

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Seventh Session
April 5, 2013**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 12:38 p.m. on Friday, April 5, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Pat Spearman, Vice Chair
Senator Mark A. Manendo
Senator Pete Goicoechea
Senator Scott Hammond

GUEST LEGISLATORS PRESENT:

Senator Debbie Smith, Senatorial District No. 13

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Heidi Chlarson, Counsel
Gwen Barrett, Committee Secretary

OTHERS PRESENT:

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General
Cassandra P. Joseph, Deputy Attorney General, Government and Natural
Resources, Office of the Attorney General
Adam Mayberry, City of Sparks
Ron Dreher, Peace Officers Research Association of Nevada; Washoe School
Principals' Association
Doug Thornley, City of Sparks
Rusty McAllister, Professional Firefighters of Nevada

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Ted J. Olivas, City of Las Vegas

William Arent, Director, Economic and Urban Development Department,
City of Las Vegas

Dotty Merrill, Ed.D., Executive Director, Nevada Association of School Boards

Stephen Augspurger, Executive Director, Clark County Association of School
Administrators

Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades
Council of Northern Nevada, AFL-CIO

Nicole Rourke, Clark County School District

Lindsay Anderson, Washoe County School District

Gail Tuzzolo, Nevada State AFL-CIO

Lonnie Shields, Nevada Association of School Administrators

Bryan Wachter, Retail Association of Nevada

Randi Thompson, Nevada State Director, National Federation of Independent
Business

Chris Nielsen, Executive Director, Department of Taxation

Jacob Snow, City Manager, City of Henderson

Nehole M. Garcia, Assistant City Attorney, City Attorney's Office,
City of Henderson

Fred Horvath, Director, Human Resources, City of Henderson

Chair Parks:

Today we have four bills and a work session. We will open the hearing on
Senate Bill 437.

SENATE BILL 437: Makes various changes to provisions relating to false claims.
(BDR 31-1090)

Brett Kandt (Special Deputy Attorney General, Office of the Attorney General):

I am here today on behalf of Attorney General Catherine Cortez Masto with
background correspondence to support S.B. 437 ([Exhibit C](#)). The bill makes
amendments to the Nevada False Claims Act under *Nevada Revised Statutes*
(NRS) 357.

**Cassandra P. Joseph (Deputy Attorney General, Government and Natural
Resources, Office of the Attorney General):**

We are here to support S.B. 437. This bill brings the Nevada False Claims Act,
also known as the whistleblower statutes, into compliance with federal
incentive standards under the Deficit Reduction Act of 2005.

Compliance with federal standards allows Nevada to continue to earn a higher percentage of federal funds from prosecuted cases; the additional amount equated to about \$250,000 in 2012. The changes will also make the prosecution of fraud claims simpler and more efficient by enabling Nevada to pool resources with other states that have made similar changes—allowing the State to rely on federal law as well as caselaw established in those states. Many cases are multistate cases prosecuted in conjunction with other states.

The Nevada False Claims Act used to fight fraud committed against the State government was modeled after the federal False Claims Act. The federal False Claims Act rewards whistleblowers, also known as qui tam, who report fraud committed against the government, allowing the government to use the public's information to prosecute fraud. The federal False Claims Act is generally used for all types of fraud. Many cases involve Medicaid fraud largely due to the amount of government funding involved with that program.

In 2009 and 2010, changes were made to the federal False Claims Act and as a result, the Nevada False Claims Act must make similar changes to continue to receive federal financial incentives—essentially coming into compliance with the Deficit Reduction Act. Consistency with the federal False Claims Act will allow Nevada to qualify for an additional 10 percent of recovery, which means more money for Nevada.

The changes are technical and do not change the meaning of the Nevada False Claims Act. The Office of the Inspector General needs to review the changes to verify that the Nevada False Claims Act is as effective as the federal False Claims Act in allowing prosecution of the fraud.

Senator Goicoechea:

This bill addresses mostly Medicaid fraud?

Ms. Joseph:

That is correct.

Senator Goicoechea:

It is a housekeeping bill that puts us in line with the federal False Claims Act, giving us 10 percent more return on our money?

Ms. Joseph:

That is correct.

Senator Manendo:

This needs a two-thirds requirement, does that mean there is a fee in here?

Heidi Chlarson (Counsel):

The two-thirds requirement is attached to section 8 because civil penalties in statute are for an amount of not less than \$5,000 or more than \$10,000. On page 5, lines 16 and 17, the penalty is increased to not less than \$5,500 or more than \$11,000. This is one of the changes requested by the federal government. The civil penalties are a revenue increase which requires the two-thirds.

