



TO: Chairman and Board Members
FROM: Mark Foree, General Manager
John Erwin, Director, Natural Resources - Planning & Development
DATE: 8 March 2011
SUBJECT: Discussion and possible direction to staff regarding 2011 Legislative Activities and current bills

Recommendation

Staff requests that the Board provide direction to staff on pending legislation for the 2011 Legislative Session.

Discussion

This is a standing item on legislative matters on the Board's monthly agenda. The *attached table* summarizes current Nevada State Senate and Assembly bills that the Board and staff are tracking as well as the latest position the Board has taken on each. TMWA lobbyists will attend the Board meetings to answer questions and provide insights into the legislative intent.

TMWA Chairman Mike Carrigan and General Manager Mark Foree have made presentations to the Assembly Natural Resources Committee, the Assembly Government Affairs Committee and the Senate Natural Resources Committee. The presentations (centered around TMWA's background, facilities, water rights process for new development, water resource/drought planning and finances) were well received by the committees and TMWA responded to questions about water quality, water rights being converted from agricultural to municipal use, and hydroelectric generation.

The *attached table* contains updated data through the date of this memo. The column headed "Board Position" are the results of action taken by the Board's sub-committee at its February 25, 2011. Those bills without a "Board Position" will be presented at the Board meeting. Staff will update the Board on the progress of these bills and seek direction as to staff's recommendation on the bill.

ASSEMBLY BILLS										
Bill No.	TOPIC	SUMMARY	BILL STATUS	Date Last Action	Board Position	Initial Position	Lead Lobbyist	Testify: N-no ?-Uknwn Witness	COMMENTS	
	F-Financial G-Governance L-Property O-Opening meeting, records PE-PERS, employment PW-Public works WQ-Water quality, NDEP WR-rights, resources, conservation				S- Support SA- Support if amended W-Watch O- Oppose N-Neutral		G-DePaoli M-MacDonald W-Walker			
1	AB 10	O	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB10.pdf Revises provisions governing certain funds and the destruction of public records.	Passed Assembly 3/3	2/25/11	N	N	M	N	
2	AB 44	PW	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB44.pdf AN ACT relating to civil actions; revising the statutes of repose regarding actions for damages resulting from certain deficiencies in construction; and providing other matters properly relating thereto. Existing law generally limits the period in which an action for damages caused by a deficiency in construction of improvements to real property may be commenced after substantial completion of the improvement, unless the deficiency is a result of willful misconduct or was fraudulently concealed. (NRS 11.202-5 11.205) These periods of limitation are known as statutes of repose, and the period set forth in each statute of repose during which an action must be commenced after substantial completion of the improvement depends on the particular type of deficiency in construction. Section 1 of this bill reduces the period in the existing statute of repose for a known deficiency in construction from 10 years after substantial completion of the improvement to 3 years. Section 2 of this bill reduces the period in the existing statute of repose for a latent deficiency from 8 years after substantial completion of the improvement to 4 years. Section 3 of this bill reduces the period in the existing statute of repose for a patent deficiency from 6 years after substantial completion of the improvement to 3 years.	Not Scheduled as of 3/10	2/25/11	NS;SA	NS;SA	W	?	Want 10 years not 3
3	AB 46	O	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB46.pdf Clarifies the inapplicability of certain partial tax abatements to various assessments relating to the adjudication of water rights and management of water resources.	Heard 2/22 Taxation - no action	2/25/11	N	N	W	N	
4	AB 59	O	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB59.pdf Makes various changes to the Open Meeting Law.	Heard 3/1 GA - no action	2/25/11	W	W	M	N	
5	AB 60	PW	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB60.pdf Revises requirements pertaining to preferences in bidding on public works.	Heard GA on 3/7 - no action	2/25/11	N	N	M	N	
6	AB 68	L	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB68.pdf AN ACT relating to cities; exempting certain leases of real property from requirements relating to appraisal and auction; reducing the number of independent appraisals of fair market value required in certain circumstances for the sale or lease of real property by cities; and providing other matters properly relating thereto	Heard 2/18 Govt Affairs no action	2/25/11	S	S	M	N	

