter to Steve Teshara** acknowledging his multi-decade work promoting collaboration between diverse entities for the common goal of improving environmental and economic conditions in the Lake Tahoe Basin. From serving as the Executive Director of the Tahoe Sierra Preservation Council in the mid-1980s to his recent resignation as President and Chief Executive Officer of the North Lake Tahoe Resort Association, Steve has been an effective force for positive change. Steve was instrumental in the Lake Tahoe Gaming Alliance's establishment of the luxury motor coach service to take visitors from the Reno-Tahoe International Airport to Stateline and the successful lobbying of the 1997 Legislature to establish the Tahoe-Douglas Visitor's Authority (Assembly Bill 616 [Chapter 496, *Statutes of Nevada* 1997]).

(Recommended by Chairman Lee.)

EXHIBIT A

II. Justification of Purpose

Chapter 514, Statutes of Nevada 1999, created the Fund to Protect the Lake Tahoe Basin in the state general fund and directed the Administrator of the Division of State Lands to administer that fund. Chapter 514, Statutes of Nevada 1999, also set forth that the State Lands Administrator, in cooperation with other state agencies, coordinate the development and implementation of a program of environmental improvement projects for:

- (a) The protection and enhancement of the quality of the air and water;
- (b) The protection and enhancement of natural watercourses, wetlands, wildlife habitat, fisheries, vegetation and forests;
- (c) Prevention and control of erosion; and
- (d) Enhancement of recreational opportunities in the Lake Tahoe Basin.

Chapter 514, Statutes of Nevada 1999, stated that \$53.2 million must be provided for the period between the fiscal year beginning on July 1, 2001, and the fiscal year ending on June 30, 2007, through the sale of general obligation bonds or direct legislative appropriation. This completed the overall State commitment of \$82 million for the phase one implementation of the environmental improvement program. Chapter 504, Statutes of Nevada 2007, authorized the final \$9,057,908 in general obligation bonds to fulfill the funds committed in Chapter 514, Statutes of Nevada 1999. These funds have now been fully authorized; however, as of April 2010, \$2,842,000 of this bonding authority remains to be sold. The Administrator of State Lands will be requesting the Treasurer's Office sell this remaining authority in June of the State Fiscal Year 2010.

Chapter 431, Statutes of Nevada 2009 continued the State's investment in the Lake Tahoe environment authorizing the sale of general obligation bonds or direct legislative appropriation in the amount of \$100,000,000 for the ten year period of 2009 – 2019 to support the implementation of phase two of the environmental improvement program. We are specifically requesting the authority for the sale of an additional \$12,000,000 in general obligation bonds to continue to carry out environmental improvement projects during the 2012-2013 biennium.

Suggested Language

New Statute:

WHEREAS, In October 1997, Governor Bob Miller, on behalf of the State of Nevada, signed a Memorandum of Agreement between the Federal Interagency Partnership on the Lake Tahoe Ecosystem, the States of Nevada and California, the Washoe Tribe, the Tahoe Regional Planning Agency and interested local governments, in which the parties affirmed their commitment to the Tahoe Regional Planning Compact, to the sound management and protection of the resources within the Lake Tahoe Basin and the support of a healthy, sustainable economy and to achieve environmental thresholds for Lake Tahoe, and agreed to cooperate to carry out, including, without limitation, providing financial support for, the Environmental Improvement Program; and

WHEREAS, NRS 321.5952 states: The Legislature hereby finds and declares that:

1. The Lake Tahoe Basin exhibits unique environmental and ecological conditions that are irreplaceable.
2. Certain of the unique environmental and ecological conditions exhibited within the Lake Tahoe Basin, such as the clarity of the water in Lake Tahoe, are diminishing at an alarming rate.
3. This state has a compelling interest in preserving, protecting, restoring and enhancing the natural environment of the Lake Tahoe Basin.
4. The preservation, protection, restoration and enhancement of the natural environment of the Lake Tahoe Basin is a matter of such significance that it must be carried out on a continual basis.
5. [It is in the best interest of this State to grant to the Division continuing authority to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin.](#)

And

WHEREAS, The costs of carrying out the Environmental Improvement Program have been apportioned among the Federal Government, the States of Nevada and California, local governments and owners of private property within both states; and

WHEREAS, The cost of the continued investment in carrying out Phase II of the Environmental Improvement Program for the State of Nevada and its political subdivisions is \$100,000,000 for the 10-year period 2009 - 2019; and,

WHEREAS, Chapter 431, Statutes of Nevada 2009 authorized the issuance of \$100,000,000 in bonds to extend the State's commitment to and the financing of Phase II of the Environmental Improvement Program for the next ten years, and

WHEREAS, Chapter 431, Statutes of Nevada 2009 authorized the sale of \$4,420,000 of the \$100,000,000 in bonds authorized to sell to begin implementation of the Phase II of the Environmental Improvement Program, and

WHEREAS, the general obligation bonds authorized by Chapter 431, Statutes of Nevada 2009, may only be issued with the prior approval of the Legislature or the Interim Finance Committee and pursuant to a schedule established by the Administrator of the Division of State Lands; now, therefore

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. The Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources in cooperation with other state agencies shall coordinate the continued implementation of an environmental improvement program for:

- (a) The protection and enhancement of the quality of the air and water;
- (b) The protection and enhancement of natural watercourses, wetlands, wildlife habitat, fisheries, vegetation and forests;
- (c) Prevention and control of erosion; and
- (d) Enhancement of recreational opportunities in the Lake Tahoe Basin.