Senator Goicoechea:

The 10 percent increase is aligned with what we can get back in federal funds. The reason we have to have two-thirds is due to the increase in the penalty. Are the penalties in line with other states and the federal government?

Ms. Joseph:

Correct, they are in line. The 10 percent increase means the State would get an additional 10 percent of the split with the federal government. For example, if the split were 70 percent going to the federal government and 30 percent going to the State, the 10 percent increase would allow the 30 percent to be multiplied by 10 percent and that would come out of the federal government's allotment.

Senator Goicoechea:

Legal counsel indicated the reason for the fiscal note, or the two-thirds, was because of the penalty.

Ms. Joseph:

Yes.

Senator Goicoechea:

Is the penalty in line with other civil penalties?

Ms. Joseph:

It is in line.

SENATOR MANENDO MOVED TO DO PASS S.B. 437.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Parks:

We will now hear S.B. 304.

SENATE BILL 304: Revises certain provisions of the Charter of the City of Sparks. (BDR S-136)

Senator Debbie Smith (Senatorial District No. 13):

I am presenting S.B. 304, which amends portions of the Sparks City Charter. The Charter does not get a bill draft. I have, over a number of sessions, offered to carry the charter bills which I am doing today. The bill represents some cleanup language of the City Charter and offers some changes in how the City Civil Service Commission functions.

Senate Bill 304 has the support and backing of both the Sparks City Council and Charter Committee.

The City of Sparks Charter Committee is unique in the State, as it is a Charter Committee made up of citizens appointed by City-elected officials and legislative officials. The Charter Committee meets every 2 years before the beginning of the regular Legislative Session and presents recommendations to the Legislature on behalf of the City and its citizens. It has an open process and brings the information through that process. It is important to know that the Committee works independently of the City Council but generally presents the recommendations of the Charter Committee to the City Council that then endorses those recommendations.

Adam Mayberry (City of Sparks):

The City's Charter bill has three primary components that we support amending. A number of them are cleanup components.

Section 1 clarifies the role of the City Manager for section 3.020 of the Charter, subsection 1, paragraph (c). The Charter implies that the City Manager has control over all City departments, but we actually have an elected City Attorney and two municipal judges whose departments are overseen by those respective elected officials.

Section 2 of the bill clarifies that the City Council may retain its own special counsel. The special counsel reports directly to the City Council, not the City Attorney.

The Civil Service Commission is now required to meet at least once per month. Our workforce has been reduced due to the recession, and the meetings last a maximum of 5 minutes. In section 3, we ask that the Civil Service Commission be required to meet at least quarterly; this section also would allow for more frequent meetings if necessary.

Defined Civil Service Commission Rules in the Sparks Charter discuss things like examination, employee performance, eligibility and vacancies. The Civil Service Commission, per the Charter, has to adopt rules and regulations that are approved by the City Council. That does not change. We are not taking any Civil Service Commission requirements away. We propose to strike some of the duplicative rules from the Charter. Current Civil Service Commission Regulations IV, V, VI, X and XIII are verbatim to some of the provisions in the Charter that we are proposing to strike. Rarely do we make changes, but we want to use this Session as an opportunity to come before you and remove some of those rules from the City Charter.

Chair Parks:

The City Manager would retain responsibilities over all departments within the City with the exception of the City Attorney and the municipal courts?

Mr. Mayberry:

That is correct.

Chair Parks:

The City Council could retain special counsel to represent them. Is this in case the City Attorney gives them an opinion that they do not like?

Mr. Mayberry:

The intention is not to backdoor the City Attorney. The City Attorney is an elected officer and provides the legal support to the City Council. We had a former employee within the City Attorney's department who was dismissed and brought forth litigation to the City. It was clear that the City Attorney could not litigate, so the City Council retained its own counsel.

Chair Parks:

I want to make sure we got that on the record. I always want to double-check the repealed sections.

Ron Dreher (Peace Officers Research Association of Nevada):

We oppose the repeal of the portions of the Civil Service Commission that pertain to sections 9.040, 9.050, 9.060, 9.065, 9.070 and 9.080. It is not outdated language. As Chair Parks stated, be cautious if you are going to repeal something and you do not know what it is you are repealing.

Senator Hammond:

Are you in section 3?

Mr. Dreher:

Senator Hammond, it is in section 4.

Mr. Mayberry stated the language is duplicative. It is not duplicative when it does not exist. If you take that language out of the Civil Service Commission's hands, what is replacing it?

The language of section 9.020 in the Civil Service Commission Regulations from City of Sparks City Charter requires the regulations must be consistent with the provisions of this article and provide for ascertaining: the qualifications and experience of all applicants; recruitment, examination and experience of all applicants; proceedings for discipline removal and promotion of employees; classification of positions; and probationary appointments for which the period of probation may not exceed 1 year. This Committee does not have any of those sections in front of them.

