"No man's life, liberty, or property are safe while the legislature is in session." - Mark Twain

"It's far better the Nevada legislature meet every one hundred and twenty years for two days than every two years for one hundred and twenty days." – unknown author

This first issue of the Reese Kintz Guinasso Legislative Update to the Incline Village General Improvement District ("IVGID") covers the activities of the 79th session of the Nevada Legislature as of March 31, 2017. Before discussing legislation pertinent to IVGID, this section will briefly discuss Nevada’s legislative process and the people who participate in and control the process.

I. **NEVADA LEGISLATORS**

The Nevada Legislature is comprised of 63 members, 42 in the Assembly and 21 in the Senate. All 42 members of the Assembly are elected for 2-year terms at the general election held in even-numbered years. Members of the Senate are elected for 4-year terms, with 10 being elected in one General Election and 11 in the next.

Nevada’s Legislature is a part-time “citizen legislature” comprised of people with full-time careers outside of their service to the State. While this may keep Nevada legislators in closer touch with their constituents, it also means that they do not enjoy the same accommodations provided to full-time legislators in larger states. For example, legislators in Nevada do not have individual staff. In this regard, the Legislative Counsel Bureau provides services to legislators. The Legislative Counsel Bureau is a nonpartisan centralized agency. Additionally, Legislators receive a nominal salary for the work of $130 per day for the first 60 days of each regular session and the first 20 days of each special session. Legislators also receive a per diem allowance for meals and lodging set at the Federal rate for Carson City and receive small allowances for stationery, postage, travel, and telephone use.

Presently, the Assembly is controlled by an averaged sized 12-person majority of Democrats, led by Assembly Speaker Jason Frierson. In the Senate, the Democrats hold an extremely narrow 2-person majority, led by Senate Majority Leader Aaron D. Ford. The Governor of Nevada is Brian Sandoval, a Republican.
On the First Monday in odd-numbered years, the Nevada Legislature begins its regular biennial 120-day session. However, the Governor may also call the Legislature into a special session. A special session is a period when the body convenes outside of the normal legislative session. When the Legislature is not in session, permanent and interim Legislative Committees are convened to consider and investigate a wide range of issues and to make recommendations and proposed legislation to the next session of the Legislature.

II. THE LEGISLATIVE PROCESS IN NEVADA

If a governmental agency, elected official, business, lobbyist, or citizen has an idea for legislation, a request for a bill draft may be made by a legislator, the chair of a legislative committee, the Governor, a state agency, or a local government. This “bill draft request” (“BDR”) is processed by the Legal Division of the Legislative Counsel Bureau, which prepares a formal draft of the proposed bill.

Thereafter, the bill is introduced to the Senate or Assembly by a Senator or Assemblymember, numbered and read for the first time, assigned to committee, and printed. Next, the committee assigned the bill holds a hearing to take testimony and gather information about the bill. At the conclusion of the hearing(s), a committee may recommend that the House pass the bill as it is written, pass it with amendments, or not pass it at all. A bill given a "Do Pass" recommendation is read a second time and placed on General File for debate and vote in the House if it is assigned, while a bill that is given an "Amend and Do Pass" recommendation is read a second time, amended and reprinted before being placed on the General File for action.

Bills are then read a third time, debated and voted upon by the House where the bill was originally introduced. For most bills to pass, 11 votes are required in the Senate, while 22 votes are required in the Assembly. However, if the passage of a bill imposes or increases a tax or fee, it will require 14 votes in the Senate and 28 votes in the Assembly to pass.

The foregoing process is followed again in the non-originating House. If the second house to consider a bill passes it without amendment, it is sent to the Governor. However, if the second house amends a measure, it is returned to the house of origin for consideration of the amendments. In this regard, the house of origin decides whether to accept the second house's amendments. If the house of origin accepts the amendments, the bill will be sent to the Governor for signature. If the amendments are rejected by the house of origin, the bill is either returned to the second house for a decision whether to withdraw the proposed changes or the bill is referred to a conference committee that includes members of both houses. The conference committee attempts to reconcile the differences and presents its recommendation in the form of a conference report. If both houses accept the report, the bill goes to the Governor. If either house rejects the report, a final conference committee is appointed. The bill dies if the members of the second conference committee fail to agree.

Finally, the Governor must act on a passed bill within 5 days after he receives it if the Legislature is still in session, or 10 days if the session has ended. The governor may sign the bill into law,
allow it to become law without his signature, or veto it. A vetoed bill returns to the house of
origin for a possible vote on overriding the veto. An override requires a two-thirds majority of
both Houses. If the Governor vetoes a bill after session ends, it returns to the next legislative
session. Enacted bills become effective on October 1st following the end of the legislative
session, unless otherwise specified in the bill.

Importantly, the foregoing process is further constrained by the 120-day time limit placed on the
Legislature to complete its business. In this regard, there are several restrictions, rules and
deadlines that the Legislature adopts each session.

III. THE 2017 LEGISLATIVE SESSION

The 79th (2017) session of the Nevada Legislature began on February 6, 2017. By law, Nevada
legislative sessions last 120 days, and the 79th session will conclude on June 5, 2017.

The first several weeks of the legislative session are much slower than the remainder of the
session because not all bills and BDRs have been introduced. Two key deadlines have occur as of
the preparation of this update:

- March 20, 2017: Due date for introduction of bills requested by legislators.
- March 27, 2017: Due date for introduction of bills requested by legislative committees.

IV. BILLS

There are several Bills that may impact the Incline Village General Improvement District. We are
now over a third of the way through the 2017 Legislative Session and have surpassed the critical
deadline of final Legislator’s Bill Introductions on March 20th and Legislative Committee
introductions on March 27th.

Concerning General Improvement Districts:

✓ AB349
  ○ Requires the Legislative Auditor to conduct a performance and compliance audit
    of the Incline Village General Improvement District. (BDR S-585)
  ○ This bill was sponsored by Assemblywoman Lisa Krasner (R-26) on March 20,
    2017 and referred to Committee on Ways and Means. Assemblywoman Krasner
did not notify IVGID that she was submitting this BDR.
  ○ Legislative note on what the bill does: Existing law authorizes a board of county
    commissioners to adopt an ordinance forming a general improvement district and
    grant that district certain basic powers to promote the health, safety, prosperity,
    security and general welfare of the inhabitants of the district. (NRS 318.015,
    318.116) After the adoption of an ordinance creating a general improvement
district, existing law provides for the establishment of a board of trustees with broad powers to manage the district, including, without limitation, the power to:
(1) levy taxes; (2) fix or increase or decrease certain rates, tolls, and charges associated with facilities and services provided within the district; and (3) borrow money and incur or assume certain forms of indebtedness. (Chapter 318 of NRS)

Prior to forming a general improvement district, a written service plan for the proposed district must be filed with and approved by the board of county commissioners of each county in which the proposed district is located in accordance with the Special District Control Law. (Chapter 308 of NRS) Once a general improvement district is approved, its facilities, services and financial arrangements must conform to the filed service plan as originally submitted or with approved modifications. (NRS 308.080)

- This bill requires the Legislative Auditor to conduct, without expense to the Incline Village General Improvement District or the Board of County Commissioners of Washoe County, a performance and compliance audit of the Incline Village General Improvement District created by that Board.

- **RKG note:** First, it is important to point out that IVGID is audited every year. Second, IVGID must abide by very stringent rules for reporting to the State. IVGID’s finances are reviewed by the State every year. Hence, the expense of this proposed audit seems unnecessary and redundant. Finally, the creation of IVGID pre-dates the enactment of Chapter 308 of the NRS. This means that IVGID was never required to prepare a “written service plan.” Therefore, the type of audit proposed in the draft legislation would be fruitless. Presently, there does not appear to be any action on this legislation.

- We are waiting to be notified about whether there will be hearing on AB349. If there is a hearing, we will advise the IVGID Board and Staff to consider providing testimony.

✓ **AB379**

- Amends provisions relating to general improvement districts created for the purpose of furnishing recreational facilities. (BDR 25-211)

- This bill was sponsored by Assemblywoman Amber Joiner (D-24) on March 20, 2017 and referred to the Committee on Government Affairs.

- **Legislative note on what the bill does:** Under existing law, a board of county commissioners cannot begin the organization of a general improvement district
that includes any real property within 7 miles from the boundary of an incorporated city or unincorporated town unless one of five conditions is met. (NRS 318.055)

- Section 1 of this bill provides that these conditions do not apply to a proposed district which will furnish recreational facilities if each board of county commissioners and governing body of an incorporated city, unincorporated town and existing general improvement district with territory included within the boundaries of the proposed district consent to the formation of the district by resolution. Existing law authorizes the board of trustees of a general improvement district to acquire, construct, reconstruct, improve, extend and better one or more of the following types of facilities for recreation: exposition buildings, museums, skating rinks, other type rinks, fieldhouses, sports arenas, bowling alleys, swimming pools, stadiums, golf courses, tennis courts, squash courts, other courts, ball fields, other athletic fields, tracks, playgrounds, bowling greens, ball parks, public parks, promenades, beaches, marinas, levees, piers, docks, wharves, boat basins, boathouses, harborsages, anchorages, gymnasiums, appurtenant shower, locker and other bathhouse facilities, amusement halls, dance halls, concert halls, theaters, auditoriums, aviaries, aquariums, zoological gardens, biological gardens and vivariums.

- Section 2 of this bill authorizes a board to: (1) also acquire, operate, maintain, manage and restore these recreational facilities; (2) design, compile or administer certain environmental or cultural reports; (3) take measures to reduce wildfire, restore native vegetation and conserve and manage natural resources; (4) establish or fund the establishment of educational programs at facilities for recreation, including, without limitation, funding for personnel who provide such educational programs; (5) enter into certain agreements with a nonprofit corporation; and (6) establish a fund and accept gifts, grants and donations for deposit in the fund. Section 2 also provides that recreational facilities include watersheds, trails, open spaces, lakes, ponds and rivers.

RKG note: We have no comments or recommendation for IVGID on this bill at this time. However, if this legislation were passed and Washoe County established this type of District in lieu of financing and managing the parks and recreation currently under its jurisdiction, several questions would need to be
addressed regarding the impact on parks and recreation in Incline Village/Crystal Bay.

- We are waiting for a hearing on AB379 to be scheduled.

✓ SB460

- Revises provisions governing the membership of the Local Government Employee-Management Relations Board. (BDR 23-556)
- This bill was sponsored by the Senate Committee on Government Affairs on March 27, 2017.
- Legislative note on what the bill does: Existing law establishes the Local Government Employee-Management Relations Board, which oversees labor relations between local government employers and local government employees. The Board consists of three members appointed by the Governor. In addition to other qualifications and limitations, not more than two of the members may belong to the same political party. (NRS 288.080)
  - Section 1 of this bill: (1) increases the membership of the Board to five members; (2) increases the number of members of the Board who may belong to the same political party to three members; and (3) requires that at least three members of the Board reside in southern Nevada.
  - Section 2 of this bill increases from two to three the number of members that constitute a quorum and clarifies that a quorum may exercise all the power and authority conferred on the Board.
- RKG note: This is an important bill to monitor for IVGID due to the fact that certain labor disputes with IVGID employees and their unions can be heard by this body. We did not have any recommendation or other commentary to offer at this time.
- We are waiting for a hearing on SB460 to be scheduled.