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7	AB	73	WR	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB73.pdf	AN ACT relating to water; authorizing the State Engineer or any assistant or authorized agent of the State Engineer to enter certain premises to investigate and carry out the duties of the State Engineer; requiring the State Engineer to cancel a permit to appropriate water for a beneficial use if the holder of the permit fails to file certain information within a certain period after the date of the notice to file that information; revising provisions relating to the forfeiture of certain water rights; removing provisions requiring the State Engineer to adopt regulations establishing a program to allow a public water system to receive a credit for adding a new customer to the system; authorizing a public water system to receive such a credit under certain circumstances; and providing other matters properly relating thereto.	Scheduled for re-hearing on 3/14 5:30 rm 410	2/25/11	NS;SA	NS;SA	W	Y	TMWA submitted amendments
8	AB	76	PE	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB76.pdf	AN ACT relating to the Public Employees' Benefits Program; revising provisions concerning reinstatement of insurance under the Program; authorizing the Board of the Program and certain advisory committees to meet in closed session under certain circumstances; and providing other matters properly relating thereto.	Not scheduled as of 3/8	2/25/11	W	W	M	N	
9	AB	80	PE	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB80.pdf	AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto.	Not Scheduled as of 3/10	2/25/11	W	W	M	N	
10	AB	90	HR	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB90.pdf	AN ACT relating to employment practices; prohibiting employers from subjecting an employee to abusive conduct in a work environment; requiring a court to award damages, back pay and attorney's fees consistent with the provisions set forth in Title VII of the Civil Rights Act of 1964 on prevailing claims of unlawful employment practices; prohibiting employers from discriminating against an employee with respect to a physical characteristic of the employee; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.	Heard C/L on 3/7 - Lots of opposition	2/25/11	W	W	M	N	
11	AB	101	PW	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB101.pdf	AN ACT relating to local improvement districts (converting overhead electric to underground in counties >400k) ; authorizing certain modifications after a local improvement project has begun and assessments have been levied; and providing other matters properly relating thereto.	Heard 3/1 GA - Clark Co opposed effectively	2/25/11	W	W	M	N	
12	AB	102	PW	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB102.pdf	AN ACT relating to professional licenses; revising the requirements for licensure as a professional engineer or professional land surveyor for certain applicants; and providing other matters properly relating thereto.	Amend and do pass 3/2 at C/L	2/25/11	W	W	M	N	

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13	AB	105	PE	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB105.pdf AN ACT relating to employee organizations; requiring each employee organization recognized by a local government employer in this State to prepare an annual report concerning the dues, expenditures, compensation and other finances of the employee organization; requiring the employee organization to make the report available for inspection by certain members of the employee organization and to submit a copy of the report to the Legislative Auditor if requested by the Legislative Commission; and providing other matters properly relating thereto.	Not Scheduled as of 3/10	2/25/11	N	N	M	N	
14	AB	114	WR	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB114.pdf AN ACT relating to water; revising the amount of the fee for issuing and recording a permit to change the point of diversion or place of use only of an existing water right for irrigational purposes; and providing other matters properly relating thereto.	Heard 3/9 GA no action	2/25/11	N	N	W	?	
15	AB	115	WR	http://leg.state.nv.us/Session/76th2011/Bills/AB/AB115.pdf AN ACT relating to water; revising provisions governing the approval or rejection by the State Engineer of an application to appropriate water for beneficial use; and providing other matters properly relating thereto.	Scheduled for re-hearing on 3/14 5:30 rm 4100	2/25/11	SA	SA	W/GP	Y	TMWA submitted amendments
16	AB	144	PW	http://www.leg.state.nv.us/Session/76th2011/Bills/AB/AB144.pdf AN ACT relating to public works; revising provisions relating to preferences in bidding for contracts for certain public works projects; requiring the inclusion in a contract for a public work of certain conditions that must be satisfied to obtain such a preference in bidding; providing for the investigation of a failure to satisfy the conditions for such a preference in bidding; providing for the recovery of damages for a failure to satisfy the provisions in a contract relating to preferences in bidding; prohibiting the use of a certificate of eligibility to receive a preference in bidding in certain circumstances; prohibiting a person from bidding on a public work in certain circumstances; revising provisions relating to the keeping, by certain persons, of records relating to public works; and providing other matters properly relating thereto.	Amend and do pass out of Senate Econ on 3/9	2/25/11	W	W	M	?	Gives preference to Nevada residents/bidders requiring 50% of labor and 25% materials to be Nevada based. What are utility compliance requirements and activities?
17	AB	218	PW	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB218.pdf Existing law exempts food for human consumption, other than alcoholic beverages, tonics, vitamins and prepared food intended for immediate consumption, from the sales and use taxes imposed in this State. (NRS 372.284, 374.289) This bill requires the Department of Taxation, for the purpose of administering those taxes after June 30, 2011, to construe the term "food" as excluding "bottled water," thereby excluding bottled water from that tax exemption. Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) This bill defines "bottled water" and provides for its exclusion from the definition of "food" in the manner authorized by the provisions of that Agreement.	Not scheduled as of 3/8			W	M	N	will require 2/3 majority