While the City Council has to approve these rules and regulations, the section of the regulations in 9.030 in the City Charter says this: "The failure of the City Council to reject a proposed amendment within 30 days after its submission by

the Commission shall be deemed to constitute approval of the proposed amendment.”

If you repeal the sections of the Civil Service Commission, you are giving up examinations. This is a comprehensive section of Civil Service, nothing replaces this. The Civil Service Commission will have to go back and create a new rule. If there was a new rule, I would not be opposing that.

Section 9.050 pertains to reports of employee performance. It is comprehensive in the existing Civil Service Commission Regulations. The same is true with 9.060, the eligibility lists. If section 9.065, dealing with vacancies and promotions, was repealed, it would mean that someone who is promoted would not have the right to revert unless it was covered in his or her collective bargaining agreement, which they are not.

Most important is section 9.080, pertaining to prohibited acts, which is basically a nondiscrimination clause. It is one of the most comprehensive nondiscrimination clauses that I have seen in my 29 years of representing people in this area. Protective language ensures employees are taken care of.

The current language states that if you do repeal any of these sections, you have to write new language. We have no problem with sections 1, 2 and 3 of S.B. 304. We have a problem with repealing provisions in section 4; these will hurt the employees and the City of Sparks. That is why we are concerned.

I am not sure if the Sparks Police Protective Association or the other bargaining groups in the City of Sparks were invited to the table of the Charter Committee. They should have had a voice in this matter. I became aware of this bill a couple of days ago.

With due diligence for the people I represent, I ask that the Committee not support section 4; do not repeal these Civil Service sections.

Chair Parks:

Have ordinances, administrative rules, civil service rules or other regulations been advanced by the City that replace any of these?

Mr. Dreher:

Mr. Mayberry and Doug Thornley indicated they did not have replacements to these sections.

Rusty McAllister (Professional Firefighters of Nevada):

I signed as neutral, having similar concerns as Mr. Dreher. Does existing language take the place of the repealed sections? If there is existing language in place, I have no problem with the bill. If there is no other language, I have concerns about the bill.

Chair Parks:

I ask that the sponsor of S.B. 304 and the City of Sparks return to the table.

Are there any ordinances, administrative rules, civil service rules or other regulations that replace those provisions that you are seeking to repeal?

Doug Thornley (City of Sparks):

As Mr. Mayberry stated in his previous testimony, the already adopted Civil Service Commission Regulations of the City of Sparks proposed by the Civil Service Commission and ratified by the City Council are duplicative of the sections being repealed from the Charter in this bill, specifically, Regulations IV, V, VI, X and XIII.

The prohibited acts of section 9.080 are comprehensive, and the eight sections alluded to by Mr. Dreher are specifically listed in Article X and Regulation X of the already adopted regulations. The word "replace" is wrong because they are duplicative, existing in the form of Civil Service Regulations.

Mr. Mayberry:

The Civil Service Commission is a public body, the meetings are publicly posted, the agendas are electronically sent to all City employees who have email addresses and to all police officers who have City email addresses, and the agendas are posted in the fire stations and police department. The City wants to ensure that we are as transparent as possible and that all employees have an opportunity to be aware of what is taking place at the Civil Service level.

Senator Smith:

I trust that these explanations of the questions will suffice; if not, we will work with Mr. McAllister and Mr. Dreher to see if further clarifications can be made.

Chair Parks:

We will close the hearing on S.B. 304. We will open the hearing on S.B. 406.

SENATE BILL 406: Revises provisions governing tourism improvement districts.
(BDR 21-139)

Senator Debbie Smith (Senatorial District No. 13):

Sales Tax Anticipated Revenue (STAR) bonds are a complicated funding mechanism. Each Session, we continue to clarify and tweak and make sure that STAR bonds work best for the taxpayers. These taxpayer dollars are used to fund developments. The STAR bonds are related to a tourism improvement district (TID). It is a project where 75 percent of the sales tax in a TID can be pledged toward the bonds sold to finance a development. Due to the complicated nature of STAR bonds, we continue to improve the reporting and accountability of the measures. Last Session, we made a lot of progress doing just that.

Section 1, subsection 2 of this bill removes the Local School Support Tax (LSST) that municipalities can pledge for future projects. We cannot impose this on current projects; they already have their bonds out, this would be for future projects only. Our schools need that money, and I am on a mission to make sure we do not have abatements and exemptions that impact our schools.

