

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

**Seventy-Sixth Session
March 16, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:03 a.m. on Wednesday, March 16, 2011, 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/76th2011/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 K. Kirkpatrick, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblyman John Ellison
Assemblywoman Lucy Flores
Assemblyman Ed A. Goedhart
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman April Mastroluca, Clark County Assembly District No. 29
Assemblywoman Debbie Smith, Washoe County Assembly District No. 30
Assemblyman Tom Grady, Assembly District No. 38

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cyndie Carter, Committee Manager
Sheryl Burrows, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Marilyn G. Wills, Interim Director, Consumer Health Assistance, Office of the Governor
Paulette Gromniak, Ombudsman, Consumer Health Assistance, Office of the Governor
Robert A. Ostrovsky, representing United Healthcare Services, Inc.
Jesse Wadhams, representing Nevada Hospital Association
D. Gary Longaker, Executive Director, Nevada Rural Housing Authority
Ernie E. Adler, Counsel, Nevada Rural Housing Authority
Charles L. Horsey III, Administrator, Housing Division, Department of Business and Industry
Lon DeWeese, Chief Financial Officer, Housing Division, Department of Business and Industry
Wes Henderson, Deputy Director, Nevada Association of Counties
David Fraser, Executive Director, Nevada League of Cities and Municipalities
Keith Munro, Assistant Attorney General, Office of the Attorney General
Lisa Foster, representing Nevada League of Cities and Municipalities

Chair Kirkpatrick:

[Roll was called.] We will start with Assembly Bill 146.

Assembly Bill 146: Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-179)

Assemblywoman April Mastroluca, Clark County Assembly District No. 29:

The Office for Consumer Health Assistance is a single point of contact for consumers and injured workers that helps them understand their patient rights and responsibilities relating to medical insurance, workers' compensation, hospital bills, and prescriptions. The office provides information, counseling, education, and advocacy for consumers and is critical in helping consumers understand the changes in health insurance and services, especially due to the recent health care reform act. This office has saved Nevadans over \$1.4 million in out-of-pocket expenses since 2000. There are only seven state employees in this office. In 2010, they were able to field over 15,000 consumer calls which resulted in over 2,900 case investigations.

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:

I was the chairman of the Assembly Committee on Health and Human Services when this bill was heard last session (Assembly Bill No. 122 of the 75th Session). This same bill was presented to the Legislature. It passed unanimously from both houses and was then vetoed by the Governor as he had planned to eliminate the Office for Consumer Health Assistance in his budget. The veto was not overridden, but the office was not eliminated. The issues were important enough to bring back this session. They will help the office to do their job in a better way. This office is very valuable to us. They have saved our constituents so much money and so much heartache. This is one of the most valuable offices in our state. They do so much to help our constituents find services and negotiate the really difficult medical system. They have helped get prescription drugs for many of my constituents who could not afford them. The intent of the bill is to clarify some of the duties of the office to allow them to develop some regulations. It also discusses some mediation and allows the director to designate a person to represent the office in certain cases. I urge your support on this bill as it will allow this office to do a better job.

Chair Kirkpatrick:

Does anyone have any questions?

Assemblyman Livermore:

In the bill, in section 1, subsection 4, can you take me through a scenario on the medical claim dispute issue?

Assemblywoman Smith:

The Director can further assist you there, but one of the things that this office does is help our constituents if they are in a dispute with a hospital over a medical billing, for example. They actually help negotiate a resolution. They save our constituents money and help the hospitals too by speeding up their

collections. That is one of the services that was not adequately clarified in the original statute.

Assemblyman Livermore:

My concern is Health Insurance Portability and Accountability Act (HIPAA) violations.

Assemblywoman Smith:

I know they are well-versed in the HIPAA legislation and do their due diligence. I have connected many constituents to them and have seen the paperwork they have to sign so that all of the provisions are complied with.

Chair Kirkpatrick:

I can give you an example. I had a constituent who was involved in a very bad dirt bike race accident which resulted in \$30,000 in medical bills. Before he even got out of the hospital, he was getting bills. This agency was able to help put him on a payment plan with the hospital. The hospital received all of its money. The constituent was not overwhelmed by all of the papers. I have had at least ten constituents use this office.

Assemblyman Ellison:

There are no fiscal notes on this bill. I did not see this in the *Executive Budget*. This is not subject to cuts, correct?

Assemblywoman Smith:

This office is being transitioned to the Department of Health and Human Services, where it will be complemented by other resources there.

Marilyn G. Wills, Interim Director, Consumer Health Assistance, Office of the Governor:

I am here to discuss A.B. 146, which would make various changes to statute language for this office and further define its role in assisting Nevadans. [She continued from prepared text ([Exhibit C](#)).]

Chair Kirkpatrick:

Is there someone next to you, Ms. Wills, who would like to testify?

Marilyn Wills:

I brought my hospital patient specialist. She has been with the organization for many years. She can give specific examples.

Chair Kirkpatrick:

To answer Assemblyman Livermore's questions, could you go into some details on the forms?

Paulette Gromniak, Ombudsman, Consumer Health Assistance, Office of the Governor:

Prior to our office contacting any entities on behalf of a consumer, the consumer is required to fill out a four-page consent form with all their demographics. The consent form has been approved by the Attorney General and the U.S. Office of the Inspector General. Those forms are provided to each entity that we contact before they can release information to our office.

