MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-sixth Session
May 18, 2011

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:11 a.m. on Wednesday, May 18, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator John J. Lee, Chair
Senator Mark A. Manendo, Vice Chair
Senator Joseph (Joe) P. Hardy
Senator James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn Kirkpatrick (Assembly District No. 1):

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Heidi Chlarson, Counsel
Cynthia Ross, Committee Secretary

OTHERS PRESENT:

John O. Swendseid, Swendseid & Stern, LLC
Carole Vilardo, Nevada Taxpayers Association
Dan Musgrove, City of North Las Vegas
Cadence Matijevich, City of Reno
Barbara Buckley, Ex-Assemblywoman; Legal Aid Center of Southern Nevada

John Slaughter, Washoe County
John Sherman, Finance Director, Washoe County
Jim Galloway
Ron Dreher, Peace Officers Research Association of Nevada
Tom Clark, Controlled Burn, Inc.

CHAIR LEE:
We will start this meeting with Assembly Bill (A.B.) 471.

ASSEMBLY BILL 471 (1st Reprint): Revises provisions relating to enterprise funds. (BDR 31-915)

ASSEMBLYWOMAN MARILYN KIRKPATRICK (Assembly District No. 1):
Assembly Bill 471 limits the authority of a governing body of a local government to loan or transfer money from an enterprise fund and to increase fees imposed for the purpose of an enterprise fund. Some local entities cannot make changes soon; otherwise their budget shortfalls will become the State's responsibility. An amendment (Exhibit C) came forward which in part excluded the governing body of a federally regulated airport. The bill with the amendment prohibits people from arbitrarily moving enterprise fund money. A process must be followed to move that money.

The bill has a provision that if enterprise monies have been utilized within the last five years for a general fund, a plan must be put in place for local governments to wean off the funds. It also sets criteria for that plan. Some local governments need to change the way they do business, but they need time because stripping them of how they do business would result in budget shortfalls, and those shortfalls would become the State's responsibility. The bill also allows the Committee on Local Government Finance to set regulations because abuse might have occurred regarding cost allocations. The Committee on Local Government Finance is the appropriate committee to set the regulations. The regulations would go to the Legislative Commission, which would have the ultimate oversight over the regulations. That process must be done by January 1, 2012, to ensure we are moving forward.

This legislation does not preclude local governments from going back and decreasing fees. Fees should decrease in times when we are helping businesses come forward. The bill says fees cannot increase without meeting set criteria,

but it does not say fees cannot be decreased. Local government should be aware that decreasing fees is allowed.

CHAIR LEE:
When loans are made from an enterprise fund, is interest charged? Is the City of North Las Vegas the only community fitting the criteria to pull away from an enterprise?

ASSEMBLYWOMAN KIRKPATRICK:
I do not do special legislation for one entity. I understand a couple of entities could fall within the criteria. Those entities doing it have a consistent process that is easy to go back and review. The City of North Las Vegas is where I live, and the City is most at risk because of the way the City does its calculations. I understand other entities within the State would qualify.

JOHN O. SWENDSEID (Swendseid & Stern, LLC):
To address the question concerning interest, regulations adopted by the Department of Taxation provide that in a resolution authorizing an interfund loan, the local government must specify whether interest is to be charged. If interest is not specified, there can be no interest. It is the responsibility of the local government to specify that in the resolution.

Page 1, lines 11 through 13 of the amendment, Exhibit C, require action on an interfund loan be taken in a nonconsent item on a regular meeting agenda. When a local government is doing a cost allocation from an enterprise fund to the general fund, it must be approved. This is on page 2, lines 12 to 14; this must be at a regular meeting as a nonconsent item. This is also required for increases in fees found on lines 21 and 22. Lines 19 and 20 on page 2 of the amendment address the governing body of a local government increasing the amount of fees with the approval of the Committee on Local Government Finance. The approval by the Committee on Local Government Finance has been removed. It was necessary to protect existing bonds local governments have issued for enterprise funds. The removal of lines 27 to 34 and addition of lines 35 and 36 are not intended to be substantive. Lines 37 through 40 require that reports be given to the Department of Taxation of any increase in fees. This excludes governing bodies of federally regulated airports.