In section 2, subsection 2, paragraph (4) and subsection 3 of the bill, regarding reporting requirements, have a clarification from last Session. As we developed the reporting on STAR bond projects, we did not make it clear that proprietary tax information should remain proprietary. It was not our intent that any business would have to report something that in other parts of our statute are protected. For example, if you could identify a business because of the size of the business in a particular development, that would be too obvious, and we want to make sure that the information can be done in the aggregate.

Under section 3, subsection 1, paragraph (b), subparagraph (2) and subsection 2 of the bill pertain to the relocation of a retail business. The TIDs are a defined area; they are established projects. In one project in particular, retail businesses closed in one part of town and moved into the TID. This resulted in the loss of 100 percent of the revenue of the closed retail business and the loss of 75 percent of the revenue when the retail business relocated. During the last Legislative Session, we clarified that you cannot relocate within

3 miles of the TID. This bill extends the relocation boundary to within the county and puts a 6-month time disqualifier, allowing a retail business to reopen within the TID after 6 months.

This bill impacts current and future projects. The municipality must get an opinion from bond counsel to make sure that this does not impair a bond in any way before the relocation language applies. These great projects have been built. I want to preserve what we already have in place.

When we change the language on the relocation, it loops in the section that says you cannot use tax dollars for legal and consulting fees. That was not my intention; I only want this new language to apply to the relocation. I will bring an amendment to clarify that legal and consulting fees are for future projects.

Senator Goicoechea:

What is the boundary limit?

Senator Smith:

It is county.

Senator Goicoechea:

It is countywide at this point?

Senator Smith:

Yes.

Senator Hammond:

You are trying to control where businesses relocate because of the impact on the ability to bond?

Senator Smith:

I intend to limit a business closing in one part of town—with the municipality losing out on all of that revenue—then opening in a TID where the TID keeps 75 percent of the revenue.

Senator Hammond:

The TID keeps the revenue?

Senator Smith:

Yes.

We have had two major businesses close in my city and relocate in the TID. The vacated buildings are boarded up. One is in a redevelopment area, which adds more blight. When businesses relocate to the TID, we lose LSST and the State has the obligation to make up the LSST shortfall; that really could impact the State. We did not anticipate a scenario where this local government funding mechanism would impact us; in an inadvertent way, that has happened.

This preserves that funding for school districts and keeps the State whole. We should not be backfilling an unanticipated impact. The caveat is that this will apply to current projects only if it does not impair the bonds. I have no intention of impairing any current project. If bond counsel confirms that this relocation prohibition would not impair bonds in any way, then a business cannot be relocated.

Senator Hammond:

Why are people moving to the TID?

Senator Smith:

It is two-fold. The new location can be a better location, but businesses also get incentives. The developments are taxpayer-financed; that financing comes with rent incentives. Infrastructure paid for by the bonds may give business owners an incentive to close their businesses in one location and move to another.

Businesses need to make good business decisions. We need to protect our taxpayer dollars and make sure that we do not have unintended consequences.

Chair Parks:

There were a couple of amendments suggested for the bill. Have you had an opportunity to look at those?

Senator Smith:

I have spoken with Ted Olivas, and we have worked together so that our bills have the same language. I am very comfortable with that.

Ted J. Olivas (City of Las Vegas):

We are here in support of this bill and its friendly amendment ([Exhibit D](#)). Two bills out there amend this same statute. We want to reconcile to the extent that we could.

Assembly Bill (A.B.) 50, a City of Las Vegas bill, is proposing similar changes. We have tried to make sure that they were both appropriate and consistent, specifically, subsection 1 and subsection 5, with regard to the relocations within the boundaries of the district.

ASSEMBLY BILL 50: Revises provisions relating to local government finance.
(BDR 22-253)

Senator Goicoechea and Senator Barbara K. Cegavske have sponsored S.B. 337. Subsection 5 of the amendment to S.B. 406, being proposed by the City of Las Vegas, may help with that bill.

SENATE BILL 337: Revises provisions relating to local governmental finance.
(BDR 21-92)

Chair Parks:

There is another bill from Senator Cegavske and Senator Goicoechea that we would like to cover.

William Arent (Director, Economic and Urban Development Department, City of Las Vegas):

We support all the changes that Senator Smith introduced in her bill. The proposed amendment by the City of Las Vegas would make one change to the bill as drafted.

The change is in section 1, subsection 5. We propose deleting subsection 5 and replacing it with new language as follows:

For a tourism improvement district established pursuant to NRS 271A, the beneficial owner of a tourism improvement district project may not receive both revenues authorized by NRS 271A and revenues authorized by NRS 279 for such tourism improvement project.

The intent of this amendment language is to allow the creation of a TID in a redevelopment area. For the City of Las Vegas, our only tourism area within the City's boundaries is our redevelopment area, which is in close proximity to Fremont Street. The bill and statute are written to effectively preempt the City of Las Vegas from doing a new tourism improvement district.

