

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

**Seventy-Fourth Session
April 26, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:01 a.m., on Thursday, April 26, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Bob Beers
Assemblyman David Bobzien
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Pete Goicoechea
Assemblyman Ruben Kihuen
Assemblyman Harvey J. Munford
Assemblywoman Bonnie Parnell
Assemblyman James Settelmeyer
Assemblyman Lynn D. Stewart
Assemblywoman RoseMary Womack

GUEST LEGISLATORS PRESENT:

Senator John Lee, Clark County Senatorial District No. 1

Minutes ID: 1069



STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Rachelle Myrick, Committee Secretary
Michael Stewart, Principal Research Analyst

OTHERS PRESENT:

Shirley Parraguirre, Clark County Clerk
Charles Harvey, Assistant County Recorder, Clark County
Shelley Blotter, Chief, Technical Services Division, Department of
Personnel
Oran McMichael, Area Field Services Director, American Federation
of State, County, and Municipal Employees
Danny Coyle, President, American Federation of State, County, and
Municipal Employees, Local 4041
Linda Law, Interim Manager, Financial Management Section,
Division of Internal Audits, Department of Administration
Kimberlee Tarter, Purchasing Division, Department of
Administration
Pat Sanderson, Laborers Local 872

[Meeting called to order at 9:01 a.m.]

Chair Kirkpatrick:

We are going to open the hearing on Senate Bill 369 (1st Reprint).

**Senate Bill 369 (1st Reprint): Revises provisions concerning the recording of
certain documents. (BDR 20-58)**

Senator Townsend is unavailable so if you will give all of the technical questions
to me I will get with him this afternoon.

Michael Stewart, Research Division, Legislative Counsel Bureau:

Senator Townsend asked me to present S.B. 369 (R1).

I need to submit the standard Legislative Counsel Bureau (LCB) disclosure. As
an employee of the LCB we serve as nonpartisan staff so we cannot advocate
for the passage or defeat of any legislation.

I am here to present the bill, which was heard in the Senate Committee on
Government Affairs.

Senate Bill 369 (R1) has to do with the recording of documents. It authorizes a county recorder to conform the size of a Declaration of Homestead form that does not meet specific formatting requirements, so the declaration is made suitable for recording.

The measure also makes optional instead of mandatory the \$25 fee that a county recorder charges for recording documents that do not meet specific formatting requirements and declares that the fee shall not exceed \$25.

Senator Townsend had testified in the Senate Committee on Government Affairs that he was involved in a mailing of Homestead Declaration forms to constituents in his district. Some of those forms were slightly off by an eighth of an inch and this bill attempts to address that to allow the county recorder to conform the size of the form so they would not have to send it back and charge a fee.

It gives the county recorder some flexibility when it comes to the filing of Homestead Declarations.

The amendment the Senate added was with regard to the fee and making that optional.

Chair Kirkpatrick:

Are there any questions I can take back to Senator Townsend this afternoon?
[There were none.]

Is there anyone who would like to speak in favor of S.B. 369 (R1)? [There were none.]

Is there anyone who is opposed to S.B. 369 (R1)? [There were none.]

Is there anyone who is neutral on S.B. 369 (R1)? [There were none.]

I will close the public hearing on S.B. 369 (R1).

We will move on to Senate Bill 419.

**Senate Bill 419: Revises provisions relating to certain county clerks.
(BDR 20-1161)**

Senator John Lee, Clark County Senatorial District No. 1:

The county clerk in Clark County issues your marriage license. When you get a marriage license you have up to one year to execute that license. When you do

execute the license and get married the license is then sent to the County Recorder's Office and they record the document.

If you need a copy of that license you call the County Clerk's Office and ask for a copy. The County Clerk's Office will then tell you it is at the County Recorder's Office. If the county clerk had all of the records in their office they could immediately dispatch that copy to you.