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18	AB	228	PW http://leg.state.nv.us/Session/76th2011/Bills/SB/SB228.pdf Under existing law, a public body is required to include certain provisions in a contract for a public work. (NRS 338.150, 338.153, 338.155) This bill requires a public body to use a standard form construction contract which has been endorsed by national associations representing industry professionals for each contract for a public work.	Scheduled 3/14 GA at 9:00			O	M	?	
19	AB									

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1	SB 41	F	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB41.pdf Eliminates mandatory collective bargaining for local government employers.	Not scheduled as of 3/8	2/25/11	W	W	M	?	Similar to SB78
2	SB 60	PW	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB60.pdf AN ACT relating to energy; revising certain provisions governing the administration of the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans; authorizing the Director of the Office of Energy to make loans from the Fund to qualified applicants for the construction of an energy efficiency project or an energy conservation project or the construction, expansion or operation of a renewable energy system; and providing other matters properly relating thereto.	Amend and do pass on 3/4 from C/L -	2/25/11	S	S	W	N	Amendment was minor; TMWA supported
3	SB 68	WR	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB68.pdf Requires the State Engineer to allow a city, county or other political subdivision to participate in developing and carrying out a plan or conducting a study relating to the appropriation of water for beneficial use under certain circumstances.	Heard Govt. Affairs 2/14 - no action	2/25/11	N	N	W	N	Per Chair the bill is likely dead
4	SB 76	PE	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB76.pdf Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances.	Not scheduled as of 3/8	2/25/11	W	W	W	N	Exempt
5	SB 78	F	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB78.pdf Revises provisions governing collective bargaining between local government employers and local government employees.	Not scheduled as of 3/8	2/25/11	W	W	M	N	Similar to SB 41
6	SB 100	PW	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB100.pdf AN ACT relating to local improvement districts; authorizing certain modifications after a local improvement project has begun and assessments have been levied; and providing other matters properly relating thereto.	Not scheduled as of 3/8	2/25/11	W	W	M	N	

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7 SB 153	WR	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB153.pdf AN ACT relating to water; declaring the appropriation of certain water by a municipality or public utility to serve the present and reasonably anticipated future municipal, industrial or domestic needs of the municipality or public utility to be a beneficial use of that water; providing that certain provisions governing consideration by the State Engineer of the consumptive use of a water right do not apply to an application to appropriate water filed by a municipality under certain circumstances; revising the period within which an application of water for a certain municipal or quasi-municipal use must be made; setting forth the measure of reasonable diligence for determining whether a municipality is proceeding with good faith and reasonable diligence to perfect an appropriation of water for a beneficial use; revising the provisions which must be included in certain statements filed with the State Engineer concerning the application of water for municipal or quasi-municipal use; requiring the State Engineer to issue a certificate for a partially perfected application under certain circumstances; and providing other matters properly relating thereto.	Passed amended per TMWA input on 3/7/11	2/25/11	SA	SA	W	JAE	Amendment extended 5 years to 10 years on time extension for permits		
8 SB 192	PW	http://leg.state.nv.us/Session/76th2011/Bills/SB/SB192.pdf Local governments are required under existing law to submit an annual fiscal report to the Department of Taxation. (NRS 354.6015) Section 6 of this bill requires a local government to include in that annual report the percentage of contracts for the design and construction of public works that were awarded during the reporting period to contractors and design professionals in this State. Sections 14 and 16 of this bill impose identical reporting requirements on the State Public Works Board and the Department of Transportation with respect to contracts for public works of the State. Section 2 of this bill requires the Commission on Economic Development to compile those reports and transmit the compilation to the Legislature, or the Interim Finance Committee, if the Legislature is not in regular session. Section 15 Under existing law, if the estimated cost of a public work is \$100,000 or less, the State or a local government is authorized to award the contract to a contractor or perform the work with its own employees if certain requirements are met. (NRS 338.1386, 338.1442) Similarly, under existing law, if the estimated cost of a public work is less than \$35,000, the State or a political subdivision is authorized to prepare the maps, plans, specifications, reports and estimates for the public work itself. (NRS 625.530) The Department of Transportation is also authorized under existing law to perform limited work and improvements itself. (NRS 408.323) Sections 8, 11, 17 and 18 of this bill add a legislative declaration to those provisions in existing law, stating that, whenever possible, it is in the best interest of the State for those services on public works to be performed by the private sector.	Bill passed Senate 11-10 on party line vote - TMWA proposed amendment not included in bill.	2/25/11	NS	NS	M	?			