Senator Smith:

Assemblywoman Marilyn Kirkpatrick and I have worked on this issue for a significant amount of time. Our goal has always been to prevent double-dipping. Two Sessions ago, we took out that piece. We are comfortable with adding this piece, in that it says you can have one or the other, but you cannot have both funding mechanisms within the same district.

Senator Goicoechea:

I believe that works for the other bill that we might be bringing forward, as long as it is one or the other. We went to great pains to protect the LSST.

Dotty Merrill, Ed.D. (Executive Director, Nevada Association of School Boards):

We strongly support the bill, particularly the section that Senator Smith mentioned in section 1, subsection 2. If the bill passes with that section, there will be no need for local school boards to take various actions as outlined elsewhere in the statute.

The purpose of our friendly amendment ([Exhibit E](#)) would be to strike all the other places in the statute requiring actions by local school boards because it will not be necessary. We are recommending an effective date for these deletions to July 1. It simply eliminates the boards of trustees from having to deal with this.

Stephen Augspurger (Executive Director, Clark County Association of School Administrators):

We are here today to support this bill and the proposed amendments.

Paul McKenzie (Executive Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada, AFL-CIO):

We support the bill and the amendments.

We have witnessed the forming of a district from which redevelopment funds were raided out of a redevelopment district and went to the STAR bonds district

to improve the STAR bonds district for the developer. Now, that very STAR bonds district is draining businesses out of the redevelopment district. The money initially generated by the redevelopment district is gone. Businesses are leaving. There is twice as much blight as before the project started.

It was made on the record that there would not be revenue transfer between redevelopment and STAR bonds. The district is an island and does not get the benefit of redevelopment money; it receives tax revenue authorized by STAR bonds. It is not to drain the revenue out of the redevelopment district.

Senator Hammond:

This is a case where government tried to get involved, tried to solve a problem, and we have been chipping away at the unintended consequences ever since.

Nicole Rourke (Clark County School District):

We support this bill. The LSST will be protected. If we had only one funding source to protect from diversion, this would be it. The LSST provides a significant amount of our operating budget to hire staff and provide educational services to our students.

Lindsay Anderson (Washoe County School District):

We are here in support of this bill. Education is the best economic development tool. Protecting revenue that goes toward education will pay off in the end.

Gail Tuzzolo (Nevada State AFL-CIO):

We wholeheartedly support the bill.

Lonnie Shields (Nevada Association of School Administrators):

We are in full support of the bill and its amendments.

Ron Dreher (Washoe School Principals' Association):

We are offering our full support for S.B. 406.

Bryan Wachter (Retail Association of Nevada):

We are concerned with section 3, expanding the eligibility of a certain business to the county. We want to see specific distance requirements as opposed to a countywide requirement.

We anticipate there might be a problem for businesses wanting to relocate, especially in some of the counties that are larger in landmass. For example, if a TID in Laughlin was available and a business decided to move into that district, based on a number of economic criteria, the business would be ineligible to do that if it closed a location in any other part of Clark County.

Senator Goicoechea:

You would have to be moving from a TID into a TID in order to be impacted?

Mr. Wachter:

No.

The word "relocation" does not necessarily mean relocating. Business owners do not have to specify they are closing this store and reopening in a TID. The way the law is written, a particular entity—let us say that Scolari's wanted to close a store in one area and open another or a separate location in a TID—would be barred from doing so for 6 months.

Chair Parks:

Scolari's closes the store in Tonopah and opens another one in Pahrump. Would people in Tonopah drive to Pahrump just to continue going to Scolari's?

Mr. Wachter:

The decision to remain open in a particular location, especially for larger corporations such as Scolari's, is not based on the company in general or the profit—it is based on specific location requirements. We want to make sure that we open in a location that has the consumer population to sustain the location.

We are not disagreeing with the concept, but it does become problematic if you make it a county boundary.

Senator Goicoechea:

I hope you find some compromise.

Mr. Wachter:

I spoke briefly with Senator Smith, and she understands our concern.

Randi Thompson (Nevada State Director, National Federation of Independent Business):

I agree with Mr. Wachter. It does not allow a business the flexibility to move based on its own information.

From National Federation of Independent Business's perspective, the bill does not go far enough. These STAR bonds have been a nightmare, especially for small business. The government's subsidizing of big-box stores makes it even tougher.

We need to allow businesses to move and not necessarily into a TID because of the benefit. I would like to get rid of STAR bonds completely.

Senator Smith:

When I was looking at the countywide issue, Laughlin was the one area that I had not envisioned. A TID must have a study and preponderance that at least 50 percent of the people coming to the TID will be tourists. I would not envision a TID in those circumstances using STAR bonds in Pahrump or Tonopah, but I can see it happening with Laughlin. I am happy to work with those who have expressed their concern. We could go back to a mileage number but make it larger.