Page 3 of the amendment, Exhibit C, adds new language in lines 4 through 7. It is designed to allow an enterprise fund to repay any loan received from a different fund. An example is when the general fund has loaned the enterprise fund money, and that does happen in some communities. Lines 8 through 13 are designed to protect bonds. It allows local governments to increase fees for enterprise funds if they have to meet a bond requirement. Lines 26 through 31 make clear the remedy for a violation of this section. It is a criminal action under *Nevada Revised Statute* (NRS) 354.626, and any person who pays the fee can complain to the Attorney General or to the district attorney for a perceived violation.

Lines 32 through 44 on the amendment, page 3, Exhibit C, allow the Committee on Local Government Finance to provide regulations on how to allocate cost to an enterprise fund. For example, a portion of the city manager's salary might be allocated to the water-sewer fund, and this allows the Committee on Local Government Finance to figure out a fair way to do the general overhead allocation and promulgate those regulations which must be done by January 1, 2012.

On page 3 of the amendment, Exhibit C, lines 42 though 47 and continuing on page 4, lines 1 through 21 help local governments that have been using enterprise funds to subsidize their general funds. This applies to such local governments for five consecutive years. Any local government meeting the criteria can participate. A plan to wean off the enterprise fund by 2021 would have to be adopted by July 1, 2012, and if this criterion is met, the government is entitled to continue the subsidization, but the subsidy cannot increase and the fee cannot increase except to pay bonds. This is on page 3, lines 45 through 47 and continuing on page 4, lines 1 through 21. This provision will go out of existence on July 1, 2021. After that date, no authority exists to use an enterprise fund to subsidize the general fund.

CHAIR LEE:
What happens to local governments that are unable to repay the money to the enterprise fund within five years?

MR. SWENDSEID:
It is unlikely that things will turn out the way the plan is adopted in the next ten years. A plan must be in place to wean the local government off the enterprise fund at the end of ten years. After ten years, there is no authority to

subsidize the general fund. If a plan does not work, the local government will have to return to the Legislature.

ASSEMBLYWOMAN KIRKPATRICK:
We constantly hear words to the effect, "The previously elected official stuck us with this." Assembly Bill 471 establishes that plans be set for local governments to prevent this from occurring, and moving forward, elected officials will know these plans are part of the process.

SENATOR HARDY:
Where in the amendment, Exhibit C, does it say we cannot provide subsidies like this anymore?

MR. SWENDSEID:
It is in section 10 on pages 8 through 10 of the amendment, Exhibit C. This section amends section 1 by striking the provisions that say the general fund can be subsidized. The new section 10 of the bill goes into effect on July 1, 2021. This is found on page 11 of the amendment, line 16. On July 1, 2012, those provisions that allow subsidizing the general fund on page 10, lines 4 through 26 of the amendment are stricken. There will no longer be authority to use the enterprise fund to subsidize the general fund.

SENATOR HARDY:
We are using the strike-out language on page 10, lines 4 through 26 of the amendment to cancel the right to do it.

MR. SWENDSEID:
Correct.

ASSEMBLYWOMAN KIRKPATRICK:
The law was not clear as to what could be done with enterprise funds. This bill brings clarity to the authority local governments have with enterprise funds.

SENATOR HARDY:
We are not allowing new uses of enterprise funds for general funds. This bill addresses those funds already in existence which will go away in 2021.

ASSEMBLYWOMAN KIRKPATRICK:
Correct.

CAROLE VILARDO (Nevada Taxpayers Association):
Assembly Bill 471 brings a new level of transparency to what goes into an enterprise fund. Enterprise funds were used as a conduit to circumvent the will of an enterprise fund. They are to allow governments to act as a business for a specific function. The people who receive the service of the enterprise fund are the ones who pay the fee. To turn around and transfer out that money to the general fund and not replace it while increasing fees is not the intent of an enterprise fund. The law was not clear on what could be done with enterprise funds. This legislation brings that clarity, and in those instances where fees are increased and transfer occurs, it is done at a public meeting and not on a consent calendar. There must be an explanation so that the people impacted by the fund are able to respond if problems are perceived. Because of cost allocation, the Committee on Local Government Finance will set the rules and consistency will be established throughout the entities that use enterprise funds relative to how they allocate human services or a percentage of salary for a district attorney into that enterprise fund.

We are pleased with this bill. Local governments and taxpayers will benefit from Assembly Bill 471.

DAN MUSGROVE (City of North Las Vegas):
The City of North Las Vegas can work well under the parameters set by A.B. 471. It is in the best interest of North Las Vegas to wean off enterprise fund money. We are not in a financial position to do it immediately. We are facing difficult times, but we have a responsibility to our citizens and the people who pay the utility rates. They expect certain things for their rates. We are committed to ensuring transparency. We are also committed to putting a plan in place that will put us in a position to meet the will of this Legislature and what is proper in terms of having a nexus for those funds moving forward.