Assemblywoman Pierce:

I am unclear on who your "designee" would be.

Marilyn Wills:

We wanted someone who would have expertise in that area. We looked at various options. One option is the Hearing Division in the Nevada Department of Administration that regularly does workers' compensation, et cetera, so they already have the process in place. They have the skill sets. We thought that might be a good alternative.

Chair Kirkpatrick:

Is there anyone else in support of A.B. 146? Is there anyone in opposition? Is there anyone who is neutral?

Robert A. Ostrovsky, representing United Healthcare Services, Inc.:

We have an interest in clarifying an issue. In section 2 there is new language about adopting regulations. They deleted the regulatory authority further on in section 3 and moved it to section 2 and expanded the regulatory authority for adoption of regulations in this agency. We understand they need these regulations to run the agency. We support the agency. They work very hard to resolve disputes. We have concerns if they intend to adopt regulations that go beyond the operation of the office. Our health plans are regulated by the Department of Health and Human Services, U.S. Center for Medicaid and Medicare Services (CMMS), and Department of Insurance. If you return to section 1, the new language states "in need of information or other assistance regarding his or her health care services or disputes in billing." We believe the added language regarding health care services is an expansion of their authority. We are concerned that this agency will be in a position to adopt regulations that may impact all the other regulatory authorities we live with now. We are concerned with why that regulatory authority needs more regulatory authority. If they need more regulatory authority, we support that. We just want to

ensure that it goes to the operation of the office, not to regulate health plans which are regulated by lots of other agencies. This is not an overwhelming concern, but we wanted to be on the record regarding that issue. Perhaps the agency could give us a little more on their intent.

Chair Kirkpatrick:

Ms. Wills, I do sit on the Legislative Commission. I always watch when the regulations come back to make sure that the legislative intent is clear. What are the specific additional regulations you might need?

Marilyn Wills:

This is actually to clarify, not to expand the office. We are doing all of the things that are described. We just do not have any regulations in the *Nevada Administrative Code* (NAC). Paulette can give examples.

Paulette Gromniak:

In working with the office in the past seven years, we have not had anyone challenge the decisions that have been made by the Bureau for Hospital Patients, but there was always something hanging out there as to what happens if a hospital does not agree. Where would they go next? The intent of the bill was to actually set up a process through the NAC. We did discuss this with Bill Welch from the Nevada Hospital Association, who had some concerns with the language as well. We have agreed to meet with him and address the concerns. Our office would be happy to work with the health plans on any concerns they have. It is not our intent to expand the authority. It is just to clarify.

Chair Kirkpatrick:

If we specifically discussed that the regulations were to clarify, would that be workable for you? It is beyond the Legislative Commission. Many times when we get to the regulations in the Legislative Commission, we have gone way beyond the scope. I think this is a valid concern.

Marilyn Wills:

We agree. In our conversation with Bill Welch we agreed that we would look closely at what we were intending and be sure we did not go beyond the scope of what everyone agrees is appropriate.

Robert A. Ostrovsky:

I would be happy to participate in those meetings involving the Nevada Hospital Association, just to get some comfort level on how we can help the agency do a better job without exceeding its scope. I think we can probably resolve any of these issues.

Jesse Wadhams, representing Nevada Hospital Association:

My points have already been made. We are obviously still working on some of the language and participating in the clarification of both section 1, subsections 2 and 4. We will continue to work on that and hopefully return with a bill that we are all very supportive of.

Chair Kirkpatrick:

Is there anyone else who would like to testify neutral? We are closing the hearing on A.B. 146 and opening the hearing on Assembly Bill 198.

Assembly Bill 198: Revises provisions governing the Nevada Rural Housing Authority. (BDR 31-376)

Assemblyman Tom Grady, Assembly District No. 38:

The Nevada Rural Housing Authority (NRHA) is not to be confused with the Nevada Housing Authority. They serve two different missions, two different purposes. You might consider NRHA as you would the North Las Vegas, Reno, and Henderson Housing Authorities. The NRHA services the rural areas of Nevada. [He continued from prepared text ([Exhibit D](#)).]

Assemblywoman Pierce:

On page 3, there is a change to have the executive director choose a commissioner instead of the housing project tenants. Why was that done?

D. Gary Longaker, Executive Director, Nevada Rural Housing Authority:

We do not have any tenant authorities. What we have done the last two times, by recommendation of the Nevada Association of Counties (NACO) and the Nevada League of Cities and Municipalities (NLCM), was to submit a notice to all of our properties and to all of the participants in the rental assistance programs for interest in serving. We have then compiled those applications and submitted them to NACO and NLCM. Last time we submitted 30 applications for them to consider.

Assemblywoman Pierce:

The current statute makes an allowance if there is no such organization existing. Why did you want to change that?

Ernie E. Adler, Counsel, Nevada Rural Housing Authority:

We changed it to conform to what is really happening. Unlike the urban housing authorities, NRHA does not have tenant groups, so it is impossible to get nominations from them. The only method available is to post them as previously described. We are getting a number of applications, so there is no

problem getting applications for these board seats, but it is not occurring through tenant groups.

Assemblywoman Pierce:

My concern is that when the executive director is making the choice, you are not getting an independent voice. That part is a concern to me.

Assemblyman Grady:

This does not change what is actually happening now. The executive director does not make the appointment. The executive director gathers the applications.