I want to get this right before the economy starts growing again. Washoe County may be a little tapped out because of the projects we have, but I think Clark County has yet to see the full impact of these projects. It is really important that we get this as right as we can before the economy starts growing again.

Chair Parks:

If Laughlin were to create a TID and in its market analysis the residents of Bull Head City and Riviera were to be the likely customers, are they part of the tourist base?

Senator Smith:

They are. When the law was written, it identifies tourists as out-of-state.

Chris Nielsen (Executive Director, Department of Taxation):

We are going to submit an unsolicited fiscal note.

There will be some modest expenses associated with modifying our Unified Tax System, with respect to section 1, removing the LSST component of the STAR bonds district.

With regard to reporting in section 2, pursuant to A.B. No. 376 of 76th Session, we make aggregate reports of taxable sales, number of jobs, wages paid, etc. Under section 2 of this bill, the required report would be district by district. We have a couple of districts where there is only one business in the district. As a general rule, taxpayer information is confidential. We will have to devise an appropriate reporting method.

Senator Smith:

I want to clarify for the Committee, especially those who are not familiar with this issue: there is no prohibition to relocating a business, there is only the prohibition of pledging the tax dollars. That big-box store could close anytime and move into a TID; but under the relocation rules, it could not keep 75 percent of the sales tax revenue.

Senator Goicoechea:

The 60 miles should be more than adequate.

Chair Parks:

We will close the hearing on S.B. 406. We will open the hearing on S.B. 440.

SENATE BILL 440: Makes various changes to the Charter of the City of Henderson. (BDR S-870)

Jacob Snow (City Manager, City of Henderson):

We bring this bill to the Committee in order to clean up and modernize our Charter and eliminate some sections that are in conflict with NRS.

We wanted to be sure we fully vetted this with our employee groups and unions. We fully briefed our City Council; it was on our agenda for discussion. We also placed the bill on our Website. I am not aware of one adverse comment received on this legislation.

Next week, the City of Henderson will celebrate the sixtieth anniversary of its incorporation. While we have not taken 60 years to amend our City Charter, it has been a long time since any changes to the Charter. In that time frame,

a number of changes to the NRS are now in conflict with the Charter. We have also had some ordinance changes.

Nechole M. Garcia (Assistant City Attorney, City Attorney's Office, City of Henderson):

The purpose of this bill is to clean up and modernize the language in the Charter, clarify some provisions and bring the Charter in line with the NRS. There are 26 sections to this bill. Most of the changes are minor. I will focus on the more substantive changes.

Section 2 pertains to the filling of a vacancy in the elected office of municipal court judge, city council or mayor. The changes to this section now specify that a vacancy can be filled in one of two ways: the mayor and city council can, by a majority vote, appoint a qualified person within 60 days of the occurrence of the vacancy; or the city council can hold a special election within 90 days of the occurrence of the vacancy. The changes also specify that the person elected would serve for the remainder of the unexpired term.

Section 8, for section 2.320 of the Charter, subsection 7, paragraph (f) addresses the sale and lease of real property owned by the City of Henderson. We have removed subsection 3 and some language in subsection 7 and some language toward the end of the bill. This language is antiquated, and the last amendment was in 1997. The language was hampering the City's ability to negotiate a fair deal on land sales. The City is subject to the provisions in NRS 238 when it comes to how we sell or lease property. The deletion of these sections does not impact that at all.

The changes in sections 19 and 21 address when an elected candidate takes office. In NRS 293C, when candidates win the primary election in a municipal election and they win the majority vote, they are declared the winner. If they do not win the majority of the vote, they have to wait until the general election. As our Charter stands, it does not clarify when this candidate takes office. We have some candidates taking office in April and others in June, creating confusion as to the term of a candidate's office. We have clarified that whether candidates win in April or June, they will take office and enter into the discharge of their duties in June.

Section 23 deals with the City's ability to levy taxes. This section was last amended in 1971. Since then, there have been changes in the tax provision in

the NRS. We deleted the 3 percent language in section 23 for section 8.010 of the Charter, subsection 1, and changed it to “at the appropriate rate.” The limitations on our taxing ability are found in the *Constitution of the State of Nevada* and the NRS.

Section 24 pertains to our System of Civil Service and the employees who are not covered. The added list of not covered include the executive officers –City Manager, City Attorney, City Clerk—and high-level officers appointed by the City Manager, such as the assistant city manager. Department directors, senior department directors and division heads are not covered. There is a clarification that all attorneys employed by the City Attorney’s Office are not covered. We deleted the intergovernmental relations director because that position no longer exists. We added municipal court administrator, which is a department director, but the title does not clearly state that. We clarify that probationary or temporary employees and employees who have collective bargaining agreements pursuant to NRS 288 are not covered.