CADENCE MATIJEVICH (City of Reno):
We concur with testimony in support of Assembly Bill 471 and appreciate the wiggle room provided to local governments that need it as it relates to enterprise funds. We look forward to working under these clarified parameters.

CHAIR LEE:
I will not accept further amendments on A.B. 471. The hearing is closed on A.B. 471. We will now move into our work session. There are nine work session bills. The first bill is A.B. 59.

ASSEMBLY BILL 59 (1st Reprint): Makes various changes to the Open Meeting Law. (BDR 19-288)

MICHAEL STEWART (Policy Analyst):
Assembly Bill 59 relates to the Open Meeting Law. The bill requires a public body to include on its next agenda an acknowledgement of the Attorney General's (AG) findings and conclusions relating to a violation of the Open Meeting Law. The Attorney General is authorized to issue subpoenas when investigating Open Meeting Law complaints, and the bill amends the definition of "public body" to clarify that a public body includes occupational licensing boards and excludes from that definition an entity that would otherwise be a "public body" but is engaged in judicial or quasi-judicial proceedings.

The bill makes various changes on what must appear on an agenda, and the measure adds a civil penalty of not more than $500 for any member of a public body who participates in an action in violation of the Open Meeting Law with knowledge of that violation (Exhibit D). Amendments appear in Exhibit D.

The mock-up Proposed Amendment 6848, Exhibit D, page 3 amends section 4, subsection 3, paragraph (a), subparagraph (7) by deleting the word "order" and inserting "an action." We had testimony indicating that the word "order" is not defined in NRS 241 but "action" is defined.

The mock-up amendment, Exhibit D, also adds section 1.5 to become effective on January 1, 2012. The new section provides that the proceedings of a public body that are quasi-judicial in nature are subject to the Open Meeting Law unless the public body receives an exemption from the Legislative Commission. Conforming with this new section is the deletion of language in section 4 which declares that a public body does not include “an entity, other than a regulatory body,” as defined in NRS 622.060, “which would otherwise be considered a public body when such entity is engaged in proceedings that are judicial or quasi-judicial in nature.” The AG is neutral on this amendment.

The mock-up amendment, Exhibit D, also amends section 4 by adding new language defining “quasi-judicial in nature” as it relates to the language in the proposed new section 1.5. This definition derives from the Nevada Supreme Court's decision in *Stockmeier v. Department of Corrections Psychological Review Panel*, 122 Nev. 385, 135 P.3d 220 (2006).

SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 59 WITH PROPOSED AMENDMENT 6848.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:
The second bill in work session is A.B. 360. I am going to hold this bill.

ASSEMBLY BILL 360 (1st Reprint): Revises provisions governing the imposition of civil penalties for violations of city or county ordinances regarding the abatement of certain conditions and nuisances on property within the city or county. (BDR 21-266)

CHAIR LEE:
The next bill is A.B. 240. We are waiting for an amendment, so I am going to also hold this bill.

ASSEMBLY BILL 240 (1st Reprint): Revises provisions governing contracts for services entered into by certain public employers. (BDR 23-149)

CHAIR LEE:
The next bill in the work session is A.B. 376.

ASSEMBLY BILL 376 (1st Reprint): Makes various changes regarding the financing of certain local improvements with revenue pledged from sales and use taxes. (BDR 21-148)

MR. STEWART:
Assembly Bill 376 was brought to us by Assemblywoman Debbie Smith. The bill addresses the issue of Sales Tax Anticipated Revenue (STAR) bonds. It requires an independent auditor to review claims submitted in connection with public financing or reimbursement from public funding. For tourism improvement districts (TIDs) created on or after July 1 the bill prohibits the use of public funding for soft costs of development and prohibits pledging sales tax revenues from an existing business that relocates into the district from within a

three-mile radius of the district. It sets forth the procedures to be followed by a contractor when soliciting and selecting bids from subcontractors on projects receiving public financing or receiving the benefits of infrastructure and other improvements financed with public funds. Exceptions are provided for original tenant improvements made more than five years after the property is first offered for lease and for improvements made by a tenant who is not the original tenant.