Chair Kirkpatrick:

Let me clarify. Now, instead of going to different groups and soliciting names, this will allow the executive director to receive applications and then send them on to NACO and NLCM. Maybe we just need to clarify that a bit.

Assemblyman Ellison:

How long is the term of those elected officials from NACO? Is that like Roger Mancebo?

Assemblyman Grady:

Yes, that is correct. In the case of Roger Mancebo, he has been on that board for probably 20 years now. But he term-limited out in Pershing County, so he can serve the rest of his term on the board before he is replaced.

Assemblyman Ellison:

Is that a four-year term?

Assemblyman Grady:

It is at the pleasure of the board.

Assemblyman Ellison:

No one took that job more seriously than Roger did.

Under section 1, subsection 1, paragraph (b), line 15, will you explain the purpose of the loans for local government?

Ernie Adler:

Initially Nevada Rural Housing Authority was working with Eureka County on workforce housing. Eureka County had a problem in that they could not get financing for the housing. The idea was that Eureka County would loan the money to NRHA and NRHA would build the houses for the workers. It would

create jobs in the county. It would provide housing for the miners. It would develop the entire area. When we looked at the statutes we discovered that, although the Legislature defines NRHA as a local governmental entity, in this one particular statute it is excluded from acting as a local government in getting loans from other local governments. What happened then is that we had to look to another statute to authorize that loan. This will keep reoccurring: NRHA cannot get loans from local governments to do housing projects. There is a project in Winnemucca and a prospective project in Carson City. What this does is it streamlines the process so that if Eureka or Battle Mountain want to loan a little seed money for development and receive interest in payments, they cannot do it directly. It is really a job-creation-type situation in these rural areas. In many of these rural counties you cannot get conventional financing for housing.

Chair Kirkpatrick:

I like the idea of a partnership. Please explain the loan portion of this.

Ernie Adler:

There is a regular loan document. It says that they will loan a certain amount of money at a certain interest rate over a specified period of time. The housing authority will be responsible for developing that area and building the housing.

Chair Kirkpatrick:

What happens with local government money if you decide you cannot complete the project? Is there a call-out provision?

Ernie Adler:

They will repossess the houses or take over the notes. Eventually these houses will be sold to private individuals who will pay back the housing authorities to pay back on the notes. The idea is not for the housing authority to hold the money for a period of time. It is to use that money to do a development, just like a private developer. A private contractor will be building the housing. The housing authority has no ability to do that. It will employ workers through a private contractor.

Chair Kirkpatrick:

Please give the freshmen Committee members some details on NRHA. It serves a much needed population, but many of them might not know.

Ernie Adler:

That is a good point. I keep forgetting that we have many new members on the Committee.

Nevada Rural Housing Authority does mortgage loans et cetera in many of the rural counties. It targets those loans to low- and moderate-income individuals. For example, in Lyon County where Assemblyman Grady is from, a lot of people could not even buy houses without mortgage assistance through NRHA. One of its primary missions is homeownership for low- to moderate-income individuals in rural counties.

Chair Kirkpatrick:

This information is important. They help people remodel their homes. People can do sweat equity on the housing. Please tell us a little bit about the program.

Assemblyman Grady:

Let me give you two examples. The first example I was directly involved with in Yerington. We could not get funding for a rural senior citizen housing project. We formed a nonprofit organization and went to U.S. Department of Agriculture Farmers Home Administration (FMHA) and received the money through them to build the project. There were six of us from the local area that formed the organization. We did not have the time or the desire to manage that project. Our purpose was to get it built to help the community. Basically, NRHA ran the project as on-site managers for almost 20 years. At the end of that time, the board decided to go different directions, and we turned the ownership of that project over to NRHA. They came in and did many thousands of dollars worth of remodeling. That housing is still one of the showcase places in Yerington. It is a nice facility. There is a recreation area and offices. It has been very, very successful.

Another example is some self-help homes being built in the Dayton area. The organization building those failed. The FMHA asked the NRHA take this project over for the self-help people involved. They did that. Those are just some small examples of the services that NRHA provides in rural Nevada.

Chair Kirkpatrick:

Are there any questions? We will start with the opposition.

**Charles L. Horsey III, Administrator, Housing Division, Department of
Business and Industry:**

I take no pleasure in testifying against a bill from Assemblyman Grady, as I believe he is one of the good guys and has been one of the good guys in the Legislature for many years. In fact, we provide much of the financing for the projects of the NRHA. We have two problems with A.B. 198. It is kind of complicated. We believe that the language of the bill allows the NRHA to make loans in urban areas of the state for which they were not intended.

Chair Kirkpatrick:

Mr. Horsey, which section refers to that?

Lon DeWeese, Chief Financial Officer, Housing Division, Department of Business and Industry:

We think the language in section 4, subsection 2, line 6 which says "any area of the State" should say "any rural area of the State." The same language on line 38 of page 4, paragraph (i) does not state to any local rural government and could be interpreted to include any urban government. Also section 1, line 17 of page 2 says local government instead of local rural government.