✓ SB462

- Authorizes a board of county commissioners to create a committee to review general improvement districts. (BDR 20-496)
- This bill was introduced on March 27, 2017.
- Legislative note on what the bill does: Existing law governs the creation and administration of general improvement districts in this State. (Chapter 318 of NRS)
Section 2 of this bill authorizes a board of county commissioners to create a committee to review the existing general improvement districts in the county to determine if the districts should be continued, modified, consolidated, merged or dissolved. Section 2 also provides that such a committee must consist of five members appointed by the board of county commissioners, including a member of the Senate who represents the county and a member of the Assembly who represents the county.

Section 3 of this bill requires such a committee to conduct public hearings on whether a general improvement district should be continued, modified, consolidated, merged or dissolved and places the burden of proof on the general improvement district to establish that there is a public need for its continued existence. Section 3 also requires each committee to submit a report to the Legislative Commission each year regarding the activities and findings of the committee.

Section 4 of this bill sets forth certain information that each general improvement district under review by a committee may be required to provide to the committee.

RKG note: GID's in Nevada have had mixed success. This proposed legislation is focused on empowering Counties to review GID's within their jurisdictions to ensure that they are effectively serving a public need. If this legislation were to pass, IVGID would not have any problems demonstrating that it effectively serves the public. Our only concern is that individuals with political and personal motives adverse to IVGID would attempt to convince Washoe County to use this process to further their political and personal agenda. We believe this legislation should be amended to provide for certain objective criteria to justify any review.

We are awaiting an upcoming hearing on SB462 to be scheduled.

SB471

Revises provisions related to improvement districts. (BDR 25-495)

This bill was introduced on March 27, 2017.

Legislative note on what the bill does: Chapter 309 of NRS, the Nevada Improvement District Act, authorizes the creation and governs the management of a local improvement district for the construction of a power plant and the distribution of energy therefrom or the construction of a sewer system or the construction or acquisition of a water system. (Chapter 309 of NRS) In 1967, the Nevada Legislature eliminated the authority to create such a district. (NRS...
309.025) The only local improvement district currently in existence which is organized pursuant to the Nevada Improvement District Act is Douglas County Sewer Improvement District No. 1.

- Section 36 of this bill repeals the Nevada Improvement District Act.
- Sections 1-5 and 7-11 of this bill make conforming changes.
- Section 35 of this bill abolishes Douglas County Sewer Improvement District No. 1.
- Section 6 of this bill makes a conforming change.
- Sections 12-34 of this bill establish the Douglas County Lake Tahoe Sewer Authority Act, which creates the Douglas County Lake Tahoe Sewer Authority for the purpose of furnishing certain residents of this State with an adequate system of sewage collection and treatment and disposal of wastewater.
- Section 23 of this bill exempts certain property of the Authority from state, county and municipal taxation.
- Section 24 of this bill authorizes the Authority to enter into certain interlocal cooperative agreements with general improvement districts, and authorizes a general improvement district which is party to such an agreement to authorize the Authority to exercise powers, privileges and authority belonging to the general improvement district.
- Section 25 of this bill provides that the Authority is a public employer, subject to certain provisions governing retirement for public employees.
- Section 26 of this bill creates and provides for the appointment of a Board of Trustees which is charged with directing and governing the Authority.
- Section 27 of this bill requires each trustee on the Board to file an oath of office and a bond.
- Sections 28 and 29 of this bill set forth provisions governing the procedures and duties of the Board.
- Sections 30 and 31 of this bill set forth the powers of the Authority and the Board.
- Section 32 of this bill requires the Board to adopt an ordinance governing the financing of the Authority.
- Section 33 of this bill exempts the Authority from regulation by the Public Utilities Commission of Nevada.
- Section 34 of this bill directs the Douglas County Lake Tahoe Sewer Authority to assume the debts, obligations, liabilities and assets of
Douglas County Sewer Improvement District No. 1. Under existing law, if a majority of the members of the board of county commissioners of a county deems it to be in the best interest of the county and of a general improvement district that was exercising three specified powers on October 1, 2005, related to sanitary sewer improvements, the collection and disposal of garbage or refuse and the supply, storage and distribution of water that the district be merged, consolidated or dissolved, the board of county commissioners is required to submit the question of the merger, consolidation or dissolution to the board of trustees of the district. If the board of trustees of the district does not agree to the merger, consolidation or dissolution within 90 days after the submission of the question to the board of trustees, existing law prohibits the merger, consolidation or dissolution of the district. (NRS 318.490)

- Section 3 of this bill requires the submission of the question of merger, consolidation or dissolution to the board of trustees of a district that was exercising any of those three specified powers on October 1, 2005.

- **RKG note:** We have no comment on this legislation. Presently, we are just monitoring.

- We are awaiting an upcoming hearing on SB471 to be scheduled.

**Concerning Public Records Law**

- **AB42**

- Revises various provisions relating to public records. (BDR 19-389)

- This bill was sponsored by the Assembly Committee on Government Affairs on November 16, 2016 on behalf of the Attorney General.

- **Legislative note on what the bill does:** Under existing law, all public books and public records of a state or local governmental entity, the contents of which are not otherwise declared by law to be confidential, are required to be open at all times during office hours for inspection and copying by the public. (NRS 239.010) In addition to a balancing test in case law which is applied when existing law is silent with respect to the confidentiality of a book or record, certain public books and public records are exempt from disclosure pursuant to specific statutory provisions that prohibit the disclosure of or specifically declare
those public books and public records to be confidential. (Donrey of Nev., Inc. v. Bradshaw, 106 Nev. 630 (1990)) These specific statutory exemptions are listed in Nevada's public records law. (NRS 239.010) The Freedom of Information Act is a federal law which, similar to Nevada's public records law, requires public officials to make certain information and records available to the public. The Freedom of Information Act creates categories of information and records to which the Freedom of Information Act does not apply, in addition to the federal statutes which specifically exempt certain matters from disclosure. (5 U.S.C. § 552)

- Sections 2-10 of this bill reorganize the list of statutory exemptions to Nevada's public records law into categories modeled on the categories of information and records which are exempt from disclosure under the Freedom of Information Act.

- Section 12 of this bill makes a conforming change. Unless otherwise defined in another provision in Nevada Revised Statutes, the words and terms defined in the preliminary chapter of Nevada Revised Statutes apply throughout Nevada Revised Statutes. (Preliminary chapter of NRS) In the preliminary chapter, the term "person" excludes a governmental entity. (NRS 0.039)

- Section 11 of this bill includes a governmental entity within the definition of "person" for the purposes of Nevada's public records law, thereby authorizing a governmental entity to request the inspection or copying of the public books and public records of other governmental entities.

- Sections 12-19 and 21-23 of this bill make conforming changes to: (1) clarify that the term "person" refers to the requester of a public book or public record and the term "a public officer or employee" refers to an officer or employee of the governmental entity from which a book or record has been requested for inspection or copying; and (2) exclude a governmental entity from the term "person" where appropriate. Section 15 of this bill specifies that the immunity from civil damages granted in existing law to a public officer or employee who acts in good faith in disclosing or refusing to disclose information and to the employer of the public officer or employee includes attorney's fees. The Committee to Approve Schedules for the Retention and Disposition of Official State Records was created under existing law to review and approve or disapprove the schedules for the retention and disposition of the official
state records that agencies of the Executive Department of the State Government are required to develop and to advise the Division of State Library, Archives and Public Records of the Department of Administration regarding those schedules. (NRS 239.073-239.080) Under existing law, if a person's request for the inspection or copying of a public book or public record has been denied by a governmental entity, the person is authorized to apply to a court for an order allowing the person to inspect or copy the book or record. (NRS 239.011) In addition to the authority to request a court order, section 14 of this bill authorizes a person whose request to inspect or copy a public book or public record of an agency of the Executive Department of the State Government has been denied to apply to the Committee to Approve Schedules for the Retention and Disposition of Official State Records for a nonbinding advisory opinion on whether the agency's basis for denying the request was sufficiently articulated.

- Section 20 of this bill authorizes the Committee to issue such an opinion.
- RKG note: We have no comment on this legislation. We will continue to monitor.
- We are awaiting an upcoming hearing on AB42 to be scheduled.

✔ SB170

- Revises provisions governing public records. (BDR 19-560)
- This bill was sponsored by Sen. Tick Segerblom (D-3) on February 13, 2017 and referred to the Committee on Government Affairs.
- Legislative note on what the bill does: Under existing law, all public books and public records of a state or local governmental entity, the contents of which are not otherwise declared by law to be confidential, are required to be open at all times during office hours for the public to inspect, copy or receive a copy thereof. Existing law also requires a state or local governmental entity to provide a copy of a public record in any medium in which the public record is readily available. (NRS 239.010)
  - Sections 1 and 3 of this bill clarify in certain existing law that, in addition to the right to inspect and copy a public book or record, members of the public have the right to receive a copy of a public book or record on request.
Section 2 of this bill specifically includes digital and electronic documents in the term “official state record” in the existing law governing public books and records.

Section 4 of this bill requires a governmental entity to provide a copy of a requested public book or record in an electronic medium unless the public book or record is not readily available in an electronic medium or the copy was requested in a different medium in which the public book or record is readily available. Under existing law, if a person requests access to a public book or record or a copy of a public book or record which is not readily available, the governmental entity is required to provide access to the public book or record or a copy of the public book or record not later than the end of the fifth business day after the request was received. If access to the public book or record or a copy of the public book or record cannot be provided not later than the end of the fifth business day after the request was made, the governmental entity is required to provide notice of that fact to the person who made the request and provide a date and time after which the public book or record or the copy of the public book or record will be available. (NRS 239.0107)

Section 5 of this bill requires a governmental entity, if access to a public book or record or a copy of a public book or record cannot be provided within 5 business days after the request was made, to provide access to the public book or record or a copy of the public book or record within 15 business days after the request was received with two exceptions. First, if the governmental entity provides additional notice to the requester: that the governmental entity is unable to meet the deadline of 15 business days, the governmental entity is required to provide access or a copy of the public book or record within 35 business days after the request was received. Second, if the governmental entity provides additional notice to the requester that the request requires the governmental entity to make extraordinary use of its personnel or technological resources, the governmental entity is required to include in the notice a date and time after which the public book or record will reasonably be available.

If a governmental entity fails to comply with these deadlines, section 6 of this bill authorizes the person who requested access to the public book or record or a copy thereof to apply to a district court for an order requiring
the governmental entity to provide access to or a copy of the public book or record.

- Section 7 of this bill prohibits a governmental entity from charging a fee for providing a copy of a public book or record if the request is for an electronic copy of the public book or record or the request is made for noncommercial purposes, unless the governmental entity provides written notice that the request requires the governmental entity to make extraordinary use of its personnel or technological resources.

- If the request requires the governmental entity to make extraordinary use of its personnel or technological resources, section 8 of this bill authorizes the governmental entity to charge the fee in existing law for such extraordinary use of not more than 50 cents per page for commercial requests and authorizes a fee of not more than 10 cents per page for requests that are not commercial.

- Section 7 makes a conforming change to the fee charged for providing a copy of a public book or record in the custody of a governmental law library.

  - RKG note: We have no comment on this legislation at this time. We will continue to monitor.
  - We are awaiting an upcoming hearing on SB170 to be scheduled.