This bill will ship all of the documentation at the recorder's office back to the county clerk who will then be the steward of the marriage licenses and the marriage licenses only.

They are also going to archive all of the marriage licenses from the past 40 years, so they will have the history of all marriage licenses.

This is a consensus bill between the county recorder and the county clerk showing this is something they want to do that makes it more constituent friendly for those who get married in southern Nevada.

This bill only applies to Clark County.

Shirley Parraguirre, Clark County Clerk:

It is a joint effort between my office and the Clark County Recorder.

We feel this bill will provide better customer service. It will put all marriage related documents in one office. Customers and clients will not have to be running back and forth between offices.

The Clark County Clerk has four locations so these marriage certificates can then be filed in any of those locations.

The clerk's office also handles the certificates authorizing to ministers to perform weddings. Getting the certificates in our office will also enable us to control those better. We have quite a problem with some of the ministers not recording their certificates in a timely manner. With the clarification in our office, we will be able to keep a better handle on that.

Charles Harvey, Assistant County Recorder, Clark County:

I am here on behalf of Debbie Conway, the County Recorder for Clark County.

I am here in support of this bill.

Chair Kirkpatrick:

Are there any questions?

During the 73rd Legislative Session we had a similar bill and one of the things that came up was the space needed to store the documents. This time you are saying the documents will be in four different locations. Have we addressed that concern?

Shirley Parraguirre:

We were in the old courthouse at that time. We do not foresee a problem taking over the records from the recorder's office.

We will eventually be moved out of the Regional Justice Center where we are currently located and some of the records may have to remain offsite, but that is going to be true whether we take over the recoding of the certificates or not.

We do not currently have the records at all four locations. They all make it to our main location, but all filings can be done at all four locations.

Chair Kirkpatrick:

You would still need the same amount of employees, but you would shift the work. Is that correct?

Shirley Parraguirre:

We thought we would need four or five additional staff in order to take over the filing of the certificates. We have taken a closer look at it now and my supervisors in the marriage bureau have determined they could do the work with three staff.

We will be working to either shift some of the employees from the recorder's office or Clark County will reconsider and let them keep their employees and provide us with additional staff.

I believe it will be a combination of both. They might give us one staff member and we might shift two staff from the recorder's office. I do not see staffing as an issue.

Assemblyman Beers:

The bill says it may have a fiscal impact on local government. Was that generated because of the potential thought of adding new staff?

If there is not going to be new staff required and it is just going to be a shifting of positions, then this bill will eventually lessen some of the work load of having

to run around and find things. In that case would it not have a positive fiscal impact?

Shirley Parraguirre:

The fiscal impact does not have as much to do with staffing as it does with additional software that we will have to purchase in order to be able to process the marriage certificates.

Senator Lee:

I spoke to the Governor about this and he mentioned that as long as it was not a big pass-through at the State level and the fee would be applied at the County level, he did not have a problem with the bill.

I wanted to follow up on that before it got to the point where the bill died because of that fee.

Assemblyman Beers:

I like the idea of this and I do not want to see this bill die.

We see a lot of bills come in here that shorten paperwork and put us in the position of taking less time to do the job that needs to be done. This appears to be one of those.

I am thinking over a period of time this might save money rather than cost money.

Assemblyman Stewart:

How long will it take to move the records from the County Recorder's Office to the County Clerk's Office?

Shirley Parraguirre:

I cannot give you a time frame. I can tell you that our records in the County Clerk's Office go back to 1909. I have to assume the recorder's records would be similar. It will be an ongoing project for a while.

The recorder's office already has most of their records on microfilm or imaged. I understand a lot of the microfilm is so old that in order to maintain the integrity of those records we are going to have to go back and redo the microfilming so we have a good clear record.

Assemblywoman Pierce:

If the County Commission instituted the \$3 charge what kind of money would we be talking about?