Sec 2. Money to carry out the environmental improvement program for the Lake Tahoe Basin must be provided by the issuance by the State Board of Finance of general obligation bonds of the State of Nevada in a total face amount of not more than \$12,000,000 pursuant to NRS 349.150 to 349.364, inclusive. The proceeds of the bonds issued pursuant to this section must be deposited in the Fund to Protect the Lake Tahoe Basin created pursuant to section 2 of chapter 514, Statutes of Nevada 1999, at page 2628, and, except as otherwise provided in this section, must be used as follows:

- 1. Activities of the environmental improvement program to be carried out by the State Department of Conservation and Natural Resources:

<u>(a)</u> Continued forest health, restoration, and fuels management project implementation.....\$1,000,000
<u>(b)</u> Controlling invasive terrestrial & aquatic species.....	\$ 300,000
<u>(c)</u> Recreation enhancements\$1,037,500
<u>(d)</u> Protecting sensitive species and improving wildlife habitat	\$ 335,000

2. Water quality, erosion control and stream restoration/enhancement projects of the environmental improvement program to be carried out pursuant to grants and project agreements.....\$ 8,827,500

3. Contingency money to carry out environmental improvement projects..\$ 500,000

Sec. 3. 1. The Division of State Lands of the State Department of Conservation and Natural Resources may combine the contingency money authorized pursuant to subsection 3 of section 2 of this act with any other contingency money authorized by the Legislature to carry out an environmental improvement project that is paid for with money from the Fund to Protect the Lake Tahoe Basin.

2. If an amount authorized to carry out the projects set forth in section 2 of this act or any other environmental improvement project funded with money from the Fund to Protect the Lake Tahoe Basin is insufficient to allow the completion of the project for which it is authorized, including, without limitation, any monitoring necessary to ensure the continued effectiveness of the program:

(a) The Division of State Lands may, without the prior approval of the Interim Finance Committee, allocate the contingency money authorized pursuant to subsection 3 of section 2 of this act, including any money combined therewith pursuant to subsection 1, to carry out an environmental improvement project or projects funded with money from the Fund to Protect the Lake Tahoe Basin; and

(b) Upon the request of the Division of State Lands of the State Department of Conservation and Natural Resources, the Interim Finance Committee may increase the amount authorized for the project and offset the increase by reducing the amount authorized for another environmental improvement project or projects funded with money from the Fund to Protect the Lake Tahoe Basin by the amount of the increase.

3. The Division of State Lands may use money authorized pursuant to section 2 of this act for a project other than a project listed in section 2 of this act if the Interim Finance Committee approves such a use in writing before the Division of State Lands engages in the project.

Sec. 4. Section 2 of this act constitutes the approval of the Legislature for the issuance of \$12,000,000 of such bonds pursuant to this section. The provisions of NRS 349.150 to 349.364, inclusive, apply to the issuance of bonds pursuant to this section.

Sec. 5. The amount of bonds authorized by section 4 of this act must be reduced by the amount of any money appropriated by the Legislature for the same purpose upon certification by the Administrator of the Division of State Lands of the amount of each such appropriation to the State Board of Finance. The Administrator of the Division of State Lands shall submit a request to the Legislature each biennium, as necessary, for the appropriation of the program.

Sec. 6. The Legislature hereby finds and declares that the issuance of securities and the incurrence of indebtedness pursuant to this act:

1. Are necessary for the protection and preservation of the natural resources of this state and for the purpose of obtaining the benefits thereof; and
2. Constitute an exercise of the authority conferred by the second paragraph of section 3 of article 9 of the Constitution of the State of Nevada.

Sec. 7. This act becomes effective on July 1, 2011.

EXHIBIT B

The Office of the Ombudsman

Housed under the Nevada Attorney General Office
Part-time position

Funding Sources for Discussion

- The Lake Tahoe License Plate (non-general fund revenue source and is currently available as a grant for environmental issues.
- User Fee of up to \$250

Qualifications:

- Must be a licensed attorney in the state of Nevada

Duties Set Forth:

- Assist in processing claims submitted to mediation or arbitration
- Ability to recommend corrective action
- Ability to resolve conflict
- Assist owners in certain to understand their rights and responsibilities
- Records compiled and maintained are not confidential and could be reported publicly