

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

**Seventy-Fourth Session  
April 30, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:02 a.m., on Monday, April 30, 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/](http://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](mailto: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 Claborn  
Assemblyman Pete Goicoechea  
Assemblyman Ruben Kihuen  
Assemblyman Harvey Munford  
Assemblywoman Bonnie Parnell  
Assemblyman James Settelmeyer  
Assemblyman Lynn Stewart  
Assemblywoman RoseMary Womack



**STAFF MEMBERS PRESENT:**

Amber Joiner, Committee Policy Analyst  
Scott McKenna, Committee Counsel  
Cheryl Williams, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Neena Laxalt, representing the Nevada Propane Dealers Association  
Rudy Forster, Owner, Granite Propane Service  
Renee Parker, Chief of Staff, Office of the State Treasurer  
Patrick Foley, Chief Deputy Treasurer, Office of the State Treasurer  
Drew Solomon, Senior Deputy Treasurer, Office of the State Treasurer  
Dana Bilyeu, Executive Director, Public Employees' Retirement System of Nevada  
Larry Casey, Executive Director, Nevada Commission on Homeland Security  
Raymond Flynn, Assistant Sheriff, Las Vegas Metropolitan Police Department  
Sabra Smith-Newby, representing Clark County

**Chair Kirkpatrick:**

[Roll called.] [Quorum present.]

We will open the public hearing on Senate Bill 145 (1st Reprint).

**Senate Bill 145 (1st Reprint):** Revises provisions relating to public utilities and fees. (BDR 31-936)

**Neena Laxalt, representing the Nevada Propane Dealers Association:**

I distributed some background information on S.B. 145 (R1) ([Exhibit C](#)) and ([Exhibit D](#)). The purpose of this bill is to conform two areas of statute that deal with the definition of public utility. There are three definitions within the statute. One strictly has to do with electricity. The other two definitions have to do with what is commonly known as a "public utility."

*Nevada Revised Statutes* (NRS) 354.598817 uses the term "gas" as part of the definition of public utility. It was common to assume that that was meant to be natural gas. The broad term of "gas" would encompass not only propane and

butane, but everything in there. So what we did was ask for NRS 354.598817 to be in line with NRS 704.030, which specifically refers to natural gas.

The purpose of that part of legislation is for business fees that are put upon public utilities above and beyond the franchise fees.

**Chair Kirkpatrick:**

Does anyone have any questions?

**Assemblywoman Parnell:**

Can you explain to me the wording in Section 1, 1(a), "regardless of?"

**Neena Laxalt:**

It is coming in line with the other statute. Some of the utilities are under the Public Utilities Commission (PUC) and some are not. We are not under the PUC except under one circumstance, which is not included in this legislation. Some of the local governments felt that made us sort of "fair game" for these fees. I do not know where that language came from originally other than it is in line with NRS 704.030.

**Assemblywoman Parnell:**

I understand what you are saying it does, but when I read the change in this one paragraph, that is not what I understand it to be doing. I would appreciate if Legal could explain to me what this paragraph does—what is being testified.

**Scott McKenna, Committee Counsel:**

While I have not had time to research this specific issue, I believe the reason for the "regardless of" language is to ensure that certain utilities not regulated by the Commission would be prohibited from doing certain things described in the utilities chapter.

**Assemblywoman Parnell:**

Thank you, that does help.

**Assemblyman Goicoechea:**

I am concerned because this takes in all my rural electric cooperatives (co-ops). Technically, what we are doing is reinforcing the fact that because they are not under the PUC, they do not fall under the PUC. Is that correct as it pertains to franchise fees?

**Neena Laxalt:**

No, this is not a franchise fee; this is a business fee. Local governments have a business license fee that we all pay regardless of what kind of businesses we

own. There is also a franchise fee, but then local governments have permission to have another fee that they place on top of a public utility, and that is the fee that we believe we do not fall under because we are not a public utility.

**Assemblyman Goicoechea:**

I am going to need a little more clarification. This subsequent fee is presently applied only to a regulated utility. Is that correct?

**Neena Laxalt:**

That is correct. It is part of their license fee.

**Assemblyman Goicoechea:**

The fee falls under the PUC?

**Neena Laxalt:**

Those that fall under the PUC or those that are considered public utilities have the fee attached to them. There is no fiscal impact to any of the local governments or counties. Churchill County had some comments because they may have not understood the bill.

**Assemblyman Goicoechea:**

I know I do not fully understand the bill. I do not understand what it is that we are trying to get.