Section 24 for section 9.010 of the Charter, subsection 5 provides that an employee in a position covered by the System of Civil Service who is then promoted to a position not covered no longer retains those Civil Service protections.

Section 25 pertains to the all of the repeals provisions. These antiquated provisions are adequately covered under NRS.

Section 26 provides the provisions in section 9.010 of our Charter apply to persons employed by the City of Henderson before, on or after October 1.

Chair Parks:

Are you proposing the certification of the election be the second meeting in June?

Ms. Garcia:

Yes, we propose the second meeting in June, after the general election.

Chair Parks:

Those individuals who won their elections in the primary and were not already incumbents will not take office until the second meeting in June?

Ms. Garcia:
Correct.

Chair Parks:
Has the City of Henderson contemplated having the election cycle concurrent with the Constitutional Officers?

Mr. Snow:
Yes, it has been contemplated. Our Council has yet to take any definitive action.

Chair Parks:
Referring to section 24, people who are in Civil Service protection when they assume executive positions do not take their rights and privileges with them. If they go in the reverse order, will they regain the Civil Service protections?

Fred Horvath (Director, Human Resources, City of Henderson):
If employees outside of the Civil Service System are successfully placed in covered positions, they would regain those rights.

Chair Parks:
We will close the hearing on S.B. 440 and begin our work session on S.B. 79.

SENATE BILL 79: Revises provisions governing the use of net profits derived from certain municipal utilities. (BDR 58-449)

Patrick Guinan (Policy Analyst):
I will read from the work session document ([Exhibit F](#)). This bill was first heard on March 11. There was one amendment proposed.

Chair Parks:
During testimony, a comment dealt with the presumption that deleting this section of law would impact NRS 267. Legal counsel, please verify that deleting this section does not impact in any way the provisions of NRS 267 or legislation passed relative to NRS 267 during the 76th Session of the Legislature.

Ms. Charlson:
At the bill's hearing, there were some questions and concerns raised by a couple of cities that the bill would somehow undo changes made in

A.B. No. 471 of the 76th Session and repeal of the provision in S.B. 79 would otherwise conflict with statute. It is my opinion that those concerns are not valid. Staff reached out to find a specific opinion or fact upon which those questions were raised. We did not receive any specific feedback. Based on the knowledge we have, I do not see a conflict with statute or repealing this provision as it would relate to the provisions of A.B. No. 471 of the 76th Session.

Senator Spearman:

The presented amendment is not necessary?

Ms. Charlson:

The amendment is intended to keep the provision of law in statute. It is a policy decision. If the Committee wants to keep the provision in statute, nothing is legally wrong with that; if the Committee wants to repeal the section, nothing is legally wrong with that. I was asked whether there would be a problem with the passage of S.B. 79, and I do not believe so.

Senator Goicoechea:

Is there the ability to put the funds back into the general fund?

Chair Parks:

It is my understanding that the passage of A.B. No. 471 of the 76th Session did provide an opportunity for certain municipalities to use certain funds for a period of time if deemed desirable by their city councils. The NRS 710.600 is an obscure provision that conflicts with A.B. No. 471 of the 76th Session. Since 1960, there is no record of its use or reason for enactment. It is unnecessary, and other provisions in statute would permit a municipality to take whatever steps are needed.

SENATOR SPEARMAN MOVED TO DO PASS S.B. 79.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

Our next work session bill is S.B. 227.

SENATE BILL 227: Authorizes the governing body of a municipality to acquire, improve, equip, operate and maintain certain projects. (BDR 21-1043)

Mr. Guinan:

The Committee heard S.B. 227, as noted in the work session document ([Exhibit G](#)), on March 20. There are no amendments.

Senator Goicoechea:

The bill was brought for West Wendover.

SENATOR MANENDO MOVED TO DO PASS S.B. 227.

SENATOR SPEARMAN SECONDED THE MOTION

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Parks:

Our next work session bill is S.B. 250.

SENATE BILL 250: Provides for the creation of certain local improvement districts. (BDR 21-475)

Mr. Guinan:

Senate Bill 250, as described in the work session document ([Exhibit H](#)) and sponsored by Senator Joseph P. Hardy, was presented to the Committee on March 27.

SENATOR MANENDO MOVED TO DO PASS S.B. 250.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

The next bill is S.B. 272.