Each local government with a TID must submit an annual report to the Legislature, or to the Legislative Commission when the Legislature in not in regular session, on the status of each project in the district and an assessment of the district's financial impact on local governmental services. The Department of Taxation must report what portion of taxable sales revenue is from out-of-state residents to the extent that information is provided. When selecting an independent consultant to prepare a report on a proposed district, the local government must select an out-of-state consultant from a list provided by the Commission on Tourism. When entering into contracts for projects in the district, the parties shall include the same stipulations that are required in a contract for a public work, including the payment of prevailing wages. There is one amendment (Exhibit E).

The mock-up amendment, Exhibit E, proposes to add new language to NRS 271A.120 to limit STAR bonds to any governmental entity for any project within the TID if any nongovernmental entity is or was entitled to receive such financing under the original financing agreements for the initial projects in the TID. The proposed amendment would not prohibit such financing or reimbursement to a school district or to a governmental entity that is or was entitled to such financing under the original financing agreements.

The amendment, Exhibit E, also stipulates that STAR bonds for any project not part of the original financing agreements must not be used without the consent of all the persons or entities that were entitled to receive such financing under the original agreements.

> SENATOR SETTELMEYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 376.
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> SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:
The next work session bill is A.B. 413.

ASSEMBLY BILL 413 (1st Reprint): Revises provisions governing public works. (BDR 28-718)

MR. STEWART:
Assembly Bill 413 reduces the maximum amount of retainage that can be withheld at the start of a public work to 5 percent. After half the project has been completed and the contractor is in compliance with the contract and the applicable laws and codes, the public body cannot withhold more than 2.5 percent of future progress payments. If the contractor is not in compliance after half the project is compete and the public body has withheld all or a portion of the initial retainage, the public body can retain up to 5 percent of the future progress payments and can continue to hold the initial retainage amount. There is a conceptual amendment (Exhibit F).

The conceptual amendment would amend section 1, subsection 2, and addresses the manner that retainage is paid by the public body to the primary contractor and the manner in which a subcontractor can be paid for the completion of his or her portion of the public work.

CHAIR LEE:
This bill is a friendly amendment to help contractors get money that is in retention.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED A.B. 413.

SENATOR SETTELMEYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:
The next work session bill is A.B. 192. There is an explanation of the bill in the work session document (Exhibit G) provided by Mr. Stewart.

ASSEMBLY BILL 192 (1st Reprint): Revises various provisions relating to fees charged by county recorders. (BDR 20-901)

SENATOR SETTELMEYER:
In discussions with people in the field, I learned most of the smaller counties do not utilize attorneys to take care of certain matters on behalf of children. I was told attorneys are not as capable to handle certain matters for the children as are Court Appointed Special Advocates (CASA) or potentially, judges. I want the concept to be made permissive to smaller counties, rather than the concept be mandated, and to address the automatically attached fee. It is best to leave problematic situations in the hands of people not paid by the hour.

CHAIR LEE:
Reading the bill, it is permissive and the fee must be approved by a board of county commissioners.

BARBARA BUCKLEY (Ex-Assemblywoman; Legal Aid Center of Southern Nevada):
Assembly Bill 192 was amended to make it permissive, recognizing that the conditions are different in each county. For example, Douglas County has only 19 children, and the CASA program is able to bring up concerns to judges. In Clark County, there are 3,200 children in foster care. We have accused abusive parents having attorneys, government having attorneys and children having no representation. Recognizing situations are different in each county, the bill was changed on page 4, line 13 to allow counties the option.

SENATOR SETTELMEYER:
I missed the word "may" and I appreciate the clarification.

SENATOR SETTELMEYER MOVED TO DO PASS A.B. 192.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LEE:
The next work session bill is A.B. 238. This bill concerns the refunding of certain municipal securities.

ASSEMBLY BILL 238 (1st Reprint): Revises provisions concerning the refunding of certain municipal securities. (BDR 20-244)

CHAIR LEE:
Senator Hardy had concerns with this bill.

SENATOR HARDY:
Washoe County addressed this issue before the bill's hearing, and the County declined to take advantage of this option. I am not comfortable with this bill as I look at bonding and its use. I consider the oppositional testimony by Jim Galloway in which he discussed the use of old bonds to buy old debts.

CHAIR LEE:
Because of Mr. Galloway's involvement, the bill has been changed. Drafters removed the flood zone and everything up to the merging of the two water districts.

JOHN SLAUGHTER (Washoe County):
We support this bill.