**Neena Laxalt:**

There are two areas of statute that define public utility. In those statutes one of the components of a public utility is gas. Nationwide it is the understanding that gas is referred to as natural gas. This was not specifically defined when first put into statute. The word "gas" as it stands in the statute is now all encompassing. When you look at the minutes, and I can provide those for you, everybody in the room was part of the natural gas industry; there was nobody else representing gas companies.

All this bill does is define gas to be natural gas because there was some confusion with some of the local governments that "gas" could encompass propane. Because of the way propane is distributed, it is clearly not a public utility. There is one area in statute where they do fall under the PUC and that area is where it is a system of distribution, which might be what you are concerned about with your co-ops. That stays in place. Propane is not a public utility.

**Assemblyman Goicoechea:**

Thank you, I clearly need to look at a couple of statutes to see where we are before we move on this bill.

**Chair Kirkpatrick:**

We have more people here, and maybe they can shed more light on it for you. Are there any other questions for Ms. Laxalt? Let us hear from those in favor of S.B. 145 (R1).

**Rudy Forster, Owner, Granite Propane Service:**

One county added a percentage of our gross sales onto our business license because it said we were a public utility, and that is what started this. I was one of the first dealers "slapped" with it. I said, "Whoa, I am not a public utility, and I will not pay it." We went the rounds for quite a while, and they did back off and withdrew the charge. This is why we came up with the corrective wording in the statute; hopefully, this will stop it from happening elsewhere in the State.

**Assemblyman Beers:**

If I understand this correctly, a public utility would be somebody who supplies electricity, water, or power through service lines, correct? Natural gas would go through service lines. Propane is sold more like a retail business in tanks delivered to property, similar to firewood, correct?

**Neena Laxalt:**

Correct.

**Assemblyman Beers:**

I do not see them calling a firewood dealer a public utility.

**Chair Kirkpatrick:**

There are several counties within our State that use propane as their main source of heating, correct?

**Neena Laxalt:**

The rural areas use quite a bit of propane. There is a specific, separate tax for heating with propane.

**Assemblywoman Pierce:**

Liquefied petroleum gas is the same as that in coastal areas of our country, where there is a considerable amount. There are places where the industry wants to build ports that can take this gas in, creating considerable controversy

around the country. There are people who think this is going to become a much bigger business in this country. Is that not correct?

**Rudy Forster:**

You may be referencing liquid natural gas. That is different from our propane or liquefied petroleum gas.

**Assemblywoman Pierce:**

This change would not cover this?

**Rudy Forster:**

That is correct. Liquefied natural gas is a product that has to be refrigerated to a very cold temperature to contain it. Propane is a product that is retained under pressure in a vessel.

**Assemblyman Goicoechea:**

I am fine with the propane, most of rural Nevada runs on propane. As I look at electric energy and gas in the first sentence, I want to make sure that we are not going to have an impact on the electric co-ops.

**Neena Laxalt:**

It does not touch anything else in this statute; it just defines what gas means.

**Chair Kirkpatrick:**

Does anyone else have any questions?

Is there anyone who would like to speak in favor of S.B. 145 (R1)? [There were none.] Is there anyone that is opposed? [There were none.] Is there anyone that is neutral on S.B. 145 (R1)? [There were none.]

We will now close the public hearing on S.B. 145 (R1), and we will move to our next bill, which is Senate Bill 511 (1st Reprint).

**Senate Bill 511 (1st Reprint): Makes various changes relating to state financial administration. (BDR 31-495)**

**Renee Parker, Chief of Staff, Office of the State Treasurer:**

We are here in support of S.B. 511 (R1) and asking for your consideration and approval. This is a cleanup bill in the State Treasurer's Office. The first section of S.B. 511 (R1) changes the language in the statute, which has outdated language currently requiring all the deposits to be made on Thursdays from all the agencies. No one follows it anymore. Obviously, we are able to get more interest into the General Fund if we deposit earlier when needed.

The remaining sections through Section 6 deal with changes to the provisions of the pool collateral to define the securities to be held in the name of the Nevada Pool Collateral Fund. It also makes various cleanup changes to those provisions, requiring reports only when necessary from some money-holders or banks, rather than weekly reports that we sometimes do not need.

Section 7 through Section 12 changes provisions related to an account for travel advances. This account has not been used since November 2001. There were changes to the *State Administrative Manual*, for example, when state employees traveled, they could get a travel advance. They now receive advances through the agency budget overnight. These were some outdated rules that needed to be changed.

**Chair Kirkpatrick:**

Does anyone have any questions?

**Patrick Foley, Chief Deputy Treasurer, Office of the State Treasurer:**

We are in support of the bill.

**Drew Solomon, Senior Deputy Treasurer, Office of the State Treasurer:**

We are in favor of the bill.

