

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

**Seventy-Eighth Session  
April 28, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:40 a.m. on Tuesday, April 28, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman John Ellison, Chairman  
Assemblyman John Moore, Vice Chairman  
Assemblyman Richard Carrillo  
Assemblywoman Victoria A. Dooling  
Assemblyman Edgar Flores  
Assemblywoman Amber Joiner  
Assemblyman Harvey J. Munford  
Assemblywoman Dina Neal  
Assemblywoman Shelly M. Shelton  
Assemblyman Stephen H. Silberkraus  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart  
Assemblyman Jim Wheeler  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Senator Greg Brower, Senate District No. 15

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Eileen O'Grady, Committee Counsel  
Lori McCleary, Committee Secretary  
Erin Barlow, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

George A. Ross, representing American Tort Reform Association and  
Institute for Legal Reform, U.S. Chamber of Commerce  
Brett Kandt, Special Assistant Attorney General, Executive Director,  
Prosecution Advisory Council and Technological Crime Advisory  
Board, Office of the Attorney General  
Tray Abney, Director of Government Relations, The Chamber of  
Reno-Sparks-Northern Nevada  
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro  
Chamber of Commerce  
Ray Bacon, representing Nevada Manufacturers Association  
Brent Gunson, Assistant City Attorney II, City of Henderson  
Susan Joseph-Taylor, Esq., Deputy Administrator, Division of Water  
Resources, State Department of Conservation and Natural  
Resources

**Chairman Ellison:**

[Roll was called. Committee rules and protocol were explained.] We will open the hearing for Senate Bill 244 and welcome Senator Brower to the table.

**Senate Bill 244: Establishes requirements governing a contingent fee contract for legal services provided to the State of Nevada or an officer, agency or employee of the State. (BDR 18-658)**

**Senator Greg Brower, Senate District No. 15:**

I will give just a brief introduction and then be happy to answer any questions. Senate Bill 244 is simply intended to do two things. First of all, it is intended to resolve an ongoing dispute concerning the Office of the Attorney General's ability to retain private counsel on a contingent fee basis to sue on behalf of

the state. Secondly, the bill is intended to resolve that dispute by clarifying exactly how such contracts and suits should be executed and managed.

In my view, the former Attorney General repeatedly hired private counsel in violation of *Nevada Revised Statutes* (NRS) 228.110, section 1, with no bid contracts, unlimited fees, virtually no oversight, and certainly no legislative approval. Over the last few years, there were several challenges to the Attorney General's ability to enter into these contracts without legislative approval, as the relevant statute seems to clearly require. Unfortunately, none of those challenges were fully resolved by the Nevada Supreme Court.

This bill is intended to create a whole new framework to allow for the hiring of private counsel when necessary, but only with gubernatorial and legislative approval, and with certain restrictions to ensure transparency, accountability, and reasonableness with respect to these contingent fee contracts.

This is not just a Nevada problem. It is a national problem, and many of our sister states have moved to curb these abuses with statutes of their own. This bill is an amalgam of the best parts of those statutes from other states that have already passed.

That is essentially the purpose of the bill. I can walk through the sections of the bill for the Committee, if that would be desired.

**Chairman Ellison:**

This bill has a zero fiscal impact on the state. Where would the funding for outside counsel come from?

**Senator Brower:**

I believe it is agreed by everyone that there are circumstances where it makes sense for the state, through the Office of the Attorney General, to hire private counsel on a contingent fee basis to litigate certain matters because the Office of the Attorney General does not have the requisite expertise and resources in every aspect of the law. As a result, something may come up that all would agree requires outside counsel. Under this bill, the Governor would make the determination in consultation with the Attorney General that hiring outside counsel is necessary. Upon that determination being made, the Legislature, through the Interim Finance Committee (IFC), would have to agree that the need is in fact there and would have to approve the contract and the specific contract terms the Attorney General proposes.