**Procurement and Public Contracting Specific**

- AB32
  - Revises provisions relating to special fuels. (BDR 32-382)
  - This bill was sponsored by the Assembly Committee on Taxation on December 20th 2014.
  - Legislative note on what the bill does:
    - Section 1 of this bill revises the definition of “special fuel dealer” for the purposes of imposing taxes on the sale or use of special fuels in this State to specify that the term includes a person who sells liquefied natural gas and delivers such fuel into the tank for the supply of fuel of a motor vehicle that is not owned or controlled by that person.
    - Section 2 of this bill revises the amount of the tax imposed on the sale or use of liquefied petroleum gas and compressed natural gas.
- Section 3 of this bill amends the factors for the conversion of volumetric measurements for purposes of taxing the sale or use of liquefied petroleum gas and liquefied natural gas.
- Section 4 of this bill provides that the tax returns which must be filed with the Department of Motor Vehicles by a special fuel dealer or special fuel manufacturer must report all quantities of special fuel in gallons.
  
  o **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.
  
  o This bill was heard in Assembly Natural Resources on March 2, 2017. No further action has been taken on this bill to date.

✓ **AB100**

- Revises provisions governing contractors. (BDR 54-194) Revises the requirement that certain types of provisions are void and unenforceable in certain agreements with contractors.
- This bill was sponsored by Assemblywoman Heidi Swank.
- Legislative note on what the bill does:
  - Existing law provides that in a contract for a public work, other than a contract entered into by the Nevada Department of Transportation, a provision that requires a contractor to waive a right to damages or an extension of time acquired as a result of a delay caused by certain actions by the public body is void and unenforceable. (NRS 338.480, 338.485)
  - Section 2 of this bill removes this provision of existing law. Instead, section 1 of this bill makes applicable to an agreement between a public body and a prime contractor for work and labor on a public work a provision of existing law that provides that in an agreement between an owner and a prime contractor a provision that requires the prime contractor to waive a right to damages or an extension of time acquired as a result of certain disruptions or other events is void and unenforceable.
  
  o **RKG Note:** We are informed that an amendment proposed by sponsor removes the added language to 624.622 and focuses on changes in NRS 338.485. However, to date, no amendment has been published and/or brought back to the committee for consideration. We will continue to monitor.
  
  o This bill was originally referred to Committee on Commerce and Labor. However, on Mar 07, 2017, it was withdrawn from committee and re-referred to Committee
on Government Affairs. Hearing was held on March 20, 2017. No further action has been taken since the hearing.

✓ AB106

○ This bill revises provisions governing government contracting. (BDR 27-295) The proposed legislation requires certain employers to establish their compliance with certain antidiscrimination provisions of state and federal law as a condition of entry into a governmental contract. It also requires the inclusion of certain terms and conditions in such a contract.

○ This bill was sponsored by Assemblywoman Ellen Spiegel.

○ Legislative note on what the bill does: Existing provisions of state and federal law generally prohibit discrimination in employment on the basis of race, color, creed, sex, sexual orientation, gender identity or expression, religion, age, disability or national origin. (42 U.S.C. §§ 2000e et seq.; NRS 338.125, 613.310-613.435) In particular, an employer is generally prohibited from paying lower wages to an employee than the wages paid to an employee of the opposite sex for equal work performed under similar working conditions. (29 U.S.C. § 206(d); NRS 608.017)

- Sections 2, 6, 11 and 19 of this bill prohibit various governmental entities from awarding a contract to an employer, including a public employer, having 50 or more employees unless the employer provides a certificate of pay equity compliance issued to the employer by the Labor Commissioner. Pursuant to section 22 of this bill, the Commissioner is authorized to issue such a certificate only if the employer establishes and the Commissioner determines that the employer provides equal employment opportunity for all employees and applicants for employment regardless of sex, and that male and female employees receive equal pay for equal work.

- Sections 2, 6, 11 and 19 also authorize those governmental entities to refuse to award a contract to an employer with less than 50 employees unless the employer provides such a certificate.

- Section 2 applies to a local government with respect to contracts for the purchase of services, supplies, materials or equipment.

- Section 6 applies to similar contracts awarded by the Administrator of the Purchasing Division of the Department of Administration or another officer or agency in the Executive Department of the State Government.

- Section 11 applies to a contract for any public work that is financed in whole or in part from public money of this State or its political
subdivisions. Section 11 also enacts those provisions with respect to a subcontract between an employer who has been awarded a contract for a public work and any subcontractor.

- Section 19 applies to contracts for the construction, reconstruction, improvement and maintenance of highways.
- Section 19 likewise makes similar provisions applicable to any subcontract.
- Section 22 governs the process of obtaining the required certificate from the Labor Commissioner. Section 22: (1) sets forth the information that must be provided by an employer in an application for a certificate; (2) authorizes the Commissioner to issue a provisional certificate pending a review of the information; (3) requires the Commissioner to make certain determinations about the practices of the employer as they relate to male and female employees and applicants for employment; and (4) provides for the issuance or denial of a certificate, the cancellation of a provisional certificate and the revocation of a certificate under certain circumstances. Section 22 further requires the Commissioner to adopt regulations as necessary to effectuate this process.

- **RKG note**: We are informed that the original bill language was going to be discarded in favor of another approach. However, no amendments or new bills have been proposed to date.
- This bill was heard on February 23, 2017. No further action has been taken to date.

**AB154**

- Revises provisions relating to prevailing wages. (BDR 28-747) Revises provisions governing the payment of prevailing wages.
- This bill was sponsored by Assemblyman Chris Brooks, Assemblywoman Ellen Spiegel, Assemblyman Michael Sprinkle, Assemblywoman Amber Joiner and Assemblyman Skip Daly and co-sponsored by 13 other legislators.
- Legislative note on what the bill does: Under existing law, with certain exceptions, the prevailing wage in a county for each craft or type of work, as determined by the Labor Commissioner, is required to be paid on a project in the county involving new construction, repair or reconstruction that is financed in whole or in part with public money and for which the estimated cost is $250,000 or more. (NRS 338.010, 338.020-338.080)
- Sections 1, 3 and 4 of this bill decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $100,000.

  o Under existing law, school districts and the Nevada System of Higher Education are required under existing law to pay on their public works and certain other construction projects 90 percent of the prevailing wage rates that are otherwise required to be paid by other public bodies. (NRS 338.030)
    - Section 2 of this bill eliminates this exception and therefore requires school districts and the Nevada System of Higher Education to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay.

  o Under existing law, charter schools are exempt from the requirement in existing law to pay prevailing wage rates on their public works and certain other construction projects. (NRS 338.080)
    - Section 4 eliminates this exemption and therefore requires charter schools to pay prevailing wage rates on their public works and other construction projects.

  o *RKG note:* This legislation could have a fiscal impact on IVGID projects costing between $100,000 and $250,000.

  o There was a hearing on this bill on March 15, 2017. No further action has been taken to date. We will continue to monitor.

✓ AB280

  o This legislation proposes to revises provisions relating to preferences in bidding for certain contracts for businesses based in this State. (BDR 27-1060) Establishes provisions relating to preferences in bidding for certain contracts with Nevada-based businesses for state purchasing. Revises provisions relating to preferences in bidding for contracts for certain public works projects.

  o This bill was sponsored by Assemblyman Jason Frierson, Assemblyman Richard Carrillo, Assemblywoman Daniele Monroe-Moreno, Assemblyman Michael Sprinkle, Assemblywoman Dina Neal, Senator Aaron Ford and Senator Nicole Cannizzaro and co-sponsored by 16 other legislators.

  o Legislative note on what the bill does: Existing law grants a preference of 5 percent for a bid or proposal for a state purchasing contract which is submitted by a local business owned and operated by a veteran with a service-connected disability. (NRS 333.3361-333.3369)
Sections 2-8 of this bill create a preference of 5 percent for a bid or proposal for a state purchasing contract which is submitted by a Nevada-based business. To qualify for this preference, section 3 requires such a business to certify that: (1) at least 50 percent of all workers employed for the state purchasing contract will hold a valid Nevada driver's license or identification card; (2) all vehicles used primarily for the state purchasing contract will be either registered in this State or partially apportioned to this State; and (3) certain records will be maintained and made available for inspection within this State.

Section 5 establishes that a bid or proposal which qualifies for the preference will be deemed to be 5 percent lower than the bid or proposal actually submitted.

Section 6 imposes certain penalties and restrictions upon a business that makes a material misrepresentation or commits a fraudulent act in applying for a preference or fails to comply with the requirements for a preference.

Existing law requires that a contractor, applicant to serve as a construction manager at risk or design-build team that wishes to receive a preference in bidding for a contract for a public work submit an affidavit to the public body sponsoring or financing the public work certifying that: (1) at least 50 percent of all workers employed on the public work will hold a valid Nevada driver's license or identification card; (2) all vehicles used primarily for the public work will be either registered in this State or partially apportioned to this State; (3) at least 50 percent of all design professionals working on the public work will hold a valid Nevada driver's license or identification card; and (4) certain records will be maintained and made available for inspection within this State. (NRS 338.0117)

Sections 12-16 of this bill revise the bidding preference that a contractor, applicant to serve as a construction manager at risk or design-build team who meets these requirements receives for certain public works contracts from 5 percent to 10 percent.

Existing law prohibits a contractor from being qualified to bid on certain state and local public works if the contractor has, within the preceding year, materially breached a contract for a public work that cost more than $25,000,000 and prohibits a contractor who has materially breached a contract for a public work which exceeds $5,000,000 from receiving a preference in bidding for public works for 5 years. (NRS 338.1379, 338.1382, 338.1389, 338.1415, 338.147, 408.333) Existing law also imposes a penalty of 1 percent of the cost of the contract upon a
contractor, applicant or design-build team who is awarded a contract as a result of a bidding preference and subsequently fails to comply with the requirements to receive that preference. (NRS 338.0117)

- Section 11 of this bill makes a willful failure to comply with the requirements to receive a bidding preference a misdemeanor and creates a separate violation for each worker, vehicle or design professional by which the contractor, applicant or design-build team falls below the requirements.
- Section 7 creates a similar misdemeanor for a business that receives a preference on a state purchasing contract as a Nevada-based business and willfully fails to comply with the requirements for such a preference.

RKG Note: We have no comments at this time. We will continue to monitor.

The bill was scheduled to be heard on April 5, 2017, in Assembly Government Affairs Committee.

AB406

- Revises provisions relating to certain construction. (BDR 28-781) Revises provisions relating to the payment of prevailing wages. Revises provisions governing the construction of a public work by a construction manager at risk. Revises provisions relating to agreements with labor organizations concerning contracts with a public body for a public work or with an awardee of certain grants, tax abatements, tax credits or tax exemptions from a public body.
- This bill was sponsored by Assemblyman Skip Daly, Assemblywoman Teresa Benitez-Thompson, Assemblyman Chris Brooks, Assemblyman Richard Carrillo, and Assemblywoman Shannon Bilbray-Axelrod and co-sponsored by 4 other legislators.
- Legislative note on what the bill does:
  - Existing law requires that a bidder on various types of public works be "responsible and responsive." (NRS 338.010, 338.13844, 338.1385, 338.13862, 338.1389, 338.143, 338.144, 338.147, 338.1475)
    - Section 2 of this bill specifies that the term relates to: (1) the record of the contractor on public works with respect to timeliness of completion, requesting change orders and quality of workforce; and (2) the compliance of the bid with the requirements of the applicable provisions of law.
  - Under existing law, with certain exceptions, the prevailing wage in a county for each craft or type of work, as determined by the Labor
Commissioner, is required to be paid on a project in the county involving new construction, repair or reconstruction that is financed in whole or in part with public money and for which the estimated cost is $250,000 or more. (NRS 338.010, 338.020-338.080)

- Section 4 of this bill decreases the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $25,000.