Shirley Parraguirre:

At \$3 per recorded certificate, Clark County does an average of 100,000 licenses per year so it would be about \$300,000. We would not only be using that funding for the archiving of all the old records but we have some mandates from the Legislature concerning the redaction of Social Security numbers. That would be a good way for us to get the resources to go back for the redaction of the Social Security numbers which are currently on all of our licenses.

Assemblywoman Kirkpatrick:

This bill does not affect that unless you are looking for a revenue source. I want to keep the bills separate.

Shirley Parraguirre:

We would get \$300,000 per year and I only wanted to state that would be a good avenue for us to redact Social Security numbers from the marriage records. We do not currently have a source for doing that.

Assemblyman Goicoechea:

It is up to the Clark County Board of County Commissioners to decide if they want to move ahead with this or not.

Chair Kirkpatrick:

Is there anyone who would like to speak in support of S.B. 419? [There were none.]

Is there anyone who is opposed to S.B. 419? [There were none.]

Is there anyone who is neutral on S.B. 419? [There were none.]

We will close the public hearing on S.B. 419.

[Meeting recessed at 9:24 a.m.]

[Meeting reconvened at 9:45 a.m.]

Chair Kirkpatrick:

I would like to open the public hearing on Senate Bill 124 (1st Reprint).

Senate Bill 124 (1st Reprint): Revises provisions governing state personnel and independent contractors. (BDR 23-613)

Shelley Blotter, Chief, Technical Services Division, Department of Personnel:

[Read from prepared statement ([Exhibit C](#)) and proposed an amendment ([Exhibit D](#)).]

Assemblyman Settlemeyer:

I got an email that said there were a couple of objections to the changes that were made in section two. You object that it went from "shall" to "may?"

Shelley Blotter:

That is correct. We believe the change to "may" makes it permissive and that is problematic in that not all employees would be the same, so some would have the right of restoration and others would not. What we are asking for would make it consistent throughout State service.

Assemblyman Settlemeyer:

I see the form of the contract has to be approved by the Attorney General then submitted to the State. You also have a submission to the State Board of Examiners. I do not see a fiscal note on this. Do you feel you are able to do this without any fiscal note?

Shelley Blotter:

I am not certain we are talking about the same thing.

Assemblyman Settlemeyer:

On page 7 of the bill, line 4, it says "a form of the contract must first be approved by the Attorney General" on line 4, page 7 and also on page 7, line 12 it says "the proposed contract will be submitted to the State Board of Examiners for approval." It seems like we are having a lot of people doing work they did not do before, yet, there is no fiscal note.

Shelley Blotter:

The cites in *Nevada Revised Statutes* (NRS) 284 and other statutes referring to independent contractors have been changed to the new section, so it is not a change in the current practice.

Assemblyman Parnell:

You do not see this as potentially expanding the use of independent contractors in lieu of regular State employees?

Shelley Blotter:

No.

Chair Kirkpatrick:

What were the arguments in the Senate that made them change this?

Shelley Blotter:

Not to speak for Senator Hardy, but he was the one who proposed the amendment. It is my understanding he felt that State employees should be treated the same as private sector employees. If you take a promotion you also take the chance of not being successful in that position.

Public employees have a greater right in that they are restored to their former position. What we are proposing would provide a little more flexibility. If an employee had filled a former employee's position, should that former employee not be successful in their new promotion, we do not want them to bump the employee who took their former position.

Chair Kirkpatrick:

Give me an example of, if they are allowed to be promoted, but they do not meet their probationary period. When and how often does it happen?

Shelley Blotter:

It only happens when a permanent employee has served his initial probationary period. Let us say for 12 months he is an Administrative Assistant II. He has applied for and has selected for an Administrative Assistant III position. He is in his probationary period and is not being successful. Supervisory or management input to correct any problematic behavior is not working, so he is going to be rejected from the new position. He could return to his former position. Under the current statute that means the position control number, in his former position.

What this legislation would do is say if that position has been filled he could go to the same class in the same community with the same salary and same benefits, but in a vacant position so he does not impact the other employee's employment.