Charles Horsey:

Let me give you a little background to help you understand why we are in opposition. When the NRHA was created in 1973, the examples given were the need for affordable housing in areas such as Lovelock, Beatty, Ely, Mesquite, et cetera. We think that is true. Two sessions ago, the NRHA sought permission to make first mortgages in those areas. We supported that bill. I believed then and I believe now that the rural areas of the state deserve their own champion. They deserve the access to the programs that are offered. The reason we want clarification on this bill is that the vast majority of the loans that they have made under that legislation have been made in Sparks. Depending on the particular calendar month, we have seen that 80 to 90 percent of the loans have been made in Sparks. That confused me. I went to a meeting of the Sparks City Council last fall and asked the Mayor if he thought Sparks was rural or urban. He smiled and said that Sparks has not been rural in 75 years. We consider ourselves one of the best examples of a metropolitan area in Nevada that is efficiently run. We have made approximately 20,000 loans to the state's first-time home buyers, primarily in the urban areas of the state. We would hate to see NRHA divert its time, attention, and resources away from rural areas as they were intended.

Chair Kirkpatrick:

Mr. Horsey, can you get a list of those mortgages that you believe were done mostly in Sparks as opposed to the rural areas? Do you have that information?

Charles Horsey:

No, we do not have that information readily available. Twice a year we meet with NRHA and other entities that need private activity bond allocations. It was at those meetings that their results were presented regarding demand. We will ask the NRHA to present that to you.

We think that there is a huge place for NRHA. We encourage them and welcome their support in the rural areas. We just think that the urban areas

have been adequately served with the 20,000 loans that we have made. This would be duplicative and needless.

Chair Kirkpatrick:

Let us use Laughlin and Mesquite as examples, as they are truly rural but are within the Clark County guidelines.

Charles Horsey:

We have made loans in those areas, but I would think they would be areas for the NRHA.

Assemblyman Ellison:

What do you consider rural and urban?

Charles Horsey:

The definition that was used when the NRHA asked for permission to make loans in the rural areas was a population of 100,000 or less. That is the only place I see a definition of that amount.

Lon DeWeese:

It would be our recommendation that we use the federal definition of metropolitan statistical area as the dividing line between rural and urban. That is very well understood federal language which is used for allocation of federal resources including bonding authority. We would recommend that this opportunity be taken to put in the statute that the NRHA and the Housing Division divide the line as the federal government does.

Chair Kirkpatrick:

Mr. DeWeese, can you get the Committee as a whole that information?

Assemblyman Ellison:

Is this a turf war?

Chair Kirkpatrick:

Yes, it is.

Assemblyman Ellison:

If that is the case, why were you not out there offering these services instead of these other people?

Charles Horsey:

We have. Mr. DeWeese has a breakdown of the hundreds of thousands of dollars that we have lent in the rural areas in the last three years.

Lon DeWeese:

We do have documentation that we will provide to Chair Kirkpatrick that we have made in excess of 150 loans in the rural areas to fill in where NRHA has been unable to accommodate people. That is more than \$20 million in loans just in the last three years.

Chair Kirkpatrick:

Mr. DeWeese has always been quick to provide information in the past, Assemblyman Ellison. That might be helpful to have that information.

Assemblyman Livermore:

I am disappointed that we have two agencies that represent an opportunity for people to own a home. I understand about the federal regulations. I think there are rural communities throughout the urban areas as you might define them. Carson City, for example, has rural and urban declared population centers. Is it the interest that is earned which keeps your departments going here? What is the catch here? What am I missing?

Chair Kirkpatrick:

Assemblyman Livermore and Mr. Horsey, we are not doing this. This is always a very contentious issue. We have come a long way toward being civil about it, and we will continue to stay civil about it. We do not want to make it personal, because it is not. Both agencies are trying to do what is right for the constituents. It is an "agree to disagree." I have my challenges both ways. Let us keep it on the topic of the bill. In all fairness, if you need the "rural" word, I do not think that is unreasonable. We are not going back and forth on this. Assemblyman Grady and I will have an offline conversation on this.

Assemblyman Stewart:

What is the federal definition of rural?

Lon DeWeese:

I did not bring the statistical definition that is used in the analysis with me, but I will provide that to the Committee.

Assemblywoman Pierce:

The idea of moving into urban areas makes me more uncomfortable with the deletion of tenants' organizations because there are tenants' organizations in urban areas.

Chair Kirkpatrick:

This is exactly why we do not move bills quickly, because we need time to digest and get more information.

Assemblywoman Flores:

Would you be fine with this bill if we could define rural, since that is the intent?

Charles Horsey:

I told Mr. Longaker this morning that we would be happy to work with him on an amendment to change the language that would satisfy both of us.

Chair Kirkpatrick:

I do want you both to take into account communities like Laughlin, Mesquite, and Gerlach that are really small areas in the urban definition. I do want that to be within consideration.

Assemblywoman Flores:

I also wanted to say that I share Assemblywoman Pierce's concerns regarding the tenants' groups.

Chair Kirkpatrick:

Are there any other questions? Do you have any other pieces of the bill? I am assuming that you want the same words to be defined on page 4 as well, where it discusses a local government receiving a loan. [Mr. Horsey nodded in agreement.]

Is there anyone else who would like to testify in opposition of A.B. 198? Is there anyone who is neutral? Those that are in support, please come up.

Wes Henderson, Deputy Director, Nevada Association of Counties:

We are in support of A.B. 198. As you are aware, NACO has the ability to appoint 2 1/2 representatives on the board of directors. As mentioned previously, former Commissioner Roger Mancebo and Commissioner Glen Washburn are NACO representatives to the board. We would also like to recognize Mr. Longaker for the passion and leadership that he brings to the program and the good work that he and his team do to help the constituents in the rural areas of the state. The Nevada Rural Housing Authority takes the time to understand the needs of the rural communities and to provide housing services to those communities. Assembly Bill 198 will give NRHA the tools to be even more efficient and broaden the range of services that they can bring to the rural areas.