The Attorney General would then be free to hire that outside counsel, but with certain restrictions imposed by this bill in terms of the percentage fee the

outside counsel could earn. To your question, Assemblyman Ellison, there would be no outlay of money by the state to hire counsel. Counsel, in this situation, would essentially be paid from a percentage of whatever the case would generate by way of a settlement or a jury verdict. That is the contingent fee aspect of the bill. The IFC would review the contract and would have to agree that whatever monies may be generated by way of the contingent fee contract and the case would have legislative approval to be paid out in accordance with the contract.

What I think is most appealing to this proposal from our collective perspectives in the first branch of government is the Legislature has had no role in the approval of these contracts whatsoever. Given the potential amount of money involved, I think it is incumbent upon all of us to want to have a role in those contracts, at least in approving them on the front end, and as the bill also provides, in hearing status updates as the cases proceed to ensure the litigation is proceeding in the way we would like it to proceed, and the litigation is being managed in a way that makes sense to the Legislature.

**Chairman Ellison:**

I agree. I wanted to get how the process works on the record. This bill provides checks and balances throughout the process. Are there any questions from the Committee? We have access to the documents from the Senate regarding this bill.

**Assemblywoman Neal:**

My question is regarding section 8, subsection 1(b). How is the authority to agree to any settlement currently handled? Is it sole authority or in combination with other people?

**Senator Brower:**

That brings up a point of contention over the last several years regarding this type of litigation. There is a feeling on the part of many observers that the Office of the Attorney General has been essentially abdicating its oversight and discretion over when and how to settle cases to the private law firms it has hired. This bill would simply shore up the concept that it should actually be the state, who after all is the plaintiff in the case, that should be deciding, through the Office of the Attorney General, when and how to settle these cases. It should not be left to the outside counsel who was hired to litigate the cases.

**Assemblyman Stewart:**

Currently, if litigation takes place and the outside counsel loses the case on behalf of the state, is there a fund within the Office of the Attorney General that pays the outside counsel?

**Senator Brower:**

No. With contingency fee contracts, typically the lawyers are agreeing to take the case with the idea that if the state wins or is able to secure a settlement, the outside counsel is paid a percentage. If the state loses the case, the lawyers receive nothing other than, depending on the contract terms, reimbursement for certain costs. Otherwise, there is no payday if the state loses the case.

You do bring up a great point regarding one of the problems with the current situation, which this bill is intended to address. These cases, like most civil cases, rarely go to trial. They will typically settle. One of the inherent problems with the current situation is that outside counsel, because they are not paid unless there is a settlement, has no incentive to ever stop pursuing a case that perhaps has lost its merit through the discovery process. A government lawyer, whether on the criminal side or the civil side, if confronted with facts that make the ongoing viability and winability of the case nonexistent, has an ethical duty to stop the case and not pursue it further. With government lawyers, that makes sense from their perspective because they are getting paid no matter what happens with the case. With outside counsel, a perverse incentive, if you will, is created when there is no adequate oversight. If private counsel decides halfway through the case that the case really has no merit and should be dismissed, they are not paid. In the past, we have seen attempts on behalf of the state to extort settlements out of defendants where there really is no merit to the case and the case should not go forward. That is one of the abuses this bill is intended to address.

**Assemblyman Stewart:**

If there are court costs, how are those paid? Is there a contingency fund within the Office of the Attorney General or does it come out of the General Fund?

**Senator Brower:**

Under this bill, it would be left to the IFC to determine whether or not any money should be appropriated to account for those costs.

**Assemblywoman Joiner:**

In section 6 it speaks to how the Governor, in consultation with the Attorney General, would determine in writing that these needs are there. Ultimately, whose decision is it whether or not to move forward with having this type of contract? I do not see the ultimate authority in the bill. Could the determination be made by either the Governor or the Attorney General?

**Senator Brower:**

It is essentially the Governor's decision in consultation with the Attorney General to bring the proposal to the IFC and request legislative approval. I think in practice the way that would work is if the Governor wanted to hire private counsel and the Attorney General did not agree, or vice versa, I do not think the Legislature would ever see that proposal. It could be theoretically possible that a Governor and an Attorney General could not agree. The Legislature, through IFC, would be awfully pessimistic about approving a contract that the Attorney General and the Governor could not agree is necessary. I think that would be the check on the process.