**Chair Kirkpatrick:**

Are there any questions? Is there anyone who would like speak in favor of S.B. 511 (R1)? [There were none.] Is there anyone that is opposed to S.B. 511 (R1)? [There were none.] Is there anyone that is neutral on S.B. 511 (R1)?

**Dana Bilyeu, Executive Director, Public Employee's Retirement System of Nevada:**

We are neutral on the bill with the amendment from the Senate side, which is found on page 3, lines 41 and 42. It exempts us from the pool collateral process because we must keep our collateral in the name of the Public Pension Trust.

**Chair Kirkpatrick:**

Does anyone have any questions? Is there anyone that would like to speak on S.B. 511 (R1)? [There were none.] We will close the hearing on S.B. 511 (R1).

Our last bill this morning is Senate Bill 106 (2nd Reprint). I was unable to get in contact with anyone from the Senate, so I will turn the bill over to Amber Joiner, our Policy Analyst, and she will explain what it does.

**Senate Bill 106 (2nd Reprint):** Revises provisions concerning the release of certain confidential and restricted documents relating to potential acts of terrorism. (BDR 19-300)

**Amber Joiner, Committee Policy Analyst:**

Senate Bill 106 (R2) expands the list of persons who may be allowed to inspect confidential documents relating to terrorism. It also expands the list of persons who are not required to indicate a purpose for inspecting restricted documents. The persons added to this list include state, county, and city emergency managers, members and staff of terrorism early-warning centers or fusion intelligence centers, and persons who perform a function related to public safety or public health. This bill also deletes the sunset provision relating to the classification handling and investigation of confidential documents.

**Chair Kirkpatrick:**

Does anyone have any questions? We will go to Clark County first.

**Larry Casey, Executive Director, Nevada Commission on Homeland Security:**

I am here to answer all your questions. The Commission submitted this bill to cleanup some language that had originally been entered into the revised statutes that highly restricted our ability to get information out to agencies that needed data to make their plans. Hopefully, as this bill passes forward, we will be able to facilitate communication in and around the first responders and the emergency managers in the State.

**Assemblyman Bobzien:**

What is the definition of a terrorism early-warning center or fusion intelligence?

**Larry Casey:**

A terrorism early-warning center or fusion center are technical terms for a group that gathers information, creates contingency plans, and provides means for law enforcement, first responders, and emergency managers to predict and possibly prevent terrorist acts from happening. It is a widespread organization that exists throughout the United States. Forty-six of the states have them, and they are highly effective. The development of fusion centers is something important that we need to push forward in the State of Nevada. This bill will help us share information with them, which then makes their jobs easier.

**Assemblyman Bobzien:**

Is there any overlap with emergency operation centers (EOC)? There has been a great effort in northern Nevada to put a lot of those in place. Do these share functions, or are these actually distinct bodies?



**Larry Casey:**

Yes, there is some overlap. They are distinct bodies in function, but they share information. An EOC is interested in the emergency, the reaction to the emergency, mitigation, and that kind of stuff. The fusion centers are interested more in the preparation that goes into preventing an emergency.

There is subtle difference, but they do overlap as conditions occur. Fusion centers operate all the time. Emergency operation centers stand up a lot of their people, depending on the size of the emergencies that come out there. They share information. They are different organizations, but they are closely related. We are planning on three fusion centers in the State of Nevada. One that will work closely with the emergency center in Washoe County, another one down in southern Nevada, and one that will be working out of the Department of Homeland Security Office in Carson City.

**Assemblyman Bobzien:**

I can appreciate how in this day and age we need to be vigilant with how we manage the sensitivity of the types of data that are outlined in the existing statute, while at the same time making sure that the people needing the data to do their jobs actually have the data. So, would it be your general statement that this relaxes those rules a little bit to err on the side of making sure that there is more access to the data for the people who need it?

**Larry Casey:**

That is correct. The original language was overly restrictive. We found that we need to be more specific so that we could get the information out to the people who really need it and can act on it. It does not do a lot of good if we are the only ones who know about it.

**Assemblywoman Parnell:**

It would seem that the provisions of the Patriot Act would allow you to do what you are requesting to do in this legislation. I would state my concern with the elimination of the sunset clause in this bill. Could you tell me how this would overlap with the provisions of the Patriot Act?