David Fraser, Executive Director, Nevada League of Cities and Municipalities:

I would also like to voice my support for A.B. 198. I would also like to commend the Rural Housing Authority for the good work that they do. The record speaks for itself. Clearly Mr. Longaker deserves a lot of credit for the good things that happen there. One of the things that Mr. Longaker does is surround himself with good people. We have paid close attention. He has done a fantastic job of bringing in very qualified, energetic people. They really look for opportunities to fulfill their mission. I support this bill because it cleans up some things that will make things more efficient for them. To comment about the commissioner in question, that change will enable us to bring someone with real life experience on board. That will be of benefit to the other board members when they are deliberating on programs to have someone who has actually lived it. I appreciate the opportunity to finish their term if they leave the program, because our selection process is thorough, and if they leave the program, they do not immediately forget the benefit and operations of the program.

Assemblyman Ellison:

Just recently we did some studies on water and dams. Do you remember what the population of Sparks was?

David Fraser:

I think Sparks is around 80,000.

Chair Kirkpatrick:

Mr. Ellison, we have that information.

Assemblyman Ellison:

I was just trying to get an idea of what populations are of various cities and towns.

Chair Kirkpatrick:

I think the current statute has a definition of the counties and cities within that meet the rural criteria. It is a little over 90,000.

David Fraser:

Sparks falls into that category of under 100,000, as does Carson City and everywhere else smaller than that. As I mentioned earlier, Sparks has wisely used every tool in the toolbox. There certainly is a great need out there for the services that both of these agencies provide. I commend both of them for their good work, even where there is an overlapping jurisdiction.

Assemblyman Anderson:

For the commissioner that is a recipient of the assistance, how big is the pool of potential people and how much does that varies?

David Fraser:

The last time we filled that position, which we advertised at every location, we had 30 applicants. I would defer to Mr. Longaker for the total number that those applications came from. The League and NACO reviewed all of those applications and interviewed the most qualified, so we were not just picking from a list of names.

Ernie Adler:

In section 4, it specifically says, "Provide services in any area of the State if the State Authority has contracted with the State or a local government to provide those services." It does not allow NRHA to provide mortgage services in areas where it currently does not provide mortgage services. Those are provided directly to someone contracting with them for a mortgage. This does not apply to mortgages and was never meant to apply to mortgage services. The Reno Housing Authority has tenant units which need periodic inspections as to the quality of the units. They have contracted with NRHA for inspection of those units, so they do not duplicate services in the inspection area. This has nothing to do with mortgages. If the state wants to contract with NRHA to do weatherization services, they can do that. This was not intended to provide mortgage services in any area they do not currently do.

Chair Kirkpatrick:

If it has already been happening, why do we need to put it in statute?

Ernie Adler:

Because it is not clear that they can offer those services in urban areas if they are contracting with another authority or local government to do that.

Chair Kirkpatrick:

So when you say it is not clear, has there been an instance when you have not been able to participate?

Ernie Adler:

No, but I just do not feel comfortable. They can continue to do this if the Legislature thinks it is acceptable.

Assemblyman Grady:

We were very careful when this was drafted to put "contracted" in section 4. Another example is the weatherization program in Washoe County in which the

state and the Reno Housing Authority asked the NRHA to participate. If you put it only in rural counties, you will limit the inspections et cetera. If "contracted" is not the right word, we need to find a word to put in there. The intent is not that they would try to usurp anyone's power in the two urban areas, but if needed, they would have the ability to go in there. Another issue, most of the members on this board now have been there in excess of ten years, some much longer. When you go back, Jack Pursel from Yerington or Paul Vesco from Winnemucca served ten years or longer when they were there. These positions are not taken lightly. They are dedicated people who believe in the mission of NRHA. They are trying to serve rural Nevada.

Assemblyman Ellison:

Why not add the word "services" into the language?

Ernie Adler:

There was no intent to do mortgages.

Chair Kirkpatrick:

I get the weatherization because we want to keep that local. Are there any other questions? Can you get us the information on Sparks' population?

Assemblyman Grady:

The NRHA will get you that information and also supply the actual number of loans that have been made. All of that information is available.

Chair Kirkpatrick:

We will close the hearing on A.B. 198 and open the hearing on Assembly Bill 63.

Assembly Bill 63: Revises provisions relating to the duties of, and services provided by, the Office of the Attorney General. (BDR 18-203)

Keith Munro, Assistant Attorney General, Office of the Attorney General:

The *Nevada Constitution* establishes the position of Attorney General. Other than requiring the Attorney General to sit on the Board of Prison Commissioners it states that all of her duties will be created by the Legislature. We are here today to improve some of the processes set by this body. These are tough budget times. The Office of the Attorney General has met every previous cut and has met them again this session. The Office has also met the mandatory vacancy savings for this fiscal year, which amounted to \$630,000. The Office furloughs its employees. The furlough cost for attorneys last year resulted in the loss of thousands of attorney hours. A little over a year ago, the Department of Administration's Budget Division created a new budgeting

process which is commonly called the Priorities of Government. Legislative staff has also sought more detailed explanations on our budget. We paid attention to these requests to match our duties against our costs. One of the costs that we have some difficulty with is the representation of boards and commissions. Because of this, and as you can see from the organizational chart provided to you ([Exhibit E](#)), we formed a Boards and Commissions Division so we can dedicate individuals to this representation and understand our costs for providing this representation better.