SENATE BILL 272: Provides for the revision of the boundary line between Storey County and Washoe County. (BDR 20-840)

Mr. Guinan:

Senate Bill 272 as sponsored by Senator Ben Kieckhefer was presented to the Committee on April 3. A mock-up of proposed Amendment 7897, making the local governments more comfortable with the bill, is included in the work session document ([Exhibit I](#)).

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 272.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

The next bill is S.B. 342.

SENATE BILL 342: Revises provisions governing the vacation and abandonment of certain streets. (BDR 22-665)

Mr. Guinan:

Senate Bill 342, as described in the work session documents ([Exhibit J](#)) and sponsored by Senator Goicoechea, was heard by this Committee on March 25.

The Nevada Department of Transportation (NDOT) had initially requested an amendment in order to address what was thought to be a potential conflict with another bill. After discussions with the Legal Division, that concern was addressed and NDOT no longer wants the amendment.

The proposed Amendment 7947, requested by NV Energy, is contained in the work session document mock-up. This amendment merely requires that before proceeding with the simplified procedure, the governing body must follow the

steps set forth in section 1, subsection 6 of the bill, which relate to utility and video service provider easements. It provides notice of abandonment of streets, letting providers look at whether their easements will be affected.

Chair Parks:

The revised language is on page 5 of [Exhibit J](#), referring back to page 3.

Senator Goicoechea:

It is a friendly amendment, requiring that before government bodies move to vacate a street, they notify the utilities that could be impacted.

SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 342.

SENATOR MANENDO SECONDED TO THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

The next bill is S.B. 364.

SENATE BILL 364: Revises provisions governing governmental administration.
(BDR 19-185)

Mr. Guinan:

Senate Bill 364 is described in the work session document ([Exhibit K](#)) and is sponsored by Senator Kelvin D. Atkinson. It was heard by this Committee on April 3. There are two proposed amendments.

Chair Parks:

It seems that "where marriage licenses are issued" generally would cover the intent of the legislation. In the City of Henderson, the County Clerk has an office in the City Hall building. Could somebody on the City Hall property stand outside the office, where marriage licenses are not issued, and do solicitation 10 feet from the front door of the County Clerk's office?

Ms. Charlson:

You are referring to section 7 of the mock-up. The language does say “while on county property where marriage licenses are issued.” If you are 10 feet away from county property, if you are not physically on the property, you would be fine. The prohibition is only on the property itself and is limited to county property where the marriage licenses are issued.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 364.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

The next bill in front of us is S.B. 370.

SENATE BILL 370: Makes various changes regarding administrative regulations.
(BDR 18-194)

Mr. Guinan:

Senate Bill 370 is described in the work session document ([Exhibit L](#)). Sponsored by Senator Ben Kieckhefer, we heard the bill on April 3. There are no amendments.

SENATOR GOICOCHEA MOVED TO DO PASS S.B. 370.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

Our last bill for the day is S.B. 404.

SENATE BILL 404: Revises provisions relating to business practices.
(BDR 28-827)

Mr. Guinan:

The work session document ([Exhibit M](#)) that explains S.B. 404 was sponsored by Senator Smith and heard by the Committee on April 3. There is one amendment to the bill. The concept of the amendment is to require that any business that does business with the State of Nevada must have a State business license.

Chair Parks:

I heard from the Retail Association of Nevada, indicating support for the bill.

We received an email from Gus Nunez in regard to subcontractor business licenses.

Senator Goicoechea:

There was concern that language exempted some subcontractors from being required to have a Nevada license.

The email on page 2 of [Exhibit M](#) is from Senator Smith. I will read it to you:

I did hear from Gus Nunez with the Public Works Board and, sure enough, even their subcontractors are not required to purchase a business license. So that language, as well as the amendment that includes purchasing, will loop all subs receiving state money.

Chair Parks:

That was the intent of the legislation.

SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 404.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Parks:

That concludes our work session items for today. The meeting is adjourned at 3:13 p.m.

RESPECTFULLY SUBMITTED:

Gwen Barrett,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	8		Attendance Roster
S.B. 437	C	8	Attorney General Catherine Cortez Masto	Correspondence
S.B. 406	D	2	Bill Arent	Proposed Amendment
S.B. 406	E	5	Nevada Association of School Boards	Friendly Amendment
S.B. 79	F	1	Patrick Guinan	Work Session Document
S.B. 227	G	1	Patrick Guinan	Work Session Document
S.B. 250	H	1	Patrick Guinan	Work Session Document
S.B. 272	I	9	Patrick Guinan	Work Session Document
S.B. 342	J	6	Patrick Guinan	Work Session Document
S.B. 364	K	12	Patrick Guinan	Work Session Document
S.B. 370	L	1	Patrick Guinan	Work Session Document
S.B. 404	M	2	Patrick Guinan	Work Session Document