**Assemblywoman Joiner:**

The type of cases these contracts would relate to sounds like cases where there would be funds recouped for the state. I can think of cases where there were no funds to be had because it was more of a constitutional argument, in which case I am not sure this would apply. How often do we have cases like this where this would apply?

**Senator Brower:**

I think you are right. This would not apply to constitutional question-type cases. I will tell you how it works in practice to be very candid about this. There are law firms that specialize in this type of practice, who attend the various Attorney General conferences around the country. The pitch they make to the various attorneys general is if the state wants to go after certain industries or groups of companies, there is potentially a big payday at the end of the lawsuit, whether it is a deceptive trade practice lawsuit or what have you. The upside for the state is they get to announce a big settlement and receive money for the state, but it does not cost them anything except a percentage to the outside law firm, who will take care of the whole issue. To the average attorney general, that sounds like a pretty good deal. The state is able to put out a press release announcing a settlement with an evil industry. It does not really cost the state anything because the attorneys they hire are doing all the work. Unfortunately, on the other side, the industries or companies in question are essentially on the wrong end of an extortion racket and may end up having to settle the case where there may be no liability at all, but the cost of defending it becomes so great and the adverse publicity becomes so significant that the case is settled.

Obviously, I just painted a very negative portrayal of what typically happens, but there could be righteous cases out there against industries or corporate wrongdoers that need to be brought. This bill allows for those cases to be brought, it just provides some transparency and legislative oversight into entering into those contracts, and then managing that litigation.

**Assemblywoman Spiegel:**

I have two questions about section 12, which pertains to the fee schedule. How was the fee schedule determined, and how does this fee schedule compare to other states that have similar legislation in place, as well as the private sector?

**Senator Brower:**

The numbers you see in section 12 were really the product of looking at other states that have enacted similar legislation and an attempt to come up with numbers that make sense. At the same time, it provides enough of an incentive to attract competent counsel when the state decides it needs to and not make the cases such a jackpot that it makes no sense. You see the overall cap in this bill is \$10 million.

**Assemblywoman Spiegel:**

If you have the analysis of the other states and their fee schedule, could I receive a copy of that?

**Senator Brower:**

I will do my best to get that information to you. I do not have it in one package, but we could certainly put it together. In fact, others who may be testifying in support of the bill today have access to a compendium of the other states' laws. I am sure they would be happy to provide that to you.

**Assemblywoman Neal:**

I was reading section 20, which references *Nevada Revised Statutes* (NRS) 218D.380. I also read section 14 of the bill. The report that is going to be prepared on February 1 of each year appears to be a new report. In NRS 218D.380, there is a different date, so section 20 of the bill refers to a separate report regarding the contingency fee contract. Is that correct?

**Senator Brower:**

Yes.

**Assemblywoman Neal:**

Section 20 of the bill states, "The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature." I am trying to understand how those two provisions works since it is a new report, which technically would be adding a report.

**Senator Brower:**

This would be a new report. The real purpose of the bill is because currently there is no reporting from the Office of the Attorney General to the Legislature on the litigation involving contingent fee contracts. Section 14 of the bill would impose that requirement on the Office of the Attorney General so the Legislature does receive updates and knows what is going on with respect to the contracts we have approved.

**Assemblywoman Neal:**

Is it subject to the expiration dates that are in NRS 218D.380? There is an expiration date in NRS 218D.380 that every five years the Legislature must be notified whether the process will be continued, the report is going to be revised, justified, et cetera.

**Senator Brower:**

I am sorry, Assemblywoman Neal. I am not sure I understand your question.

**Assemblywoman Neal:**

Under NRS 218D.380, subsection 1, there is a requirement to set forth the justifications for continuing to report more than five years. There is a cap. The Office of the Attorney General can report for five years, but if it is going to continue after the five years, there must be a justification of the need for the report. Section 20 of the bill states that provision of the law does not apply to this bill. I am wondering if it applies or does not apply since it is a new report.

**Senator Brower:**

Thank you for the clarification. It is intended to be a solely separate and new report that would not necessarily be subject to any other existing provisions in the law, such as NRS Chapter 218D.