Chair Kirkpatrick:

How often would you say this happens?

Shelley Blotter:

I do not have any statistics on how frequently people are rejected from their probationary period. I can try to find that out.

Chair Kirkpatrick:

I am curious to know if it is currently a big problem or a small problem.

There must be a reason you brought this bill before us knowing it may get changed.

Shelley Blotter:

I do not believe it is a major problem, nor does it happen on a frequent basis. What complicates the problem is that one person who is rejected from their probation may impact four or five other people's employment because of the layoff regulations.

They would bump out the person that replaced them. That person bumps out another person and so on. It has a ripple effect.

We also have to calculate seniority for each one of those employees who are impacted from this bumping.

Chair Kirkpatrick:

When you accept a position, but find it is not working out, is there a time frame before you are released so you have time to look for another job, or are you released right away?

Shelley Blotter:

It is my understanding that the person would be given 30 days in which he could go back to their previous position.

Chair Kirkpatrick:

At that time, do they have the chance to look for other state jobs within the 30 day time frame?

Shelley Blotter:

Under the current statute they go back to their former position.

If they choose to seek other employment they have the opportunity to do that.

Assemblyman Goicoechea:

If we leave "may" in and add your other language "to the position they were promoted from or any other vacant position at the same scale," maybe we could avoid the ripple effect.

You do get some people in the ranks that will take every promotion that comes along. There would be some cases where it might be appropriate to have "may" in there instead of "shall."

When you assume a promotion you should be able to do the job. I like the "may" language. Let us compromise so they can either go back to the former position or another vacant position with the same benefits.

Shelley Blotter:

I will try and give you an example.

We are the Department of Personnel and we have a person who promotes out of our department and goes to the Department of Transportation. At the Department of Transportation it becomes clear he is not going to be successful but he is a good person with a long service record and we want to give him the benefit of the doubt. They decide to put this person back in his former position. The Department of Personnel says they do not want to take him back. In this scenario I am concerned the "may" language leaves that person in limbo. What happens next?

Assemblyman Goicoechea:

In that scenario there would be another vacant position at the same salary in the State. At least I would hope so.

When you promote out of one department and they do not want you back, that creates some issues. Therefore, there should be some "may" language in this bill.

Assemblyman Stewart:

I can see some problems with this last paragraph in your amendment where if a person does not work out in the new position then he has to go back to his old position in the same location or the same town.

Shelley Blotter:

The way it is written right now it would be the "community." What we proposed in a meeting with the State of Nevada Employees' Association was that we would define in regulation what "community" means.

The person would not be reverted to Reno if the original position was in Carson City. It would be close to the original location. It would not have to be at the same site.

Assemblyman Stewart:

A person from Elko was promoted to a position in Carson City. In Elko there was only one position and you filled that with another person. Then the person who was promoted to Carson City did not work out but there was a similar position open at the same grade as the original position in Carson City and it would be advantageous for the State and the person to stay in Carson City rather than go back to Elko. Would this prevent that from happening?

Shelley Blotter:

I do not believe so. In our discussion with the State of Nevada Employees' Association, if it was mutually beneficial for the employee and the State, and if we had a vacant position, then we would allow for that.

Assemblywoman Parnell:

By using the "may" language I see more individuals being involved in the process of grievances. That is the last thing we want to be encouraging through any kind of legislation.

If the "may" stays I would have to vote against this bill.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Is there anyone in support of S.B. 124 (R1)?

Oran McMichael, Area Field Services Director, American Federation of State, County, and Municipal Employees:

We have met with the Department of Personnel several times on this measure and have come to agreement on the amendment. We look forward to the removal of the "may" language. With respect to location and community, we have met with the Department of Personnel and have reached agreement on what community means.

Danny Coyle, President, American Federation of State, County, and Municipal Employees, Local 4041:

We support the Department of Personnel's amendment.