We are here today, in part, to address the representation of boards and commissions. Section 1 of the bill gives the Attorney General the discretion to hire special deputy attorneys general who can work on a limited basis to provide representations to the regulatory licensing boards. Budget restraints and the actions of the Legislature mandate we do this. The Legislature authorizes regulatory licensing boards to pay our office on an hourly basis, not through traditional cost allocation. I presume this authorization was given because a licensing board never knows how much legal work it will have. By paying hourly, it can watch the costs and only pay for the services it needs. We want to watch our costs too. We want to do something similar. The Office of the Attorney General needs to streamline its role in representing these boards and commissions. We want to be able to hire attorneys to work on an hourly basis, so that we do not have to hire only, and I emphasize only, full-time attorneys to handle non-steady legal work. By allowing us to hire staff on a limited basis, we will be able to watch our attorney costs but still have sufficient staff to meet the legal needs of the boards and commissions.

We have presented an amendment ([Exhibit F](#)) to sections 2 and 3 of the legislation before you. Part of those sections was heard with the respect to Assembly Bill 62 which was heard in the Assembly Commerce and Labor Committee. Because of that, I have provided a copy of that legislation ([Exhibit G](#)) today. The legislation passed out of that Committee.

Our amendment ([Exhibit F](#)) to the legislation before you deletes section 3, but section 2 has been changed. The Legislature authorizes district attorneys to refer conflict cases to our office. Let me explain what I mean by conflict cases. District attorneys have primary jurisdiction to have most criminal cases in our state. Sometimes district attorneys or police have a conflict of interest and need to refer those cases to our office. We gladly assist the district attorneys, but these cases are on a feast or famine basis. We never know how many of these cases we will get. This makes it difficult for staffing and budgeting purposes. Pursuant to A.B. 62, the Office of the Attorney General will be able to charge for those conflict cases that are A and B felonies. We will not charge for C, D, and E felonies or legal opinions provided to the district attorneys or

city attorneys. We will meet those needs with our existing resources. We will charge on an hourly basis for the more time-consuming and complicated A and B felonies. We need to streamline this process and be able to hire some people to work on an hourly basis so that we do not have to hire only, and I emphasize only, full-time attorneys to handle non-steady legal work. Section 2 allows us to hire special deputies for this purpose. This will help us watch our attorney hours closer and continue to have sufficient staff to meet the needs of our district attorneys.

Section 4 also deals with trying to justify our costs for providing particular services. It deals with interlocal agreements where a public agency will be required to expend more than \$25,000. Current law mandates these types of agreements be sent to the Office of the Attorney General for review. We see fewer of these agreements than should probably be sent our way. We would like to speed up the process for local governments and give local governments some flexibility with respect to this provision. Specifically we would like to give local governments the discretion to send these agreements to the Attorney General's Office if they feel they need our assistance. If they do not feel they need our assistance, they do not have to. If they choose to send these agreements to our office, we would like some latitude to charge for the services the Legislature has directed us to perform. The latitude is to be compensated for these services. Section 4 allows us to justify the cost of providing this service to local government, should they choose to enlist our assistance.

Sections 5 through 19 of the bill are very long but are really more of a teamwork effort. It deals with *qui tam* actions. The expression *qui tam* is a fancy Latin word for "who sues on behalf of the king as well for himself." This process has been established in Nevada law. What does it mean; it involves fraud against the government. It is a lawsuit under a statute that establishes penalties for certain acts or admissions that can be brought by an informer, and in which case a portion of penalties, fines, or awards can be awarded to the whistleblower. As I mentioned, Nevada has a process. We are not looking to change how this process works. We are only looking at who potentially can be involved in that process. Under current law, the Office of the Attorney General is the only governmental entity that can bring such actions. It is a good thing to authorize the Attorney General's Office to bring such actions, however, our office has cut and cut and cut. As a result, we may not have the staff to handle these cases on our own. Therefore we are trying to plan ahead in light of that contingency. We are looking for the authority to enlist the assistance of district attorneys and city attorneys to help in these cases where there is fraud against the local governmental entity. We will enlist them, if they wish to be enlisted, for those cases involving their jurisdiction. You will note in section 7,

subsection 2, where it says "a district attorney or city attorney may accept a designation from the Attorney General's office."

Assemblywoman Neal:

I have two questions. First, why did you pick the city attorney and district attorney? How does this play out if they get paid an hourly wage and they are still on their job? It seems like they will get two checks.

Section 4 talks about the state agency dealing with expenditures over a baseline of \$25,000. What I have seen is that an attorney who works for a state agency can charge \$40 for a phone call, \$300 for a letter. I have seen that with the Regional Housing Commission's attorney. Are we going to use those comparable rates?

Keith Munro:

Those must be attorneys that are hired as special contractors. Our fees and our salaries in the Attorney General's office are set by this body. Our hourly rates and maximum salary are set by this body.

As to section 4, when you have two local governmental entities working out an agreement, an interlocal, there is an attorney on each side. After they have worked out the agreement, they have to send it to us for us to approve it as well. We think that slows down the process and takes up our time. We think that unless there is a dispute or need for us to be involved; we will trust the local entities to work that out amongst themselves.

As to the two checks, I am not sure I understood that question.