- Section 21 of this bill makes a conforming change with respect to incentives provided to a developer for a redevelopment project. To determine the prevailing wages in each county under existing law, the Labor Commissioner is required to survey contractors who have performed work in the county. If, based on the survey, the rate of wages is the same for more than 50 percent of the total hours worked by a specific craft or trade on similar construction, the Labor Commissioner is required to determine that rate as the prevailing wage. (NRS 338.030)

- Section 3 of this bill decreases the percentage at which the rate is required to be prevailing to 30 percent of the total hours for the craft or trade. School districts and the Nevada System of Higher Education are required under existing law to pay on their public works and certain other construction projects 90 percent of the prevailing wage rates that are otherwise required to be paid by other public bodies. (NRS 338.030) Section 3 of this bill eliminates this exception and therefore requires school districts and the Nevada System of Higher Education to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay.

- During the 78th Regular Session, the exemption from the laws governing public works, including the prevailing wage requirements, was removed for a building of the Nevada System of Higher Education for which less than 25 percent of the costs was paid from money appropriated by this State or from federal money. (Section 2 of chapter 410, Statutes of Nevada 2015, p. 2375)

- Section 36 of this bill eliminates requirements in existing law for the payment of prevailing wages on construction work of the Nevada System of Higher Education even if the construction work
does not qualify as a public work that are duplicative as a result of the removal of the exemption. Under existing law, charter schools are exempt from the requirement in existing law to pay prevailing wages rates on their public works and certain other construction projects. (NRS 338.080)

- Section 4 of this bill eliminates this exemption and therefore requires charter schools to pay prevailing wage rates on their public works and other construction projects. Existing law makes the prevailing wage requirements applicable to certain construction projects that are not a "public work" as defined in existing law. (NRS 244A.058, 244A.763, 268.568, 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 332.390, 333A.120, 349.670, 349.956, 388A.635, 408.3886, 543.545, 701B.265, 701B.625)

- Sections 15-33 of this bill clarify that those prevailing wage requirements apply in the same manner as if the applicable public body had undertaken the project or awarded the contract. Section 8 of the federal National Labor Relations Act prohibits certain agreements between an employer and a labor union whereby the employer agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in the products of an employer. Agreements in the construction industry relating to the contracting or subcontracting of work to be done at a construction site are exempt from this prohibition. (29 U.S.C. § 158(e))

- Section 7 of this bill provides that the general terms of a subcontract include any provision relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by section 8. Under existing law, public bodies are authorized to construct public works under certain circumstances through a method by which a construction manager at risk provides preconstruction services on the public work and, in some cases, construction services on the public work. (NRS 338.1685-338.16995)

- Under existing law, the proposal of an applicant for a contract as a construction manager at risk is required to include the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work. (NRS 338.1692)
• With certain exceptions, section 10 of this bill prohibits an applicant from substituting such an employee. Section 10 also increases from 25 percent to 50 percent the amount of the estimated cost of construction that the applicant is required to state in the proposal that the applicant will perform if the public work predominantly involves horizontal construction.

• Under existing law, the public body is required to appoint a panel to initially rank the proposals submitted by all applicants for a contract as a construction manager at risk and a second panel to interview and rank applicants whom the public body selected from the rankings of the first panel. (NRS 338.1693)

• Section 11 of this bill prohibits a majority of the members of either panel from being employed by the public body unless the public body is the State Public Works Board. Section 11 also eliminates the requirement in existing law that the public body provide an explanation, upon request, to unsuccessful applicants regarding the reasons they were not selected. The amount of a contract with a construction manager at risk for the construction of a public work is authorized under existing law to be for: (1) the cost of the work, plus a fee, with a guaranteed maximum price; (2) a fixed price; or (3) a fixed price plus reimbursement for certain costs and expenses. (NRS 338.1696)

• Section 12 of this bill eliminates two pricing methods so that the cost of work, plus a fee, with a guaranteed maximum price is the only authorized pricing method for a contract with a construction manager at risk. Section 12 requires the State Public Works Board to prescribe a form which is required to be completed and submitted by a construction manager at risk to the public body to identify and itemize the cost of the work and the fee and to list the names of the subcontractors selected by the construction manager at risk to provide labor, materials or equipment which are estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work. To be eligible to provide labor, materials or equipment on a public work for which a construction manager at risk has entered into a contract with a public body, a subcontractor is required to be licensed by the State Contractors' Board and be
determined to be qualified by the construction manager at risk to submit a proposal based on specified criteria. (NRS 338.16991)

- Section 13 of this bill adds the additional eligibility requirement that the subcontractor agree in advance to comply with any provision in the general terms of the contract relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by section 8 of the federal National Labor Relations Act. Therefore, if a subcontractor does not agree in advance to comply with such a provision, the subcontractor is not eligible to provide labor, materials or equipment on a subcontract with a construction manager at risk. Under existing law, an applicant who is determined to not be eligible to provide labor, materials or equipment on a subcontract with a construction manager at risk is authorized to appeal that determination to the public body with whom the construction manager at risk has entered into a contract. (NRS 338.16991)

- Section 5 of this bill clarifies the burden of proof of such an applicant on appeal.

- Section 1 of this bill prohibits a public body that is found to have violated certain requirements governing construction of a public work with a construction manager at risk from entering into a contract with a construction manager at risk for 2 years after being found in violation. If such a violation is found, section 1 makes the contract with the construction manager at risk void and requires the public body to transmit a copy of the decision regarding the violation to the building official having jurisdiction over the project to issue a stop order on the project. Existing law eliminates the authority for public bodies to enter into contracts with construction managers at risk, effective July 1, 2017. (Section 15 of chapter 487, Statutes of Nevada 2013, p. 2986; section 9 of chapter 123, Statutes of Nevada 2015, p. 457)

- Sections 34 and 35 of this bill postpone the prospective expiration of this authority until June 30, 2021.

- Existing law prohibits a public body, in any solicitation, contract or other document related to a contract for a public work from: (1) requiring or prohibiting a bidder or contractor from entering into or adhering to any
agreement with one or more labor organizations in regard to the public work; or (2) discriminating against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the public work. Existing law further prohibits a public body, with certain exceptions, from awarding a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include in a contract for a project that is the subject of the grant, tax abatement, tax credit or tax exemption a term that: (1) requires or prohibits a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to the project; or (2) discriminates against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the project. (NRS 338.1405)

- Section 36 of this bill eliminates this prohibition.

- RKG Note: This legislation, if enacted, would impact IVGID projects costing over $25,000. There are other legislative proposals addressing prevailing wages and bidding. We expect this legislation to be significantly amended and a larger compromise regarding prevailing wage laws to emerge as the legislative session progresses.

- This legislation was heard on March 29, 2017. No further action was taken.

✓ AB433

- Revises provisions relating to public works. (BDR 28-1013)

- This bill was sponsored by Chris Brooks and was introduced on Monday, March 27, 2017

- Legislative Note on What the Bill Does: Existing law requires, with limited exceptions, a public body or its authorized representative to award a contract for a public work for which the estimated cost exceeds $100,000 to the lowest responsive and responsible bidder or, if the estimated amount of the contract exceeds $250,000, to the contractor who submits the best bid if such a bid is not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder. (NRS 338.1385, 338.1389, 338.143, 338.147) This bill authorizes a public body or its authorized representative to award a contract for a public work for which the estimated cost exceeds $100,000 to the responsive and responsible bidder offering the best value bid if, after notice and a public hearing,
the public body or its authorized representative determines that the public work presents unique and complex construction challenges. This bill also sets forth the criteria for a public body or its authorized representative to consider when determining the responsive and responsible bidder offering the best value bid.

- **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.
- To date, this bill has not been scheduled for a hearing.

**SB26**

- Makes certain changes concerning governmental entities that contract with or invest in companies that boycott Israel. (BDR 27-418)
- This legislation was proposed by Lt. Governor Hutchison.
- This bill was introduced on Wednesday, November 16, 2016
- Legislative Note on What the bill does:
  - Existing law authorizes contracts between governing bodies of a local government or state agencies within the Executive Branch of the State Government and private contractors and sets forth requirements for the procurement of goods and services by those governing bodies and state agencies. (Chapters 332 and 333 of NRS)
  - Sections 5 and 11 of this bill prohibit governing bodies of a local government, the Administrator of the Purchasing Division of the Department of Administration and state agencies from entering into a contract with a company unless the contract includes a written certification that the company is not engaged in, and agrees for the duration of the contract, not to engage in, a boycott of Israel.
  - Sections 20 and 30 of this bill define a “scrutinized company” as a company that engages in a boycott of Israel.
  - Section 31 of this bill requires the State Treasurer to identify scrutinized companies in which a public fund administered by the State Treasurer has either direct or indirect holdings.
  - Section 32 of this bill further requires the State Treasurer to prepare an annual report of investment of money from such a public fund in those scrutinized companies. The report must be submitted to the Governor and the Legislature on or before February 1 of each year.
  - Section 33 of this bill requires, with certain exceptions, that the State Treasurer: (1) divest all direct holdings of scrutinized
companies from the assets under his or her management; and (2) request the manager of the indirect holdings of a public fund administered by the State Treasurer to consider divesting from such a scrutinized company. The State Treasurer is not required to take any action described in section 33 unless he or she determines that the action is consistent with the fiduciary responsibilities of the State Treasurer.

- Sections 21 and 22 of this bill similarly require the Public Employees' Retirement Board to identify scrutinized companies and to prepare an annual report of investment of money from the Public Employees' Retirement System in those scrutinized companies. However, the identification and report of such scrutinized companies by the Board only applies to companies in which the System has direct holdings.

  o **RKG note**: Our office has been intimately involved with this legislation since the summer of 2016. We have assisted the Lt. Governor’s office with developing the concepts and crafting the language of this bill. We have helped develop a large coalition in support of this bill and expect it to have broad bi-partisan support as it works its way through the legislative process. Sixteen other states have enacted similar legislation and several others are considering similar legislation this year.

  o This bill was heard by Senate Government Affairs Committee on March 20, 2017. We expect a work session to be scheduled in the next week and for this bill to be passed out of Committee.

**SB246**

  o Revises provisions relating to public works. (BDR 28-667)

  o This bill is sponsored by Mark Manendo and was introduced on Wednesday, March 8, 2017

  o Legislative note on what the bill does:
    - Under existing law, public bodies are authorized to construct public works under certain circumstances through a method by which a construction manager at risk provides preconstruction services on the public work and, in some cases, construction services on the public work within a guaranteed maximum price, a fixed price or a fixed price plus reimbursement for certain costs. (NRS 338.1685-338.16995) Existing law requires a public body that wishes to use this method to construct a public work to advertise
for proposals for a construction manager at risk by publication in a qualified newspaper. Similarly, any construction manager at risk selected by a public body is required to advertise for applications from subcontractors to provide labor, materials or equipment on the public work by publication in a qualified newspaper. (NRS 338.1692, 338.16995)

- Sections 1 and 2 of this bill make the procedure with which a public body and a construction manager at risk are required to comply for advertising for proposals or applications, as applicable, under the project delivery method of construction manager at risk the same as the procedure with which a public body is required to comply to advertise for bids on a public work for which the estimated cost exceeds $100,000 under the project delivery method of “design-build.”