**Chairman Ellison:**

Are there any further questions from the Committee? [There were none.] I will open testimony for those in favor of the bill.

**George A. Ross, representing American Tort Reform Association and Institute for Legal Reform, U.S. Chamber of Commerce:**

In reality, with regard to many of the reasons for the bill and the details, there is no more I can add. I believe Senator Brower has covered every aspect of the bill between his presentation and your questions.

Having said that, I would like to put it in some context. We believe this bill provides for better government, better justice, and better economic growth and business environment compared to the current situation. It is better



government because, as Senator Brower explained, the process of hiring contingency attorneys is much clearer and more thorough. It involves both the Governor and the Legislature, properly exercising its role as the first body and the first branch of government. Senator Brower pointed out some of the abuses that have occurred in other states, as well as our own. This makes it very clear how you must hire and retain an attorney should it be required or necessary to do so. It is very clear, and the public would be involved. There would be no more secret deals or quiet relationships.

It is better justice. Instead of a contingency fee firm pursuing a giant jackpot at the end with no regard for what is proper law or proper results, the reduced contingency fees are enough. The fees are clearly based on law firm economics, but at the same time, they do not provide a big jackpot, which colors the decision-making of the legal firm. As importantly, there are provisions in this bill so every key decision resulting from the case is made in the Office of the Attorney General, not by the retained contingency fee firm.

In the last several years, our government and the associations in the state have made a massive effort to try to diversify our economy, to grow our economy, and to attract new investment. Some things we cannot control, but one thing we can have a major impact on is trying to improve the tort environment. Three-quarters of the states, according to the Institute for Legal Reform, have better legal environments for business than the state of Nevada. This is a step in that direction. No longer will companies or industries look at Nevada in fear that they may be a target of the kind of litigation Senator Brower described. Symbolically, this is critically important. This bill is a very high priority for the clients I represent. The members of those groups are many large corporations, all of which invest all over the country. It would be good to make Nevada an attractive environment for them to invest in as well.

**Brett Kandt, Special Assistant Attorney General, Executive Director, Prosecution Advisory Council and Technological Crime Advisory Board, Office of the Attorney General:**

The Attorney General's policy is to refrain from the use of contingency fee contracts. However, to the extent that a contingency contract may appear appropriate in some instances, we feel having a clear process for approval of a contingency fee contract that involves the Legislature is prudent. For that reason, we support the bill.

**Tray Abney, Director of Government Relations, The Chamber of Reno-Sparks-Northern Nevada:**

We support this bill. We feel this ensures the interest of Nevada citizens and taxpayers are taken into account. It also eliminates the perverse incentive that

Senator Brower mentioned with private law firms. Mr. Ross stole my thunder on the economic development argument. However, the point is when a company is looking to move to or expand in Nevada, they are not just looking at taxes or workers' compensation, they are looking at our legal environment as well. We think this is one piece to improve that.

**Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:**

As has been indicated by my colleagues, the litigation environment is very important to businesses when they are looking to expand or grow. We know a good legal environment is important and is one of those factors we are looking at. Currently, Nevada is ranked 37th in the country in its standing by the Institute of Legal Reform of the U.S. Chamber of Commerce. In 2010, we were 28th. We were right in the middle, but because of legal laws that were adopted, our ranking has deteriorated. We do believe this would help improve that ranking.

This bill also provides greater oversight and transparency, which are core principles for the Las Vegas Metro Chamber of Commerce, and that is why we support this bill.

**Ray Bacon, representing Nevada Manufacturers Association:**

One issue that has not been touched on is why the state would get into contingency settlements. I think it is important to get on the record some of those cases where you wind up with the state getting into litigation that may involve multiple states and may take multiple years. If you hire a private attorney on a contingency basis for those cases, it may actually be in the state's best interest because it may carry on beyond an attorney general's term. This bill clearly says the state made a conscious decision to get into the situation, and they recognize there are going to be multiple entities involved. There may be a great case for doing that.