Assemblywoman Neal:

You said that they would be getting an hourly wage. They would be assigned as a special designee and are already a city or district attorney, correct?

Keith Munro:

In sections 5 through 19 on the *qui tam* actions, there can be fraud against the state or local governmental entities. Currently the Attorney General does not have the authority to allow city or district attorneys to assist in cases of fraud against their local government. We want it to say that if they want to help us to get that money back that your local government was potentially defrauded of, we will give you the designation that you can.

Assemblywoman Neal:

And pay them?

Keith Munro:

We will not pay them. They will collect that on their own.

Assemblyman Ellison:

Statutorily, are you not required to provide the services that you want to charge for?

Chair Kirkpatrick:

We heard during your presentation that you primarily represent boards and not necessarily local government.

Keith Munro:

There are really several distinct sections in here. As to section 1—the boards and commissions—several boards have the authority to hire us or an outside counsel. The Legislature has given the boards the authority to streamline their legal work to us, meaning they can give us as much or little as they want. It is hard for us to guess for staffing purposes. As budgets have gotten tighter, our guesswork has gotten more difficult. So we are looking for the authority to hire part-time people. For example, if the Board of Contractors needs 10 hours a month, I can arrange to hire someone to work for the Board of Contractors as much or as little as they need, rather than hiring someone for 40 hours a week and wondering how much work they will send our way. That is wasteful for us.

Assemblyman Ellison:

My confusion is in the statement “The Attorney General may charge a district attorney or city attorney the cost of providing a written opinion.” Is that not provided currently?

Keith Munro:

As part of our deleted amendment, we deleted that out. If you look at A.B. 62, which we provided to the Committee, it is only in the agreement that we will provide C, D, and E felonies and legal opinions *gratis* (for free). For the complicated cases, the A and B felonies, we would like to have compensation for that. We are not budgeted for that. Conversely the district attorneys are budgeted for handling all of those types of case by the Legislature. So if they have a conflict that requires them to back out of a case, we would like the money to flow to the person who is doing the work.

Assemblyman Ellison:

How many attorneys do you have on staff?

Keith Munro:

We have over a hundred.

Assemblyman Ellison:

And they are paid by the taxpayers of the State of Nevada?

Keith Munro:

They are paid by the taxpayers from many sources, not just the taxpayers of Nevada. We have the Medicaid Fraud Control Unit which is especially dedicated and the Bureau of Consumer Protection which is mill assessment. Our Workers Compensation Fraud Unit is paid by the Insurance Premium Tax.

Assemblyman Ellison:

Let me rephrase. The people of the State of Nevada and the United States pay for these services.

Keith Munro:

That is correct.

Assemblyman Ellison:

In the counties that have one district attorney or a very small staff, how are they going to pay for these services?

Chair Kirkpatrick:

There are district attorneys that represent these small rural counties that have a private law practice, so they are already collecting two checks. At what point is it the state's responsibility to keep helping everyone else do their job? I know the city I live in has asked for two Attorney General's opinions when they have a perfectly good city attorney who, quite frankly, makes much more than anyone in the Attorney General's Office. There comes a point when we have to tell local government that it is their responsibility but if you need help, we can work together. But do we need to have a full-time staff member, when litigation can go on for years intermittently? I understand the points made by both the Attorney General and local government. Most local government attorneys sign on to make those hard decisions. I guess I am missing your point.

Assemblyman Ellison:

I agree with you. The questions that we are hearing from the people are that they are paying for this service twice. I think the most important thing will be the checks and balances.

Assemblyman Livermore:

Would this simply be a simple pass-through or would there be an overhead?

Keith Munro:

There would be no overhead. We are trying to streamline government so that you only get paid for what you do.

Assemblywoman Benitez-Thompson:

In section 3, does this mean you can charge the other state agencies mentioned for legal opinions?

Keith Munro:

We deleted that part of section 3.

Assemblyman Stewart:

In section 1, you are hiring private outside attorneys that you would not have to pay benefits to, thereby saving a considerable amount of money?

Keith Munro:

That is exactly what we are trying to do. Now we have to hire full-time staff for non-steady work. We have to give them an office, a secretary, benefits, and retirement. Since we are not sure how much work will come our way, we would like to hire someone we can pay directly. We want to be involved in the process so we can work with the special deputy to train him, and our whole office will be behind him if he needs help.

Assemblyman Stewart:

Do you have any idea how much money that will save?

Keith Munro:

I do not. If you look at our organizational chart ([Exhibit E](#)), I tried to put all of the board and commission deputies into one division, so we can pinpoint what our costs and needs are. Then we can get an idea of how much we are going to save.

Assemblyman Stewart:

It will be a sort of mini public-private partnership.

Keith Munro:

Yes, that is it.

Chair Kirkpatrick:

The Attorney General's Office works on a lot of federal and interstate settlements. They keep a small portion of that, and the rest goes into the General Fund. People lose sight of that. People are getting their dollars' worth based on some of the settlements on a yearly basis.

Keith Munro:

We are happy to turn that money over to the General Fund. We have nothing to hide. Assemblyman Ellison, I appreciate your points, but you must understand we are trying to bring accountability to this process. We are trying to meet the requirements that this body has set for priorities of government. We are trying to justify our costs. This seems like something you would be for because we are trying to pinpoint exactly what the needs are and what the costs are with no shadow to it.

Assemblyman Ellison:

I agree. Section 1 is a good section. My issues are with section 4 for some kind of accountability with the costs. Maybe we can work this out.