- Existing law prescribes the procedure for the award by a construction manager at risk to qualified subcontractors of subcontracts for which the estimated value is at least 1 percent of the total cost of the public work or $50,000, whichever is greater. The procedure includes the provision to qualified subcontractors of written notice regarding the specifics of the subcontract and the requirements for submitting a responsive proposal. (NRS 338.16991, 338.16995)

- Section 3 of this bill requires a construction manager at risk to provide each qualified subcontractor with a form that has been prepared by the construction manager at risk and approved by the public body on which any proposal in response to a request for proposals for the public work is required to be submitted.

- Existing law eliminates the authority for public bodies to enter into contracts with construction managers at risk effective July 1, 2017. (Section 15 of chapter 487, Statutes of Nevada 2013, p. 2986 and section 9 of chapter 123, Statutes of Nevada 2015, p. 457)

- Sections 5 and 6 of this bill postpone the prospective expiration of this authority until June 30, 2021.

- Existing law authorizes a public body to contract with a design-build team for the design and construction of a public work if the estimated cost of the public work exceeds $5,000,000. (NRS 338.1711)

- Section 4 of this bill eliminates the $5,000,000 threshold and therefore authorizes a public body to contract with a design-build
team for the design and construction of a public work of any estimated cost.

- RKG note: This bill was amended; however, the text of the amendment has not been published to NELIS.
- This bill was heard on March 20, 2017 and passed out of Committee as amended on March 29, 2017. No further action has been taken. We will continue to monitor.

✓ SB317

- Revises provisions relating to preferences in bidding for certain contracts for businesses based in this State. (BDR 27-936)
- This bill is sponsored by Nicole Cannizzaro, Aaron Ford, Tick Segerblom, David Park, Mark Manendo, and Chris Brooks and was introduced on Monday, March 20, 2017
- Legislative note on what the bill does:
  - Existing law grants a preference of 5 percent for a bid or proposal for a state purchasing contract which is submitted by a local business owned and operated by a veteran with a service-connected disability. (NRS 333.3361-333.3369)
    - Sections 2-8 of this bill create a preference of 5 percent for a bid or proposal for a state purchasing contract which is submitted by a Nevada-based business. To qualify for this preference, section 3 requires such a business to certify that: (1) at least 50 percent of all workers employed for the state purchasing contract will hold a valid Nevada driver's license or identification card; (2) all vehicles used primarily for the state purchasing contract will be either registered in this State or partially apportioned to this State; and (3) certain records will be maintained and made available for inspection within this State.
    - Section 5 establishes that a bid or proposal which qualifies for the preference will be deemed to be 5 percent lower than the bid or proposal actually submitted.
    - Section 6 imposes certain penalties and restrictions upon a business that makes a material misrepresentation or commits a fraudulent act in applying for a preference or fails to comply with the requirements for a preference.
Existing law requires that a contractor, applicant to serve as a construction manager at risk or design-build team that wishes to receive a preference in bidding for a contract for a public work submit an affidavit to the public body sponsoring or financing the public work certifying that: (1) at least 50 percent of all workers employed on the public work will hold a valid Nevada driver's license or identification card; (2) all vehicles used primarily for the public work will be either registered in this State or partially apportioned to this State; (3) at least 50 percent of all design professionals working on the public work will hold a valid Nevada driver's license or identification card; and (4) certain records will be maintained and made available for inspection within this State. (NRS 338.0117)

- Sections 12-16 of this bill revise the bidding preference that a contractor, applicant to serve as a construction manager at risk or design-build team who meets these requirements receives for certain public works contracts from 5 percent to 10 percent. Existing law prohibits a contractor from being qualified to bid on certain state and local public works if the contractor has, within the preceding year, materially breached a contract for a public work that cost more than $25,000,000 and prohibits a contractor who has materially breached a contract for a public work which exceeds $5,000,000 from receiving a preference in bidding for public works for 5 years. (NRS 338.1379, 338.1382, 338.1389, 338.1415, 338.147, 408.333)

- Existing law also imposes a penalty of 1 percent of the cost of the contract upon a contractor, applicant or design-build team who is awarded a contract as a result of a bidding preference and subsequently fails to comply with the requirements to receive that preference. (NRS 338.0117)
  - Section 11 of this bill makes a willful failure to comply with the requirements to receive a bidding preference a misdemeanor and creates a separate violation for each worker, vehicle or design professional by which the contractor, applicant or design-build team falls below the requirements.
  - Section 7 creates a similar misdemeanor for a business that receives a preference on a state purchasing contract as a Nevada-based business and willfully fails to comply with the requirements for such a preference.
RKG note: No comment at this time.

This bill was heard by Senate Government Affairs on March 22, 2017. No further action has been taken to date.

✔ SB335

Establishes provisions authorizing public-private partnerships for certain projects. (BDR 22-1146)

This bill is sponsored by Michael Roberson and Joseph Hardy, this bill was introduced on Monday, March 20, 2017.

Legislative note on what the bill does:

- Existing law sets forth standards and requirements for the public procurement of goods and services and for public works projects. (Chapters 332, 333, 334 and 338 of NRS)
  - Section 8 of this bill provides an alternative to current standards and requirements by authorizing the State and certain local governments to enter into public-private partnerships with private partners.
  - Sections 7 and 9 of this bill provide that a public-private partnership is a contract entered into by a private partner and the State or local government under which the private partner assumes responsibility for: (1) planning, designing, financing, constructing, equipping, improving, maintaining, operating or acquiring rights-of-way for a project, or any portion thereof, but where the State or local government retains ownership of the project; or (2) providing services that a public agency is authorized to provide.
  - Sections 9-15 of this bill set forth the requirements for entering into a public-private partnership, including, without limitation, the: (1) solicitation of proposals; (2) requirements for and authority of private partners; and (3) financing of the public-private partnership.
  - Sections 9-15 additionally authorize the private partner to carry out certain activities relating to the public-private partnership.
  - Section 16 of this bill exempts any lease, easement, operating agreement, license, permit or right of entry that is granted by a public agency to a private partner from taxation.

RKG Note: No comment at this time.

This bill has not been scheduled for a hearing. We will continue to monitor.
SB357

- Revises provisions governing the use of apprentices on public works. (BDR 53-534)
- This bill is sponsored by Kelvin Atkinson, Tick Segerblom, Pat Spearman, Moises Denis and David Parks and it was introduced on Monday, March 20, 2017
- Legislative note on what the bill does:
  - Existing law creates the State Apprenticeship Council and requires the Council to establish standards for programs of apprenticeship. (NRS 610.030, 610.090, 610.095) The purposes of such programs include, without limitation: (1) the creation of the opportunity for persons to obtain training that will equip those persons for profitable employment and citizenship; and (2) the establishment of an organized program for the voluntary training of those persons by providing facilities for training and guidance in the arts and crafts of industry and trade. (NRS 610.020)
  - Existing law sets forth the requirements for a public body which sponsors or finances a public work to award a contract to a contractor for the construction of the public work. (Chapter 338 of NRS) Such requirements include, without limitation: (1) the payment of the prevailing wage in the county in which the public work is located; and (2) the establishment of certain fair employment practices for contractors in connection with the performance of work under the contract awarded by the public body. (NRS 338.020, 338.125)
  - Section 4 of this bill requires a public body that awards a contract for a public work for which the estimated cost exceeds $1,000,000 to ensure that an apprentice performs not less than a certain percentage of the total hours of labor on the public work, starting at 3 percent for a contract awarded in calendar year 2018 and rising to 15 percent for a contract awarded in or after calendar year 2022. Section 4 also imposes that requirement upon the Department of Transportation if the estimated cost of the contract exceeds $2,000,000. In addition, section 4: (1) authorizes a public body to submit, pursuant to section 1 of this bill, a request to the Council for a waiver or modification of the requirement to use an apprentice on a public work for the minimum percentage of hours; (2) exempts from the requirement a contractor who cannot, as a result of membership in or affiliation with, or the lack thereof, a labor
organization, retain the apprentices necessary to provide the required hours of labor; and (3) authorizes a contractor to submit a request to the Labor Commissioner to waive the requirement if a change in circumstances makes the completion of the public work subject to the requirement impracticable.

- Section 3 of this bill authorizes the Council to suspend, for not more than 1 year, the right of any contractor on a public work to participate in a program of apprenticeship if the Council determines that the contractor willfully violated the provisions of the contract concerning the use of an apprentice on the public work for the minimum percentage of hours.

- Section 5 of this bill expands the definition of “offense” set forth in existing law relating to public works to include the failure by a contractor to ensure that an apprentice is used on a public work for the required number of hours, thereby subjecting the contractor to a possible civil action to recover damages resulting from the commission of the offense and the temporary disqualification of the contractor from an award of a contract for a public work. (NRS 338.010, 338.016, 338.017)

  - RKG note: No comment at this time.
  - This bill is scheduled to be heard on April 7, 2017, in Senate Commerce, Labor and Energy Committee. We will continue to monitor.

**Concerning Water Rights**

- **SB494**
  - Revises provisions relating to grants for water conservation and capital improvements to certain water systems. (BDR 30-356)
  - This bill was sponsored by the Senate Committee on Government Affairs on March 27, 2017.
  - *Legislative note on what the bill does*: Existing law establishes a program to provide grants of money to purveyors of water and eligible recipients to pay certain costs relating to water. (NRS 349.981)
Section 1 of this bill provides that the program may also provide grants of money to eligible recipients to establish or support cloud seeding operations in this State. Existing law authorizes the Board for Financing Water Projects to administer the program and establishes the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems to support the program. (NRS 349.982, 349.984)

Section 2 of this bill authorizes the Board to solicit and accept gifts, grants or donations for deposit in the Fund.

RKG note: We have no comment on this legislation at this time. We will continue to monitor.

We are awaiting an upcoming hearing on SB494 to be scheduled.

**SB47**

Makes various changed relating to the appropriation of water. (BDR 48-499)

This bill was sponsored by the Senate Committee on Natural Resources on November 17, 2016, on behalf of the Division of the Water Resources of the State Department of Conservation and Natural Resources.

Legislative note on what the bill does: Existing law requires any person who wishes to appropriate public waters to apply to the State Engineer for a permit to do so. (NRS 533.325)

Section 1 of this bill revises the requirements for an application for a permit to appropriate water.

Section 2 of this bill requires the State Engineer to publish notice of an application to appropriate water in a newspaper of general circulation where the point of diversion is located. Existing law requires the State Engineer to conduct an inventory of a basin from which water is to be exported before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater if the basin has not previously been studied or inventoried. (NRS 533.364)

Section 3 of this bill requires the State Engineer to instead conduct the inventory before approving an application, or group
of applications collectively applying, for an interbasin transfer of more than 25 percent of the perennial yield or 1,000 acre-feet of groundwater, whichever is less. Upon approving an application for a permit to appropriate water, existing law authorizes the State Engineer to extend the deadline by which construction related to the appropriation of water or the application of water to a beneficial use must be completed or made. A single extension, other than for a municipal or quasi-municipal use for a public water system, may not exceed 1 year. (NRS 533.380)

- Section 4 of this bill clarifies that the single extension may not exceed 1 year from the date for filing proofs provided in the original permit or a previous extension. Section 4 also requires an application to extend the deadline to include evidence of good faith on the part of the applicant in pursuing the perfection of the application.