If you look at the situation we have going on right now, and I have no idea whether it will wind up in lawsuits or settlements, we have a dispute with our testing contractor. I can see where, because there are multiple states involved, that might be a case where the state may make a conscious decision to enter into a contingency contract as far as reaching a settlement. However, this is clearly going to wind up as a situation where it will keep the legal fees down to a reasonable level and maximize the return to the state for what damage has been caused to the state. I believe that is relevant, but Senator Brower will tell me if it is not.

**Chairman Ellison:**

Are there any questions from the Committee? [There were none.] Is there any further testimony in favor of the bill? [There was none.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify as neutral? [There was no one.] Senator Brower, do you have any closing comments?

**Senator Brower:**

I would like to express my appreciation for you hearing the bill and considering it. As you have heard, this is an important issue. It is not a controversial issue at all. We did pass this bill 21-0 in the Senate. Of course, that does not mean you will not do your own due diligence. However, as you saw from the lack of opposition, this is an issue that is in need of some clarity. I would express that as the first branch of government, regardless of who is in the majority of each house during a particular session, we need to have a stronger role in making sure these contracts make sense, are transparent, and are doing exactly what they are intended to do. I would submit this bill does that.

**Chairman Ellison:**

I apologize, Senator Brower, but Assemblyman Flores had a question. I think a good example of this would be the tobacco settlement.

**Senator Brower:**

It would. I would suggest Mr. Bacon was about 99 percent right. I do not believe the current testing contractor situation is the kind of case we would see as the subject of a contingency fee contract with outside counsel. However, the tobacco litigation is certainly an example, and there are others. At some point in the future, I am sure this Governor and this Attorney General, or the next Governor and the next Attorney General, will believe the only logical way to pursue a case that needs to be pursued is through outside counsel. I think we would all agree that if a compelling case by the Attorney General and the Governor could be made, we would be quick to approve it. However, it should be subject to our approval.

**Assemblyman Flores:**

How many times did the Office of the Attorney General use outside counsel in 2014? Secondly, out of curiosity, why has it become an issue now? Why was this bill not brought three or four legislative sessions ago? Is it because it has been used more frequently in the past two years and not necessarily prior to that?

**Senator Brower:**

I cannot give you the exact number from 2014, but the frequency of outside contingency fee contracts has increased over the last decade or so. A relatively educated guess is over the last three or four years that I have been focusing on this, there have been, at any given time, two to four such cases pending. That is an estimate on my part. I will ask the Office of the Attorney General for those numbers.

I did bring a version of this bill last session, but I could not get a hearing. This issue has been out there for a while, and as we have watched other states effectively deal with this issue with their own version of this bill, the time finally became right to do something about it. We are back this session trying to make it happen.

Again, there has been some litigation over whether current law requires legislative approval. I think it clearly does, but for the sake of discussion, reasonable minds have disagreed on that. Rather than continue to try to operate in that gray area, the point of this bill is to clarify once and for all that, yes, the Legislature must approve and this is how it should be done.

**Chairman Ellison:**

We have had to do that in Elko County when we were in litigation with the U.S. Forest Service of the Department of Agriculture and the Bureau of Land Management of the U.S. Department of the Interior. We did not have the expertise to handle the litigation in the U.S. Supreme Court, so we had to hire outside legal counsel.

**Senator Brower:**

To that point, Chairman Ellison, you bring up a great point. I think it is probably clear to the Committee by now, but this bill in no way addresses the state's ability and practice of hiring outside counsel on an ordinary hourly basis. That happens frequently, whether many of you realize it or not. Whether it is the Department of Transportation or another agency, they do hire outside counsel when necessary. However, the arrangement is the agency needs them to handle the case and will pay X amount per hour, and the Attorney General's office supervises the outside counsel. This bill only addresses the much narrower scenario of the contingency fee contracts.

Of course, the information Assemblywoman Spiegel requested, or any other information the Committee may need, I stand ready to provide.

**Chairman Ellison:**

Is there any further discussion? [There was none.] I will close the hearing on Senate Bill 244. We do have four bills on the agenda for work session. The first bill will be Senate Bill 47 (1st Reprint).