**Larry Casey:**

I am not sure how it applies to the Patriot Act. This specifically deals with records, not necessarily investigations. We are dealing with items and pieces and documents that the Commission will examine. They might be classified or confidential. The purpose of this is to share information with some of the key first responders. To speak of the sunset clause, when the Commission was initially set up we were required every two years to come before the Senate and the Assembly and ask for an extension on the ability to look at confidential

documents in a confidential fashion. The Senate felt that we had a good handle on what we were doing, so it was needless to come forward. Our provisions here are not necessarily investigations, but a sharing of information.

**Chair Kirkpatrick:**

I am not sure that you answered Assemblywoman Parnell's question, but we can get Legal to come in on this.

**Assemblywoman Parnell:**

It is my understanding that the Patriot Act is not just about investigation; it is also about accessing records, so I would question that part of your response.

**Assemblywoman Pierce:**

Does the Committee on Transportation and Homeland Security have access to these documents?

**Larry Casey:**

No, not directly. We are tasked with this as an advisory group. Although if we saw a need to brief confidential material to members of the Assembly, we would bring that up with the Governor's office and our own legal department to see what we could declassify to talk to you about. Again, it is a compartmentalization of confidential information. I am not sure how to answer that aside from the fact that we do not normally disclose confidential information to any committee or members of the Legislature unless there is a need for it. To date, there has not been a need.

**Chair Kirkpatrick:**

In NRS 239C.210, there is already a definition of your first responders and your political subdivisions. By defining these, are we going to leave somebody out who would not be able to get that information?

**Larry Casey:**

The language in there is specifically so we can get it to the people. To date, the Commission has had one confidential document. We held a closed meeting to hear the report. We found that by the way the initial language is written in the NRS, we could not share the information with anyone. So, the language of this bill was crafted to get it to people who needed to have it so they could make plans and hopefully protect us more thoroughly. We went through a great deal of pain to come up with a good list of people who could use this information. This is where the language on the public health people who deal with disasters, the fusion centers, and first responders was developed. Rather than close all doors and not share anything with anybody, we wanted to make sure

information got to the right people at the right time so that they could work on it.

**Chair Kirkpatrick:**

Last session we had a similar bill that did not make it out of the Assembly because there were so many different questions. Section 3 adds to NRS 239C.210 "public safety" and "public health personnel." Do you know anything about it, and can you address the definition that you have of public safety and public health? Who are the state, county, and city emergency managers? Who are the employers of the firefighting or law enforcement agencies? Is it someone whom you determine at a previous time, or is it a board?

**Larry Casey:**

There are direct people who are appointed as state, county, and city emergency managers. For example, Dr. Jim O'Brien is the emergency manager for Clark County. Mr. Aaron Kenneston is the emergency manager for Washoe County, so on and so forth. When it comes to emergency managers, some of these people staff terrorism early-warning centers. These are people who have been identified inside these groups, and they have their own protocols for specific information. When we say, "public safety" and "public health" people, we are worried about the people who have to deal with emergencies and terrorism and other things. These people are a very select group. Again, we wanted to limit it because if we open it up to a bunch of people, then we would find confidential information scattered all over.

As for a previous bill, I am not sure. Could this be the one that was presented in the last legislative session that was merged with Senate Bill No. 380 of the 73rd Legislative Session? If it is, there was quite a bit of confusion about that language, and in part this bill is to address and clarify some of the language and questions that came out of the last legislative session, so that we can get information to the people who need to use it.

**Chair Kirkpatrick:**

Are there any other questions on this bill?

**Assemblywoman Parnell:**

What prohibits you now from sharing this information? Where would we find that prohibition? I need to know that this has to be done so that you can communicate with those individuals. I agree that is extremely important, but I am concerned the combination of current state law and federal law already indicates you cannot do this.

**Larry Casey:**

I am going to be honest at this point. This is the first time I heard a question tying the Patriot Act to this legislation. I am going to have to get back to our legal people to see where that comes in. We have always worked from NRS 239C.210, which our own legal department has told us is very restrictive in that if it is a document classified by the Governor or something along that line, our hands are tied as to whom we can give the information. I do not think the Patriot Act applies to this, but I would like to work it out with our legal department. I will get an answer back to you as soon as possible.

**Chair Kirkpatrick:**

Can you explain to us the importance of the sunset clause in Section 5 on lines 39 through 41?

**Larry Casey:**

The sunset clause was originally put in 2003 when Assembly Bill No. 441 of the 72nd Legislative Session established the Commission on Homeland Security. At that time, we had a two-year requirement to allow us to have confidentiality in closed hearings and keep documents from being released. In the 2005 Session, Senate Bill No. 380 of the 73rd Legislative Session, which was merged with the Assembly bill submitted by Speaker Perkins, also gave us another two years. The sunset clause was originally put in with the idea that they did not want us locking up information and not sharing the information.