Keith Munro:

As to section 4 where we provide those services to local government, we will continue to provide that service *gratis*. There is no charge in there for the local government. We want to trust them because most of the time they are doing the work and doing it right.

Chair Kirkpatrick:

If local government does need your help for an opinion, is there a time frame for your response?

Keith Munro:

In section 4, I would be willing to amend that to if the Attorney General charges a fee, it would be done in 30 days.

Assemblywoman Benitez-Thompson:

In section 3 we are deleting lines 38 through 42, but the changes in lines 32 through 35 we are keeping?

Keith Munro:

As Chair Kirkpatrick pointed out, section 3 has been deleted in its entirety.

Assemblywoman Pierce:

Can you explain how the hiring of outside people works now?

Keith Munro:

There are some boards that have the authority to hire private attorneys that we have no relationship with, so we do not know what their advice is. What we are trying to do is hire these as special deputies so we will have a resource for our office.

Chair Kirkpatrick:

Is your point that we could be duplicating where the state is paying for a full-time person when a board has their own legal counsel? Being on the Assembly Commerce and Labor Committee, you hear more often how some of these boards have some of the most expensive legal counsel, but at the same time they rely on the Attorney General as well. They do not necessarily come to the Attorney General unless they do not agree with their own attorney. In the meantime, we have all these full-time people that are specifically waiting for the boards.

Keith Munro:

We represent most of the boards, so they are our clients and we are not here to express disagreement. But when the going gets tough, they come knocking on our door. We are trying to make sure that we have enough good staff to help them when they really need it.

Assemblyman Livermore:

On section 3, page 4, lines 38 through 42, it talks about when a district attorney declares he has a conflict. The county is already paying for legal counsel with their district attorney, but because of conflict, the county would be paying a second charge?

Keith Munro:

The county has paid for that work to be done. Because of the conflict, the district attorney will not be doing the work. So they are not paying for that legal work.

Assemblyman Livermore:

They pay for the district attorney with an annual salary.

Keith Munro:

They pay for his staff as well. They are paid to do that work

Assemblyman Livermore:

That is correct.

Keith Munro:

They are not doing that work because of the conflict. Because they are not doing that work for the most serious and complicated cases, which will take up our time, we would like for the opportunity for them to pay us to do it.

Assemblyman Livermore:

What is serious or most complicated? Would you charge for almost all opinions a county commissioner might wish to be rendered?

Keith Munro:

When I said complicated cases I meant category A and B felonies—murder, rape, robbery—those type of things which are very time consuming for our office. For open meeting law questions there would be no charge.

Assemblyman Ellison:

Would this be for opinions also? There is a difference between full-blown cases, which I understand the cost sharing is to be paid back. What about opinions on cases?

Keith Munro:

Those would be no charge. Helping a small office like the Elko office, no charge.

Assemblyman Ellison:

There is a difference between when a district attorney must excuse himself because that money has actually been paid and when there is just an opinion.

Assemblywoman Benitez-Thompson:

In section 7, subsection 2, if a district attorney or city attorney accepts a designation from the Attorney General to investigate something, they will be paid for their time?

Keith Munro:

That section deals with *qui tam* where there is fraud against a local government. They will recoup the money from the people who stole from them.

Assemblywoman Benitez-Thomson:

That works with a set of assumptions that the amount of time spent on the case may be the amount recouped. How do you guarantee that there is enough to recoup the attorney's cost?

Keith Munro:

The district or city attorney would decide if it is worth the time. The smaller amounts would probably be prosecuted criminally. There would probably only institute a civil action to recoup the money when it is large dollars.

Chair Kirkpatrick:

There does not appear to be anyone in opposition. We will go to those in neutral position.

Wes Henderson, Deputy Director, Nevada Association of Counties:

The concerns we have are with subsection 4 of section 2 of the bill where it says: "where the Attorney General determines that a case is impractical, uneconomical, or could constitute a conflict of interest" then they could charge the county for assistance. I believe the testimony was these are A and B felony cases which are the most expensive to prosecute. There is no definition for the terms impractical and uneconomical. We understand the intent and we are willing to work with the Attorney General.

Lisa Foster, representing Nevada League of Cities and Municipalities:

I will echo what Mr. Henderson said. Mr. Kandt, from the Office of the Attorney General, has said he will discuss these issues with us.

Chair Kirkpatrick:

I am really big on legislative intent. If your discussions have results, please submit those to me in writing. Is there anyone in support of this bill?

Keith Munro:

It is a complicated subject matter but important. Also note that no one opposes us. We work with the cities and counties to make sure they are taken care of.

Chair Kirkpatrick:

We will close the hearing on A.B. 63. Is there any public comment? [There was no response.] We will start at 9 a.m. on Monday. We will have a work session next Friday with hopefully 14 bills on it. [Meeting was adjourned at 9:51 a.m.]

RESPECTFULLY SUBMITTED:

Rebecca Richman
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 16, 2011

Time of Meeting: 8:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 146	C	Marilyn Wills	Prepared Testimony
A.B. 198	D	Assemblyman Tom Grady	Prepared Testimony
A.B. 63	E	Keith Munro	Office of the Attorney General Organizational Charts
A.B. 63	F	Keith Munro	Proposed Amendments to Assembly Bill 63
A.B. 62	G	Keith Munro	Proposed Amendment 5740 to Assembly Bill 62