**Senate Bill 47 (1st Reprint): Makes various changes relating to the Consolidated Local Improvements Law. (BDR 22-421)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 47 (1st Reprint) makes various changes relating to the Consolidated Local Improvements Law. The bill was sponsored by the Senate Committee on Government Affairs on behalf of the City of Henderson and heard in this Committee on April 23, 2015.

Senate Bill 47 (1st Reprint) revises laws relating to local improvement districts. The bill revises the definition of a commercial area vitalization project, changing the term to neighborhood improvement project, to allow the establishment of such a project in any area of the local improvement district instead of an area zoned primarily for business or commercial purposes. A waterfront project is added to the list of allowable projects. In existing law, certain provisions of this bill apply to counties with a population of 100,000 to 700,000. This bill extends the population cap to allow the governing body in a county with a population of 700,000 or more to levy one or more special assessments for the extraordinary maintenance, repair, and improvement of the neighborhood improvement project for which the improvement district has been created. The amount of money to be set aside for the surplus and deficiency fund is increased from \$25,000 to \$50,000, and the authorized uses of the fund are expanded.

The bill allows the governing body to grant authority, by resolution, to the treasurer to reduce or waive interest as long as such reduction or waiver does not impair a municipality's ability to pay its bond obligations. Finally, the measure revises provisions relevant to the collection of delinquent assessments prior to a county conveying a deed. There were no amendments to this bill. [Referred to work session document ([Exhibit C](#)).]

**Chairman Ellison:**

Is there any discussion?

**Assemblywoman Shelton:**

Could we get clarification? I know the City of Henderson brought this bill forward, but if I am reading it correctly, it would also affect Washoe County and Clark County. Is that correct?

**Brent Gunson, Assistant City Attorney II, City of Henderson:**

Yes. This does impact *Nevada Revised Statutes* (NRS) Chapter 361, which relates to the collection of real estate taxes. The intent of the bill is to provide for a process wherein assessments that are assessed pursuant to a local improvement district will be collected prior to issuing a deed to a property pursuant to a tax sale by the county.

**Assemblywoman Neal:**

I thought about this, and there are parts of the bill I like and parts of the bill I do not care for. Regarding the changing of the fee and how it is recycled for the deficiency fund, there is language in the bill that says it can pay for other costs. I understand the lawyer fees, but it can also pay for other costs. I was not clear on what those other costs are. It gave me pause over the weekend that fees or assessments that the residents have allowed the local improvement districts to have are going to be used for things that may be unknown to them. That is my issue. I am definitely going to reserve my right to change my vote on the floor, or I may be a no vote.

**Chairman Ellison:**

I agree with you. We had a discussion about this bill this morning. This also includes a portion of Washoe County. I think we can get the bill out, and I will allow the entire Committee to reserve their right to change their vote on the floor. I would like you to spend some time to make sure this bill is correct.

Do I have a motion?

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS  
SENATE BILL 47 (1ST REPRINT).

ASSEMBLYMAN STEWART SECONDED THE MOTION.

**Chairman Ellison:**

Is there any further discussion?

**Assemblywoman Shelton:**

Many of my constituents have contacted me about their concerns over this bill. I will be voting no on this bill. My constituents have concerns with expanding the commercial area vitalization projects to include the residential properties. I know it was talking about those being the beautification projects for the residential neighborhoods, but there was some concern the mobile home parks were included. They were not sure if this would eventually open the door to push out mobile home parks in the area. If I understand this bill correctly,

it would not only be for Henderson, but it would also include the Las Vegas area, which is part of my district.

**Chairman Ellison:**

Could you please address the concerns of Assemblywoman Shelton?

**Brent Gunson:**

There is no intent behind this bill to be used as a mechanism to affect mobile home parks. This bill is seen as a bill that would allow communities to come together and have a mechanism to provide funding for improvements within their community. By no means do we see it as a way to eliminate or negatively affect mobile home parks.