- Section 5 of this bill eliminates the requirement that a certificate of appropriation set forth the post office address of each holder of the permit. Section 6 of this bill revises provisions relating to certain fees collected by the State Engineer. Existing law recognizes a subsisting right to water livestock which may be proved by the owner of livestock by submitting certain evidence to the State Engineer. (NRS 533.492)

- Section 7 of this bill revises the scale required for a topographic map showing the location of a subsisting right to water livestock from not less than 1:100,000 to not less than 1:24,000. Section 7 also provides that a subsisting right to water livestock is a pre-statutory vested right. Existing law prohibits the denial of an application to change the point of diversion under an existing water right on the basis that the proposed point of diversion is situated in another state.

- Section 8 of this bill adds the same restriction for applications to change the manner of use or place of use. Existing law requires, under certain circumstances, the State Engineer to notify the owner of a water right that the owner has 1 year after the date of the notice to either: (1) use the water right
beneficially and provide proof of such use to the State Engineer; or (2) apply to the State Engineer for an extension of time to work a forfeiture of the water right. If, after 1 year after the date of the notice, the owner of the water right has not taken either action, the State Engineer is required to declare the right forfeited within 30 days. (NRS 534.090)

- Section 9 of this bill eliminates the 30-day period. Existing law authorizes the State Engineer to issue temporary permits to appropriate groundwater in certain designated areas and limit the depth and prohibit reconditioning of domestic wells in such areas. (NRS 534.120)

- Section 10 of this bill renames such a temporary permit as a revocable permit.

- Sections 11, 14 and 15 of this bill make conforming changes.

- Section 10 of this bill also expands the areas in which the State Engineer may limit the depth or prohibit the reconditioning of a domestic well. Further, section 10 requires that a domestic well whose user is furnished water by an entity such as a water district or municipality must be plugged in accordance with any applicable regulations adopted by the State Engineer. Existing law authorizes the State Engineer, assistants and Artesian Well Supervisor to enter the premises to investigate and carry out duties.

- Section 12 of this bill revises the scope of this authority to apply only to the State Engineer, assistants and authorized agents and adds access to the place where the water is being used. Under existing law, the State Engineer may, under certain circumstances, require the plugging of a domestic well if water can be furnished to the site by a political subdivision of the State or certain public utilities. (NRS 534.180)

- Section 13 of this bill removes the requirements that, for the State Engineer to require the plugging of the domestic well: (1) the domestic well must have been drilled on or after July 1, 1981; and (2) the charge for making the connection to the water service is less than $200.
- **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.

- **March 7, 2017:** SB47 was heard before the Senate Committee on Natural Resources. Waiting for further action.

✅ **SB51**

- Makes various changed relating to the adjudication of vested water rights. (BDR 48-180)
- This bill was sponsored by the Senate Committee on Natural Resources on November 16, 2016, on behalf of the Division of the Water Resources of the State Department of Conservation and Natural Resources.
- **Legislative note on what the bill does:** Under existing law, the State Engineer is required, under certain circumstances, to determine the relative rights of various claimants to a stream or stream system upon receiving a petition for such determination or his or her own order for such determination. (NRS 533.090)
  - Section 1 of this bill authorizes, rather than requires, the State Engineer to make these determinations. Existing law provides that notice that the State Engineer will begin taking proofs of appropriation to determine the relative rights of various claimants to a stream or stream system is not required until after the State Engineer gathers certain information and has certain surveys and maps prepared. (NRS 533.110)
  - Section 2 of this bill requires instead that the notice of when the State Engineer will begin taking proofs of appropriation must be given as soon as practicable after the State Engineer grants the petition or makes his or her own order.
  - Sections 17 and 19 of this bill make conforming changes. Sections 3 and 4 of this bill revise the requirements relating to the hydrological surveys executed and maps prepared by the State Engineer for the determination of the water rights in a stream.
  - Section 3 provides that the State Engineer is required to execute the surveys or prepare the maps only if necessary.
  - Section 4 eliminates a requirement that the costs for the surveys and maps be assessed and collected from the claimants of the water rights in proportionate shares.
Section 5 of this bill provides specifications for the information and documents which must accompany a proof of appropriation.

Section 7 of this bill provides that any proof of appropriation or accompanying map which is found to be defective must be returned to the claimant with an explanation of why the proof or map is defective. A corrected proof or map must be refiled with the State Engineer within 60 days. Under existing law, any person who does not receive notice of the pendency of the proceedings and who has no actual knowledge may file a petition to intervene at any time prior to 6 months after the entry of the determinations of the State Engineer. (NRS 533.130)

Section 8 of this bill revises the time in which a person may intervene to any time prior to the certification of the order of determination. Existing law requires the State Engineer, after receiving the proofs of appropriation, to prepare a preliminary order of determination regarding the rights of claimants to the water and to deliver a copy of the preliminary order to each person who has filed a proof of appropriation. (NRS 533.140)

Section 10 of this bill authorizes the State Engineer to make a copy of the preliminary order available on the Internet in lieu of sending a copy to each claimant. Under existing law, any person claiming any interest in the water may file an objection to the preliminary order within: (1) 30 days after evidence and proofs have been open to public inspection; or (2) such further time as may be allowed by the State Engineer for good cause shown. The State Engineer must hold a hearing on the objections. (NRS 533.145, 533.150) Section 11 of this bill requires the objections to be filed with the State Engineer within: (1) 30 days after the date on which the preliminary order is sent, delivered or made available on the Internet website of the State Engineer; or (2) such further time as may be allowed by the State Engineer for good cause shown.

Section 13 of this bill requires all testimony taken at a hearing on objections to be transcribed by a certified court reporter and requires the original and one copy of the transcript to be filed with the State Engineer. Section 13 also requires the claimants objecting to the preliminary order to pay the fees and expenses of the court reporter. As soon as practicable after the hearing on objections to the preliminary order, existing law requires the State Engineer to enter an order of determination. (NRS 533.160)
Section 14 of this bill authorizes the State Engineer to make a copy of the order of determination available on the Internet in lieu of sending a copy to each claimant. Under existing law, any party aggrieved or dissatisfied with the State Engineer's order of determination may file with the clerk of the district court a notice of exception to the order and, after a hearing on the order of determination, the district court must enter a decree affirming or modifying the order. (NRS 533.170, 533.185)

Section 16 of this bill authorizes the district court to require, under certain circumstances, that a revised map which accurately reflects the decree and conforms with the rules and regulations of the State Engineer be prepared and filed with the district court and the State Engineer. Existing law requires the State Engineer to prepare an annual budget of the money estimated to be necessary to pay the expenses of each stream system or water district. (NRS 533.280)

Section 18 of this bill provides instead that the State Engineer prepare an annual budget of the money estimated to be necessary to pay the expenses of administering each stream system or water district. Section 18 also eliminates a provision that limits the assessment for water distribution expenses to not more than 30 cents per acre-foot of water decreed if the stream system irrigates more than 200,000 acres of land.

RKG note: Since most of Nevada's surface water was used before the permitting system of Water Act of 1913 Chapter 140 was put into place, any existing water use became a "vested" water right and therefore not subject to the otherwise applicable permitting system. The process of determining amounts and priority of vested rights is an adjudication that culminates in a final judicial decree, as statutorily provided in NRS Chapter 533. Water rights, whether vested, permitted, certified, or simply at the application phase, are treated as real property under Nevada Law. Once a water right is granted, it becomes appurtenant to the land upon which it is used. Unless water rights are specifically reserved to the grantor in a deed conveying land, appurtenant water rights are conveyed along with the land. Water rights holder may file a change application with the state engineer, which, if approved, allows the holder to change the place of beneficial use for a water right to a new parcel of land. However, the State Engineer is allowing utility companies to change of place to a well and not a new parcel of land.

We are awaiting an upcoming hearing on SB51 to be scheduled.
SB134

- Revises provisions concerning water. (BDR 48-787)
- This bill was sponsored by Senator Goicoechea (R-19) on February 13, 2017 and referred to the Committee on Natural Resources.
- Legislative note on what the bill does: Existing law requires the State Engineer to reject an application for a permit to appropriate water to beneficial use if there is no unappropriated water at the source of supply or if the proposed use of the water or change conflicts with existing rights or protectable interests in existing domestic wells or threatens to prove detrimental to the public interest. (NRS 533.370)
  - Section 1 of this bill provides that if a proposed use or change conflicts with existing rights or protectable interests in domestic wells, before rejecting the application, the State Engineer may determine if the conflict can be eliminated. Section 1 requires the State Engineer to: (1) inform the applicant and every holder of existing rights and owner of a domestic well with whom the application conflicts; (2) request that the applicant and such holders of existing rights and owners of domestic wells work together to reach an agreement as to whether the conflict can be eliminated; and (3) consider any agreement at a public hearing. Finally, section 1 authorizes the State Engineer to approve the application for a permit on the condition that before the water is appropriated for beneficial use: (1) any measure or action agreed to by the parties is taken; and (2) the conflict must be eliminated.
  - Section 2 of this bill authorizes the State Engineer to require a monitoring, management and mitigation plan as a condition of approval for an application for a permit to appropriate water or to change the point of diversion, manner of use or place of use of water already appropriated even if the State Engineer does not find that the proposed use or change set forth in the application conflicts with existing water rights or protectable interests in domestic wells. Section 2 also requires the plan to, without limitation, specify measures that will be taken by the applicant to avoid and, if necessary, mitigate future conflicts that may occur.
  - RKG note: no comment at this time.
  - We are awaiting an upcoming hearing on SB134 to be scheduled.
✓ AB109

- Revises provisions relating to public utilities. (BDR 58-622)
- This bill was sponsored by Assemblyman Ellison (R-33) and Senator Goicoechea (R-19) on February 7, 2017 and referred to the Committee on Commerce and Labor.

**Legislative note on what the bill does:** Under existing law, the Public Utilities Commission of Nevada is required to conduct at least one general consumer session annually to solicit comments on issues concerning public utilities from the public in the counties with the largest and second largest populations in the State (currently Clark and Washoe Counties). (NRS 704.069)

- Section 1 of this bill requires the Commission to also conduct a general consumer session in the county with the fifth largest population in the State (currently Elko County). Under existing law, the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General is required to intervene and represent the public interest in certain proceedings conducted by the Public Utilities Commission. (NRS 228.360)

- Section 2 of this bill requires the Consumer's Advocate also to intervene in proceedings in which a public utility that furnishes water or sewage disposal services, or both, and which has an annual gross operating revenue of $2,000,000 or more files a general rate application with the Commission.

- **RKG Comment:** We have no comment on this legislation at this time. We will continue to monitor.

- We are awaiting an upcoming hearing on AB109 to be scheduled.

✓ AB193

- Requires the fluoridation of water in certain circumstances. (BDR 40-716)
- This bill was sponsored by Assemblymen Joiner (D-24) and Sprinkle (D-30) on February 13, 2017 and referred to the Committee on Natural Resources, Agriculture, and Mining.