Chair Kirkpatrick:

Is there anyone else who would like to testify in support of S.B. 124 (R1)?

Linda Law, Interim Manager, Financial Management Section, Division of Internal Audits, Department of Administration:

[Read from prepared statement ([Exhibit E](#)).]

Chair Kirkpatrick:

Was this amendment proposed in the Senate?

Linda Law:

Yes. It was adopted into the first reprint.

Assemblyman Goicoechea:

You say the amendment was adopted into the first reprint?

Linda Law:

That is correct. It is under NRS 284.180, Section 1, subsection 10.

Chair Kirkpatrick:

This is in the First Reprint of the bill on page 3, lines 20 through 37, where it addresses the issue of overtime.

Assemblyman Goicoechea:

I agree there will be times when a person works overtime that was not anticipated.

Chair Kirkpatrick:

Is there anyone else who would like to testify in support of S.B. 124 (R1)?

Kimberlee Tarter, Purchasing Division, Department of Administration:

We are in favor of this bill.

The movement of NRS 284.173 into NRS 333, which is the State's Purchasing Act, will allow us to have all the statutes that affect the State's purchasing procedures in one location.

In the Senate we had proposed a friendly amendment to this for the section being moved into NRS 333. We had asked to have some of the dollar limits that are set on page 7, Section 6 where it says "the Board of Examiners may approve contracts that are more than \$10,000" be removed and create policy for the Board of Examiners to establish those limits.

We would like to have that amendment revisited.

Assemblywoman Pierce:

In looking over this statute that has been moved from one place to another, there are a couple of changes.

I am reading NRS 284.173 where it says "elected officers and heads of departments, boards, commissions, or institutions" was changed to "a using agency."

Is "using agency" defined somewhere?

Kimberlee Tarter:

"Using agency" is defined under NRS 333 where this is proposed to be moved. Under NRS 333.020 all of the definitions for NRS 333 are set forth.

It is very broad. It addresses commissions, boards, water authorities, State agencies, and everything that is a part of the State of Nevada is within that definition of a "using agency."

Assemblywoman Pierce:

In Section 6 where it says "except as otherwise provided in subsection 7 and except contracts" the part missing is "except contracts entered into by the Nevada System of Higher Education."

Why was that taken out?

Chair Kirkpatrick:

It is page 7, line 10 of the new bill.

Shelley Blotter:

Your Legal Counsel might be able to address that.

Eileen O'Grady, Committee Counsel:

The Nevada System of Higher Education is excluded from the definition of "using agency" so we had to take it out.

Chair Kirkpatrick:

The Nevada Department of Higher Education has always been a part of this and if we are changing the definition now and moving it to a different chapter—I have a concern with changing the dollar amounts because the local agencies look to the State for funds, and there are a couple of bills out now that change their dollar amounts to meet your dollar amounts. If we change yours it will set a precedent.

Kimberlee Tarter:

This section of the statute applies specifically to the services of an independent contractor. It is my understanding some of the bills now pending from the local governments are relating to commodity purchases. There are different

thresholds established in statute when the State of Nevada opts to purchase a commodity versus when the State of Nevada goes out to contract for a service.

The Purchasing Division, with respect to the local governments, has remained neutral on their bills. They operate under NRS 332, which is different from NRS 333.

Moving those thresholds to policy is important.

Currently Internal Audit is looking at the dollar threshold that State agencies purchase commodities with, which is done through the purchase order process. That threshold varies based on need.

What you could potentially have is a situation where an agency can do a purchase order, which is a very simple transaction, for an item up to \$5,000, but they can only enter into a contract up to \$1,999.

The concerns we have are that agencies may circumvent and use a purchase order to purchase a service, which potentially exposes the State to a liability, because it is an easier and more direct means of purchasing than entering into a contract that has to be approved by the Board of Examiners and the Attorney General's Office.