There was a concern that we were not going to be good custodians of classified and confidential information. They wanted to be able to come back every two years. The Senate suggested that we did not need to do that because we had a solid set of legislation. We had some solid caretakers for what we were doing. The Senate suggested that we drop the sunset clause, and rather than continue to bring it every two years to the Legislature for renewal, they felt that it would be a good idea to let us proceed as normal.

**Chair Kirkpatrick:**

So, by taking out the sunset clause, which keeps information confidential, it allows the sharing of information. Which way do you want it? Do you want to not be able to share the information, or do you want to be able to choose with whom to share the information? I am asking because I want to get to the root of this.

**Larry Casey:**

The intent is and will continue to be to get information that the Commission receives as confidential. We want to be able to get the information to the people who need to work on it. I think we have come up with a good list of people who should be able to use the information in an actionable fashion. It is a restricted list, but it is one that we think encompasses the correct people who need to have information on terrorism and homeland security.

**Chair Kirkpatrick:**

The Legislative Digest Counsel's Summary, on lines 2 and 3, talks about certain restricted documents, which include blueprints and plans. Are those just for public buildings or all buildings?

**Larry Casey:**

That includes all buildings. Part of that is intended to be used as part of a program that we are now incorporating in the State called, "Silver Shield," which enables first responders and key people to be able to access emergency plans and other things. It is a restricted set of documents; it is used by fusion centers and emergency managers in planning and reacting to an emergency. This type of documentation is a direct result of 9-11. The first responders to the World Trade Center emergency did not necessarily have access to all of the plans they needed for the best response. That is the intent of the language for plans and other items. It is not just for public buildings but also to make it safer for everybody inside the State.

**Chair Kirkpatrick:**

I have a few more questions, but I want to go back and do a little research. Could you ask them down in southern Nevada to fax over a copy of your business card so if any of the members on the Committee want to ask you some questions they have that access?

**Larry Casey:**

I will be happy to send my business card out and answer any questions on this bill. I am the one who put it together with the sponsor, so if you have any particulars, I would be more than happy to answer any questions on anything that the Committee may need.

**Chair Kirkpatrick:**

With that being said, are there any more questions from the Committee?

Is there anyone who would like to speak in favor of S.B.106 (R2)?

If you can tell me why you like this bill, it may clarify things for me.

**Raymond Flynn, Assistant Sheriff, Las Vegas Metropolitan Police Department:**

The way the law is currently, it allows the Governor, through his office, to declare numerous documents confidential, but it does not allow those documents to be shared with local law enforcement or firefighting emergency managers. Numerous plans have been submitted from the casino industry to the Nevada Homeland Security Commission that would allow preparation planning.

**Chair Kirkpatrick:**

Does anyone have any questions?

**Assemblyman Beers:**

You made the statement, "It would allow those responders to work with those documents legally." They cannot work with them legally right now?

**Raymond Flynn:**

I would have to consult our legal counsel. We have received documents to assist us with the planning. It was my understanding that this cleanup language was to allow those things to come forth.

In terms of the Department of Homeland Security, obviously we know that the Hoover Dam is a critical infrastructure, and most, if not all, of their plans are protected under federal statutes. The dam people work with our SWAT people. We have had access to certain documents to prepare planning, but that falls under the federal guidelines.

**Sabra Smith-Newby, representing Clark County:**

We are also in favor of this bill; however, I would like point out an area where we think perhaps the language could be tightened up. Regarding the area in Section 3, subsection 4, (c) and (d) where it says employees of firefighting or law enforcement agencies, and employees of public health agencies, I received some comments from some our departments and actually from one person who sits on the Homeland Security Commission and their thought was that language may be overly broad. There are a lot of different employees who work for a firefighting agency or for law enforcement. Not every single one of them needs to have this ability. Our thought was to put in some clarifying language that these are employees with operational need-to-know.

**Chair Kirkpatrick:**

Does anyone have any questions? [There were none.]

Is there anybody else who would like to testify in favor of S.B. 106 (R2)? [There were none.] Is there anyone who is opposed to S.B. 106 (R2)? [There were none.] Is there anyone who is neutral on S.B. 106 (R2)? [There were none.]

I am going to close the public hearing on S.B. 106 (R2)?

At this time I will take any public comment. [There were none.] Does anyone have anything they would like to bring before the Committee? Is there any comment from the Committee? [There were none.]

Meeting adjourned [at 9:49 a.m.]

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 30, 2007

**Time of Meeting:** 9:00 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance
S.B. 145	C	Neena Laxalt	Printed Background Notes
S.B. 145	D	Neena Laxalt	Definition of Delivered Propane