**Assemblywoman Shelton:**

I believe most of the concern is coming from the change in the language to neighborhood improvement projects. I might be living in a neighborhood that may not be the nicest neighborhood to someone else's standards, but the residents want to make it look better and more pleasing to other people. I understand there would be a petition to get signatures from the residents. I believe it would need to be a two-thirds majority, so that is one-third of the people who may not want to have the beautification project. It seems the bill is being more restrictive on the neighborhoods that are in these specific areas you would be selecting. People who want to live in an area that is more restrictive have the opportunity to do that. However, people who want to live in a neighborhood and be left alone should also have the opportunity. It seems this is going to be more restrictive on neighborhoods that may not look as pleasant in one person's mind as in another person's mind. Do you understand where they are coming from as far as their concerns with you changing this from commercial projects to residential neighborhoods?

**Brent Gunson:**

I do understand the concerns. However, bear in mind, the process for creating a commercial area vitalization district is not much different from the current process that exists for creating a street beautification project or other projects that already exist under NRS Chapter 271. In fact, one could argue they are more strict. These projects can be created through a couple of processes provided by statute. More than 50 percent of the residents can come together and petition the city to create the district. On the other hand, the city can move to create the district. If only one-third oppose, that is enough to not create the district. We believe there are plenty of safeguards to protect communities who may not want this. They are the same safeguards that already exist in the law. The one thing we want to do is change the

zoning requirement. Currently, the zoning requirement requires that it be zoned commercial. We would like to change that to allow any type of zoning.

I do understand the concern, and it is a legitimate concern. However, I believe there are protections that will prevent those concerns from occurring in the future.

**Assemblywoman Shelton:**

When you change the original zoning from commercial to residential, is there a public hearing?

**Brent Gunson:**

The zoning may or may not be changed. There is currently a requirement in the statute that requires that a commercial area vitalization district may only be created in an area that is zoned commercial. We are changing that requirement. We are not necessarily changing the zoning. Anytime there is a change in zoning, there is a noticed public hearing. In this case, if a district were to be created, there would also be a very specific public hearing for that district. In fact, notice would be mailed to each property owner of record within the district notifying them of the time and date of the hearing to ensure ample opportunity for folks to have notice of the hearing well in advance. We hope that would allow communities to come together and have discussions on this and be able to be present at the hearing.

**Chairman Ellison:**

Is there any further discussion? [There was none.] We will move to the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN SHELTON VOTED NO. ASSEMBLYMAN CARRILLO WAS ABSENT AND EXCUSED FOR THE VOTE.)

**Chairman Ellison:**

Those Committee members who would like to reserve their right to change their vote on the floor, please raise your hand. [Assemblymen Flores, Neal, and Wheeler raised their hand.] I will have Assemblywoman Spiegel take the floor statement. We will move to Senate Bill 118.



**Senate Bill 118: Revises various provisions of the Charter of the City of Sparks.  
(BDR S-500)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 118 revises various provisions of the Charter of the City of Sparks. The bill was sponsored by Senator Smith and heard in the Committee on April 13, 2015.

Senate Bill 118 revises various provisions of the Charter of the City of Sparks to limit the authority of the city manager concerning employees of the municipal court, and authorizes municipal judges and the administrative judge to take certain actions concerning employees of the court. Additionally, the civil service rules for employees of the city do not apply to officers and employees of the municipal court. There were no amendments to this bill. [Referred to work session document ([Exhibit D](#)).]

**Chairman Ellison:**

We were able to get all our questions answered last week. Is there any discussion? [There was none.] Do I hear a motion?

ASSEMBLYMAN WHEELER MOVED TO DO PASS  
SENATE BILL 118.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CARRILLO WAS  
ABSENT AND EXCUSED FOR THE VOTE.)

**Chairman Ellison:**

I will have Assemblywoman Joiner take the floor statement. We will move to Senate Bill 311.

**Senate Bill 311: Revises provisions relating to irrigation districts. (BDR 48-831)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 311 revises provisions related to irrigation districts. The bill was sponsored by Senator Kieckhefer and heard in this Committee on April 23, 2015.