There is concern that if we could put forth a request for policy to the Board of Examiners to set a limit that is equitable for both a commodity purchase and a service purchase, we could work more closely with agencies for compliance and dealing with liability issues.

We do not want agencies going out and using a purchase order to procure a service. We want them to use the State's approved contract form.

Chair Kirkpatrick:

In section 7, subsection 7, if you go through (a), (b), and (c), that affects a lot of different things.

We have these dollar amounts in for specific reasons.

I am not in favor of the friendly amendment.

Assemblyman Settlemeyer:

I was looking at your amendment and it says "to ensure the returning employee is not harmed, the new position must have the same salary, benefits, and be located in the same community as the position to which the individual is promoted."

Here is a scenario. The person who is the assistant department head at the Nevada Department of Transportation (NDOT) in Douglas County decides that he and his family want to move to Elko and take a promotion to become the head chief. After getting to Elko this person finds out that he may not agree with personalities in his new position, but likes the area of Elko and wants to stay there.

Are we saying that a new position would have to be created at the same salary in that area, because the amendment says "located in the same community"?

Shelley Blotter:

That is not what this is saying.

The employee has a property right to their former position. That is where their property right would exist.

What we have suggested is that "community" be defined in regulation. If there was the same class as what they had been promoted from, or a comparable class in Elko, then we could work with that employee to make that placement. It would have to be a vacant position. It would not be a created position.

Chair Kirkpatrick:

Is there anyone who would like to speak as neutral on S.B. 124 (R1)?

Pat Sanderson, Laborers Local 872:

On page 7, line 26 through 28, it says "if the contracting process was controlled by the rules of open competitive bidding." Now we also have lease-purchase and all of the other entities that are coming out. We want to make sure they are included. We do not want an open ended law where they can go around it.

I will work with the participating parties and take it from there.

Chair Kirkpatrick:

There is one bill that passed out of the Senate and another bill that passed out of the Assembly to do away with the Public Works Board.

My concern is that those bills are very different and very precise on how purchasing will work. That needs to be taken into consideration.

Is there anyone else who would like to speak on S.B. 124 (R1)?

Oran McMichael:

Conversations that deal with questions of overtime and transfer speak to the nature and appreciation of this Committee's passing Assembly Bill 601. These kinds of bills are unnecessary if A.B. 601 proceeds.

These discussions should not be legislative issues. They should be issues dealt with within departments.

Shelley Blotter:

What the Department of Personnel was trying to do is add a little flexibility as far as reverting an employee back to their former position should they not be successful in their probationary period so that fewer State employees will be impacted overall. There will be a more successful employment relationship.

As far as the independent contractor statute is concerned, what we were trying to do is lift them out of NRS 284 intact and place them in the Purchasing Division's realm because that is where they are truly administered.

It is not our intent to change anything about independent contractors, how they are administered, or who is covered. It was just changing the statutory side from NRS 284 to NRS 333.

Assemblyman Settlemeyer:

If the individual was promoted to another job and due to misconduct, or whatever, felt a pressure that they wanted to go back to their old position, are they still being allowed to do so or is there something built into this that if they are in trouble for misconduct it does not matter, they do not get to go anywhere?

Shelley Blotter:

If it a question of misconduct, that is for cause and they do not have the right to go back to their former position. They would be dismissed from State service.

This is only for someone who is reverted back because they were not able to meet the probationary period due to performance.

Chair Kirkpatrick:

I will close the public hearing on S.B. 124 (R1).

[Meeting adjourned at 10:32 a.m.]

RESPECTFULLY SUBMITTED:

Rachelle Myrick
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 26, 2007

Time of Meeting: 9:01 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 124	C	Shelley Blotter, Chief of Technical Services, Department of Personnel	Prepared statement
S.B. 124	D	Shelley Blotter, Chief of Technical Services, Department of Personnel	Proposed amendment
S.B. 124	E	Linda Law, Interim Manager, Financial Management Section, Division of Internal Audits	Prepared statement