**Legislative note on what the bill does:** Existing law requires the State Board of Health to adopt regulations requiring the fluoridation of all water delivered for human consumption in a county whose population is 700,000 or more (currently
Clark County) by a public water system that serves a population of 100,000 or more or by a water authority. (NRS 445A.055)

- Section 2 of this bill requires the Board to instead require such fluoridation in any county whose population is 100,000 or more (currently Clark and Washoe Counties). Section 2 also requires the Board, under certain circumstances, to make a temporary exception to the minimum permissible concentration of fluoride to be maintained in a public water system or water authority in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County).

- RKG note: The language of this legislation is ambiguous with respect to whether a GID like IVGID would have to comply. We are seeking clarification regarding the scope of this legislation.

- March 7, 2017: SB47 was heard before the Assembly Committee on Natural Resources, Agriculture, and Mining. Waiting further action.

✓ AB209

- Revises provisions governing the forfeiture of water rights. (BDR 48-308)

- This bill was sponsored by Assemblyman Oscarson (R-36) on February 13, 2017 and referred to the Committee on Natural Resources, Agriculture, and Mining.

- Legislative note on what the bill does: Existing law provides, with limited exception, that the holder of a water right forfeits the right if the holder fails for 5 successive years to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed. Existing law authorizes the holder of a water right to request an extension to work the forfeiture and the State Engineer may grant an extension for good cause shown if the request is made before the expiration of the time necessary to work the forfeiture. (NRS 534.090)

- This bill requires the State Engineer to extend the time necessary to work a forfeiture if the request is made before the expiration of the time necessary to work the forfeiture and the water right authorizes the holder of the right to use groundwater in a basin.

- RKG note: We have no comment on this legislation at this time. We will continue to monitor.

- We are awaiting an upcoming hearing on AB209 to be scheduled.
Concerning Property Law (General)

✓ AB34

- Revises provisions relating to state lands. (BDR 26-179)
- This bill was sponsored by the Assembly Committee on Natural Resources, Agriculture, and Mining on November 16, 2016 on behalf of the Division of State Lands of the State Department of Conservation and Natural Resources.
- Legislative note on what the bill does: Under existing law, the Division of State Lands of the State Department of Conservation and Natural Resources must acquire and hold in the name of the State all land and interests in land owned or required by the State, with certain exceptions. (NRS 321.001) The Administrator of the Division is, ex officio, the State Land Registrar. (NRS 321.010) Existing law requires, with certain exceptions, the State Land Registrar to obtain two independent appraisals of any state land before offering the land for sale or lease. (NRS 321.007)
  - Section 1 of this bill changes that requirement so the State Land Registrar must obtain just one independent appraisal before offering state land for sale or lease. Existing law creates the Revolving Account for Land Management as a special account in the State General Fund. Money in the Account must be used to pay the expenses relating to the management of land held by the Division of State Lands, including, without limitation, expenses for appraisals and surveys, construction of fences and barriers for vehicles and the cleanup and maintenance of the land. (NRS 321.067)
  - Section 2 of this bill authorizes money in the Account also to be used to pay expenses relating to the acquisition of or interests in land. Section 2 also provides that the expenses for which money in the Account may be used may include land surveys, required assessments of the land, including surveys of the biological, environmental and cultural conditions and resources of the land, and any required mitigation of the land. Existing law authorizes the State Land Registrar to request an allocation to the Revolving Account from the Contingency Account in the State General Fund if the balance in the Revolving Account is below $5,000. Section 2 of
this bill raises that amount to $20,000. Existing law provides procedural requirements for the sale or lease of state land and exempts from those requirements any lease of residential property with a term of 1 year or less. (NRS 321.335)

○ Section 3 of this bill removes that exemption. Existing law requires the Administrator of the Division of State Lands to develop and make available to cities and counties certain information useful to land use planning. (NRS 321.720)

○ Section 4 of this bill removes the requirement that the Administrator develop and make available to cities and counties: (1) a continuously revised inventory of the land and natural resources of the State; (2) statewide data relating to population densities and trends, economic and environmental characteristics and trends, and directions and extent of urban and rural growth; (3) projections of the nature and quantity of land needed and suitable for various purposes; and (4) a continuously revised inventory of the environmental, geological and physical conditions which influence the desirability of various uses of land. Existing law authorizes, if certain requirements are fulfilled, the lease of state land for less than the fair market value of the land for the first year of the lease if the lessee intends to locate or expand a business in this State. (NRS 322.061)

○ Section 5 of this bill removes a number of the requirements that must be fulfilled, including requirements relating to the number of employees of the business, the capital investment in this State by the business, the average hourly wage paid by the business to employees in this State and the benefits provided by the business. Section 6 of this bill repeals obsolete provisions relating to the Lincoln County Pilot Land Development and Disposal Law. (NRS 321.540-321.590)

○ RKG note: We have no comment on this legislation at this time. We will continue to monitor.

○ We are awaiting an upcoming hearing on AB34 to be scheduled.
AB246

- Revises provisions relating to the creation of a local improvement district and tax increment area. (BDR 22-705)

- This bill was sponsored by Assemblyman Kramer (R-40) on March 1, 2017 and referred to Committee on Government Affairs.

- **Legislative note on what the bill does:** Existing law authorizes the governing body of any county, city or unincorporated town to create an improvement district for the acquisition of certain projects, including a park project, street project or commercial area revitalization project, and to finance the cost of any such project through the issuance of bonds and the levy of assessments upon property in the improvement district. (Chapter 271 of NRS) Two or more governmental entities are authorized under existing law to enter into a cooperative or interlocal agreement in certain circumstances to perform a governmental function. (NRS 277.045-277.188) Existing law authorizes a county to exercise its powers relating to local improvement projects for a project or benefited property that is within the boundaries of a city if the city in which that territory is located consents in an interlocal agreement to the exercise of those powers within its boundaries. (NRS 271.015)

- Section 1 of this bill extends the authority to enter into such an interlocal agreement to two or more counties. Therefore, a county would be authorized under section 1 to exercise its powers relating to local improvement projects for a project or benefited property that is within the boundaries of another county if the county in which that territory is located consents in an interlocal agreement to the exercise of those powers within its boundaries. Existing law authorizes the governing body of a municipality to designate a tax increment area for the purpose of creating a special account for the payment of bonds or other securities. The designation of a tax increment area by the governing body provides for the allocation of a portion of the taxes levied upon taxable property in the tax increment area each year to pay the bond requirements of loans, money advanced to or indebtedness incurred by the municipality to finance or refinance the project. (Chapter 278C of NRS)

- Section 2 of this bill authorizes the governing bodies of two or more municipalities whose boundaries are contiguous to enter into an interlocal or cooperative agreement for the creation of a tax increment area for the acquisition or improvement of a street project whose boundaries encompass
all or part of each municipality. Section 2 further provides that if the governing bodies of the municipalities enter into such an agreement: (1) the governing bodies are authorized to take joint action to comply with certain procedures for the creation of a tax increment area; and (2) the tax increment area is required to be administered in accordance with the interlocal or cooperative agreement.

- **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.
- We are awaiting an upcoming hearing on AB246 to be scheduled.

**Other Legislation that may be of interest:**

- **SB145**
  - This bill pertains to solar energy and the supply and demand.
  - Revises provisions relating to energy.
  - This bill was referred to the committee on Commerce, Labor and Energy on February 13, it has not been read into the committee yet. Senator Pat Spearman is the primary sponsor of the bill.
  - **Legislative note on what the bill does:** Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. Existing law further establishes the amount of incentives that may be authorized for payment by the Public Utilities Commission of Nevada to each Program. (NRS 701B.005, 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880)
    - Section 1 of this bill combines the amount of existing incentives available for payment to each Program into a single pool of money from which the Commission may authorize the payment of an incentive to a Program. Section 1 further requires the Commission, for the period beginning on January 1, 2018, and ending on December 31, 2023, to authorize the payment of incentives in an amount of not more than $2,000,000 per year for the installation of solar energy systems and distributed generation systems at locations throughout the service territories of electric utilities in this State that benefit low-income customers.
Section 2 of this bill provides that incentives available to a participant that is a public entity or nonprofit organization must not exceed 75 percent of the installed cost of the solar energy system or distributed generation system based on the average installed cost of a system, as applicable, in the immediately preceding year.

Section 11 of this bill repeals the provisions of existing law that require each electric utility in this State to create a Lower Income Solar Energy Pilot Program, which are duplicative of the amendatory provisions of section 1. Existing law requires an electric utility with an annual operating revenue of $2,500,000 or more in this State to submit to the Public Utilities Commission of Nevada a plan to increase its supply of electricity or decrease the demands made on its system by its customers. (NRS 704.741)

Section 3 of this bill requires such a utility to submit to the Commission a plan for modernization of the grid as part of the plan to increase its supply or decrease the demands on its system. Existing law requires the Commission to convene a public hearing on the adequacy of a plan to increase supply or reduce demand and to issue an order accepting the plan or specifying any portions of the plan it deems to be inadequate. (NRS 704.746, 704.751)

Section 5 of this bill authorizes the Commission to accept a plan for modernization of the grid if the Commission determines that the benefits of the plan exceed its costs.

Section 4 of this bill requires the Commission to apply the utility cost test in determining whether the plan adequately demonstrates the economic, environmental and other benefits to customers of the electric utility. Existing law creates the Legislative Committee on Energy. (NRS 218E.805)

Sections 6 and 7 of this bill add two nonvoting members to the Committee who represent the building and banking industries in this State, respectively.

Section 8 of this bill requires the Department of Transportation to evaluate and publish annually a report concerning the need for additional publicly available hydrogen-fueling stations over the next 3 years.
Section 9 of this bill appropriates to the Department $2,000,000 to provide incentives for the construction of publicly available hydrogen-fueling stations. Existing law creates the Legislative Committee on Energy and directs the Committee to take a variety of actions with respect to matter related to energy policy within this State. (NRS 218E.800-218E.815)

Section 10 of this bill directs the Committee to conduct an interim study concerning: (1) the development of energy, viability, expansion and implementation of energy efficiency programs; and (2) the viability of establishing green banks and similar entities to help finance the use and harnessing of clean energy projects in this State, for both commercial and residential properties. The Committee will consult with entities and interests from various backgrounds including government, public utilities, real estate development and finance. Section 10 further directs the Governor's Office of Energy to provide administrative and technical assistance to the Committee. Existing law prohibits an electric utility from making changes in any schedule or imposing any rate on residential customers that is based on the time of day, day of the week or time of year during which the electricity is used or that otherwise varies based upon the time during which the electricity is used. (NRS 704.085)

Section 11 of this bill repeals this prohibition, thereby permitting an electric utility to adopt a rate or schedule based on the time of use if the Public Utilities Commission of Nevada finds the rate or schedule to be just and reasonable. (NRS 704.040)

RKG note: We have no comment on this legislation at this time. We will continue to monitor.

We are awaiting an upcoming hearing on SB145 to be scheduled.