Senate Bill 311 authorizes the board of directors of an irrigation district that has entered into a contract with the United States for the purpose of complying with the Reclamation Safety of Dams Act of 1978 to incur an indebtedness not exceeding the aggregate sum of \$6 million. This bill also provides that for the

purpose of calculating assessments to pay the indebtedness of the district, fractional acres may be rounded up to the nearest whole acre. There were no amendments to this bill. [Referred to work session document ([Exhibit E](#)).]

**Chairman Ellison:**

Is there any discussion? [There was none.] Do I hear a motion?

ASSEMBLYMAN STEWART MOVED TO DO PASS  
SENATE BILL 311.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CARRILLO WAS  
ABSENT AND EXCUSED FOR THE VOTE.)

**Chairman Ellison:**

I will have Assemblyman Stewart take the floor statement. We will move to Senate Bill 485.

**Senate Bill 485: Revises provisions relating to water. (BDR 48-708)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 485 revises provisions relating to water. The bill was sponsored by the Senate Committee on Government Affairs and heard in this Committee on April 22, 2015.

Senate Bill 485 requires any claimant of a prestatutory water right to submit proof of the claim to the State Engineer on or before December 31, 2025, regardless of whether an adjudication has been ordered for a water source. If the claimant fails to submit such proof, the claim is deemed to be extinguished. The State Engineer must provide notice of this requirement by: (1) publishing annually for four consecutive weeks in four or more newspapers of general circulation through the state; and (2) posting on the Internet website maintained by the State Engineer during the ten-year period before the deadline. The procedure of the State Engineer taking proofs in an adjudication is eliminated as of January 1, 2026. [Referred to work session document ([Exhibit F](#)).]

We did receive a late amendment ([Exhibit G](#)) from Jason King, State Engineer, which was handed out to all the Committee members and is posted on the Nevada Electronic Legislative Information System (NELIS). The amendment pertains to section 1, subsection 1, changing "extinguished" to "abandoned."

**Assemblywoman Spiegel:**

If this amendment were to go through and the water right was deemed to be abandoned, would that then be subject to abandoned property law? If people had water rights which were otherwise extinguished or abandoned, would the state be liable for compensation to the owner of that water right?

**Susan Joseph-Taylor, Esq., Deputy Administrator, Division of Water Resources, State Department of Conservation and Natural Resources:**

I do not believe so. The water belongs to the people of the state. It reverts to the people of the state to be appropriated again if it is within the waters available for appropriation.

**Assemblywoman Spiegel:**

During the hearing, someone brought up the point that he had a water right he no longer has. He asked about whether or not he could have been compensated. I want to make sure the intent is clear for the record that if this amendment were to pass, that water right is not considered abandoned property.

**Susan Joseph-Taylor:**

I would provide the same answer. The water belongs to the people and it reverts to the people.

**Assemblywoman Spiegel:**

What is the purpose of the amendment?

**Susan Joseph-Taylor:**

Abandonment is a term of art in Nevada water law; extinguishment is not. Abandonment of a water right in Nevada is the voluntary relinquishment by the owner with the intent to forsake and abandon it.

**Assemblyman Wheeler:**

I would like to make sure this amendment is friendly to the author of the bill.

**Chairman Ellison:**

Yes, it is. Are there any other questions? [There were none.] Do I hear a motion?

ASSEMBLYMAN MOORE MOVED TO AMEND AND DO PASS  
SENATE BILL 485.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

**Assemblyman Wheeler:**

I would like to reserve my right to change my vote on the floor.

THE MOTION PASSED. (ASSEMBLYMAN CARRILLO WAS  
ABSENT AND EXCUSED FOR THE VOTE.)

**Chairman Ellison:**

I will ask Assemblyman Moore to take the floor statement. Is there anyone here for public comment? [There was no one.]

The meeting is adjourned [at 9:41 a.m.].

RESPECTFULLY SUBMITTED:

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Lori McCleary  
Committee Secretary

APPROVED BY:

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Assemblyman John Ellison, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Assembly Committee on Government Affairs

**Date:** April 28, 2015

**Time of Meeting:** 8:40 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 47 (R1)	C	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 118	D	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 311	E	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 485	F	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 485	G	Jason King, Division of Water Resources	Amendment