SB146

Requires certain electric utilities to file a distributed resources plan with the Public Utilities Commission of Nevada. (BDR 58-15)

This bill was referred to the committee on Commerce, Labor and Energy by Senator Pat Spearman on February 13, 2017.
- Legislative note on what the bill does: Existing law requires an electric utility with an annual operating revenue of $2,500,000 or more in this State to submit to the Public Utilities Commission of Nevada a plan to increase its supply of electricity or decrease the demands made on its system by its customers. (NRS 704.741)
  
  - Sections 1 and 3 of this bill require such an electric utility to submit to the Commission, on or before July 1, 2018, a distributed resources plan as part of the plan to increase its supply or decrease the demands on its system. A distributed resources plan must: (1) evaluate locational benefits and costs of distributed resources; (2) propose or identify standard tariffs, contracts or other mechanisms for the deployment of cost-effective distributed resources; (3) propose cost-effective methods of effectively coordinating existing programs approved by the Commission; (4) identify additional spending necessary to integrate cost-effective distributed resources into distribution planning; and (5) identify barriers to the deployment of distributed resources. Existing law requires the Commission to convene a public hearing on the adequacy of a plan to increase supply or reduce demand and to issue an order accepting the plan or specifying any portions of the plan it deems to be inadequate. (NRS 704.746, 704.751)
  
  - Section 2 of this bill authorizes the Commission to accept a distributed resources plan that complies with the provisions of section 1 after such a hearing.

- RKG note: We have no comment on this legislation at this time. We will continue to monitor.

- We are awaiting an upcoming hearing on SB146 to be scheduled.

✓ SB150

- Revises provisions related to energy efficiency programs. (BDR 58-568)

- This bill was referred to the Senate committee on Commerce, Labor and Energy and is being sponsored by Senator Pat Spearman on March 3, 2017.

- Legislative note on what the bill does:
  
  - Sections 2-11 of this bill require the Public Utilities Commission of Nevada to establish annual goals for energy savings applicable to electric utilities and providers of electric service in this State and to establish
performance-based incentives which an electric utility or provider of electric service is entitled to recover if the electric utility or provider of electric service meets or exceeds the annual goals for energy savings established by the Commission.

○ Section 9 sets forth certain Legislative findings of the necessity for and the benefits relative to the reduction of the consumption of energy by consumers in this State.

○ Section 10 requires the Commission to establish goals for energy savings for each calendar year for the period beginning with calendar year 2018 and ending with calendar year 2025. Section 10 also requires each electric utility and provider of electric service to implement an energy efficiency plan which is cost effective, as measured by the utility cost test, and designed to meet the goals for energy savings established by the Commission. Section 10 further requires that at least 5 percent of the expenditures related to energy efficiency programs must be directed toward low-income customers of the electric utility or provider of electric service. Additionally, section 10 provides that energy savings which exceed the annual goal for an electric utility or provider of electric service may be banked or traded for use in subsequent calendar years.

○ Section 11 requires the Commission to establish performance-based incentives which may be recovered by an electric utility or provider of electric service that meets or exceeds its annual goal for energy savings. Section 11 requires each electric utility and provider of electric service to submit annually a report to the Commission which includes: (1) information regarding whether the electric utility or provider of electric service is entitled to a performance-based incentive for the relevant calendar year; and (2) a request to recover any performance-based incentive to which the electric utility or provider of electric service is entitled. Section 11 also provides that, if the Commission approves a request to recover a performance-based incentive, the electric utility or provider of electric service must recover the performance-based incentive over a 12-month period through a rate recovery mechanism approved by the Commission.

○ Section 12 of this bill revises existing law relating to the recovery of costs based on the implementation by an electric utility of energy efficiency and conservation programs to authorize the Commission to remove financial
disincentives which discourage an electric utility from implementing or promoting participation in such programs by including a rate adjustment mechanism to ensure that the revenue per customer authorized in a general rate application is recovered without regard to the difference in the quantity of electricity actually sold by the electric utility.

- **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.
- We are awaiting an upcoming hearing on SB150 to be scheduled.

**✓ AB5**

- Provides for the creation of certain local improvement districts. (BDR 22-233)
- This bill was heard in the Assembly Committee on Commerce and Labor and is being sponsored by the committee as well. It was read to committee on February 20, 2017 but no action was taken on it.

- **Legislative note on what the bill does:** Existing law sets forth the procedures for a governing body to acquire, improve, equip, operate or maintain local improvement districts that include various types of projects, including energy efficiency improvement projects and renewable energy projects. (NRS 271.265-271.630)
  - This bill provides for the creation by a local government, without an election, of a local improvement district that includes an energy efficiency improvement project or a renewable energy project.
- **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.
- We are awaiting an upcoming hearing on AB5 to be scheduled.

**✓ AB140**

- Revises the boundary line between Carson City and Washoe County. (BDR S-696)
- This bill was referred to the Assembly Committee on Government Affairs and it sponsored by Assemblyman Al Kramer. It was introduced on February 10, 2017.

- **Legislative note on what the bill does:** This bill revises the boundary line between Carson City and Washoe County.
- We are awaiting an upcoming hearing on AB140 to be scheduled.

✔ SB63

- Revises provisions which govern responsibility for the costs of maintenance and repair of certain county roads. (BDR 20-324)

- This bill was heard in the Assembly Committee on Government Affairs and is being sponsored by the Senate Committee on Revenue and Economic Development. It was read to committee on February 10, 2017 but no action was taken on it.

**Legislative note on what the bill does:** Existing law provides for the apportionment of the revenues of certain motor vehicle fuel taxes to a county, to the incorporated cities in the county and to the town boards of unincorporated towns in the county for the construction, maintenance and repair of rights-of-way, other than state highways, under the direction and control of the board of county commissioners or the governing body of the city or town, as applicable. (NRS 365.560) Existing law additionally provides that if streets and easements located in a general improvement district have been accepted for dedication by the board of county commissioners, the board of county commissioners is required to: (1) maintain and repair such streets and easements; or (2) pay the board of trustees of the general improvement district for the maintenance and repair of such streets and easements. If the board of county commissioners pays the board of trustees to maintain and repair the streets and easements, the board of county commissioners must use the proceeds received by the county from certain motor vehicle fuel taxes. (NRS 244.278, 365.550)

- This bill establishes the responsibility of the board of county commissioners of a county to: (1) maintain and repair county roads which are located within the boundaries of an unincorporated town; or (2) pay the town board of the unincorporated town for the maintenance and repair of such county streets and roads.

- Additionally, this bill provides that if the board of county commissioners pays a town board to maintain and repair the county streets and roads, the board of county commissioners must use the proceeds of the motor vehicle fuel taxes imposed pursuant to NRS 365.180 and allocated to the county pursuant to NRS 365.550.
- **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.

- We are awaiting an upcoming hearing on SB63 to be scheduled.

**SB78**

- Revises provisions relating to local government financial administration. (BDR 31-403)

- This bill was heard in the Assembly and Senate Committee on Government Affairs and is being sponsored by the Senate Committee on Government Affairs. It was read to committee on March 6, 2017 but no action was taken on it.

- **Legislative note or what the bill does:** The Local Government Budget and Finance Act authorizes the governing body of a local government to establish certain funds, including an enterprise fund to account for operations which are financed and conducted in a manner similar to the operations of a private business, where the intent of the governing body is to have the expenses of providing goods or services to the general public financed through charges imposed on users. (NRS 354.470-354.626) Under existing law, a governing body of a local government is authorized to loan or transfer money from an enterprise fund only if the loan or transfer is made: (1) as a medium-term obligation in compliance with certain requirements; (2) to pay the expenses of the pertinent enterprise; (3) for a cost allocation for employees, equipment or other resources; or (4) upon the dissolution of the enterprise fund. Until June 30, 2021, existing law also authorizes certain local governments to transfer money from an enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if certain requirements are satisfied. (NRS 354.613)

- This bill authorizes a local government to make such transfers from an enterprise fund on and after July 1, 2021, if: (1) on or before July 1, 2018, the Committee on Local Government Finance has approved a plan adopted by the governing body of the local government to eliminate such transfers, which includes, without limitation, a plan to reduce the amount of such transfers by at least 3.3 percent each fiscal year during the term of the plan; and (2) the local government reduces the amount of the transfers in accordance with the plan.
○ **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.

○ We are awaiting an upcoming hearing on SB78 to be scheduled.

✓ **SB87**

○ Revises provisions relating to redevelopment projects. (BDR 22-207)

○ This bill was referred to the Senate Committee on Government Affairs and is being sponsored by Senator Pete Goicoechea. It was read to committee on February 6, 2017 but no action was taken on it.

○ *Legislative note on what the bill does:* Under existing law, with certain exceptions, the prevailing wage in a county for each craft or type of work, as determined by the Labor Commissioner, is required to be paid on a project in the county involving new construction, repair or reconstruction that is financed in whole or in part with public money and for which the estimated cost is $250,000 or more. (NRS 338.010, 338.020-338.080) If a redevelopment agency provides financial incentives to a developer with a value of more than $100,000 on a project, the developer is required under existing law to pay prevailing wage rates on the project. (NRS 279.500)

○ This bill makes identical the minimum monetary threshold at which the prevailing wage rates are required to be paid on a redevelopment project for which financial incentives have been provided by a redevelopment agency and the minimum monetary threshold at which the prevailing wage rates are required to be paid on a public work, which is $250,000 under existing law.

○ **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.

○ We are awaiting an upcoming hearing on SB87 to be scheduled.

**Concerning Taxation**

✓ **SB85**

○ Exempts certain property from taxation. (BDR 32-272)

○ This bill was sponsored by Senator Ben Kieckhefer on January 27, 2017 and referred to the Senate Committee on Revenue and Economic Development.
o Legislative note on what the bill does: Section 1 of Article 10 of the Nevada Constitution authorizes the Legislature to exempt from taxation property used for charitable purposes.
  o Section 6 of Article 10 of the Nevada Constitution requires the Legislature, in enacting such an exemption, to provide a specific date on which the exemption expires. This bill exempts from taxation through June 30, 2037, the real property, including certain furniture and equipment on the property, of the Parasol Tahoe Community Foundation, a nonprofit and charitable organization.

o RKG note: We have no comment on this legislation at this time. We will continue to monitor.
  o We are awaiting an upcoming hearing on SB85 to be scheduled.

✓ SB54

  o Authorizes certain smaller counties to approve additional uses of the proceeds of a tax for infrastructure. (BDR 32-341)
  o This bill was sponsored by the Senate Committee on Revenue and Economic Development on November 17, 2016.

  o Legislative note on what the bill does: Existing law authorizes each county to impose a sales and use tax for certain infrastructure projects. (NRS 377B.100, 377B.160) Existing law authorizes certain smaller counties (currently any county other than Clark and Washoe Counties) to use the proceeds of the tax for certain purposes related to the construction or renovation of schools, the construction or renovation of cultural or historical facilities, or the construction, improvement or equipping of public safety, cultural and recreational, or judicial facilities. (NRS 377B.160)
  o This bill authorizes these smaller counties to use the proceeds of the tax for certain purposes related to the construction, improvement or equipping of additional types of governmental facilities. In addition, this bill authorizes these smaller counties to use the proceeds of the tax to pay the costs of operating and maintaining certain governmental facilities. Under existing law, any change to use the proceeds of the tax for the additional purposes authorized by this bill must be approved by a two-thirds majority of the board of county commissioners of the county. (NRS 377B.100)
o **RKG note:** We have no comment on this legislation at this time. We will continue to monitor.

o **March 14, 2017:** SB54 will be heard before the Senate Committee on Revenue and Economic Development.

V. **Conclusion**

The legislative landscape is continuously shifting. Nevertheless, Reese Kintz Guinasso will continue to monitor all introduced bills and bill draft resolutions to ensure that you are fully informed about legislative changes that could affect the Incline Village General Improvement District. In the next report, we will report on any votes, amendments or passages of the bills we have shown above.

Very truly yours,

Jason D. Guinasso, Esq