JOHN SHERMAN (Finance Director, Washoe County):
The Washoe County Board of Commissioners entertained an introduction of an ordinance a week ago to mirror the scope of the State law allowing for county bond banks. People testified about their concern of what it could do. The Washoe County Board of Commissioners has tabled it, and I have been instructed to redraft that ordinance so it will narrowly allow for the use of a county bond bank for water and flood control. Water is the issue for which A.B. 238 was submitted.

The original debt was issued outside of a bond bank. This was a component of discussion on the merger of the Washoe County Department of Water Resources and the Truckee Meadows Water Authority (TMWA). It was a point of discussion when the County Commissioners entertained an interlocal agreement that describes the framework of the merger with the Truckee Meadows Water Authority Board. We know we did not have the ability

to refinance existing TMWA debt. This was a major overarching topic of the Legislative Committee to Oversee the Western Regional Water Commission and how to facilitate the merger of these two lines of businesses. These two water districts agreed to carry forward A.B. 238. The proposed amendment in the work session document provided by Mr. Stewart (Exhibit H) would narrowly constrain the ability to refinance debt issued outside of a county bond bank to be only for a water authority. This resolves the concern that we would refinance debt for any local government or any municipality.

JIM GALLOWAY:
I am a former three-term Washoe County Commissioner for west Reno and North Lake Tahoe. I share concerns. This bill was a compromise, as key members of the Nevada Senate want the water merger to occur.

The water merger will provide access to refinance old TMWA debt, if necessary. It can be debated at a Washoe County Board of Commissioners meeting as to whether it is necessary since TMWA has an AA- rating for revenue bonds and an A + rating for general obligation bonds. I have discomfort with the old law passed in 1999 that this bill amends, as it allows the flood project to borrow $400 million to $500 million. The amendment, Exhibit H, is an improvement, and given the will of key Senators and the Legislative Committee to Oversee the Western Regional Water Commission, I accept the amendment, which removes some of the more worrisome items in the bill.

CHAIR LEE:
This bill allows local governments to remain involved and gives the ability to citizens to participate.

MR. GALLOWAY:
I want to find a way not to have the ordinance if Commissioners may fund the mergers and choose to do so. If the Commissioners do not find a way, they may use the extra authority provided in the amendment, Exhibit H.

SENATOR SETTELMEYER:
Mr. Galloway, the last time you testified, you indicated the concept of using new bonds to buy old bad debts is not a good idea. We should not become investment bankers. Gary Schmidt's testimony mentioned the concept of trading bad debt from different municipalities is a bad idea. Part of the economic

problems of this Nation is based on this idea of packaging debt. How is this bill sitting with you?

MR. GALLOWAY:
I am uncomfortable with the old law. This bill and amendment, Exhibit H, do not address my concern which is permitting the funding of a flood project in amounts greater than the total general obligation debt of Washoe County. My concern does not involve the water merger.

CHAIR LEE:
The bill addresses the two water districts coming together to consolidate and save money.

MR. GALLOWAY:
Yes, the bill limits the new authority of the county bond bank to the merger.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 238.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SETTELMEYER VOTED NO.)

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CHAIR LEE:
The next work session bill is A.B. 265. This bill concerns provisions governing the rights of peace officers as explained in Mr. Stewart's work document (Exhibit I).

ASSEMBLY BILL 265 (1st Reprint): Revises provisions governing the rights of peace officers. (BDR 23-716)

SENATOR SETTELMEYER:
During this bill's hearing, we discussed principals having the right to have two representatives present during interviews. I support the language regarding compensation and the concept of notice. I am bothered about the concept of witness officers and allowing representatives to be present who can potentially

become principal officers. I have discussed this issue with several sheriffs in my area, and they share the same concern.

RON DREHER (Peace Officers Research Association of Nevada):
I cannot think of an instance where officers are going to represent another witness and they are an involved party to an investigation. This circumstance does not happen. Language in statute prevents this from occurring. If there is the slightest idea that another officer is involved, that officer cannot represent the principal officer.

SENATOR SETTELMEYER:
This bill is going beyond the Weingarten protections from *NLRB v. J. Weingarten, Inc*., 420 U.S. 251 (1975). There will be leaks and investigations will be compromised. This is the concern of the sheriffs in my community. They indicate that if Officer A is accused of wrongdoing and Officer B and Officer C serve as witnesses, this bill will allow Officer B and Officer C to have association representatives and attorneys in the room with them during the interview. This is where the problem occurs. The same association officer and attorney can sit with Officer A. How is this prevented? This legislation goes far beyond federal laws.

MR. DREHER:
That issue of concern is addressed by *NLRB*. Witness officers have a right to representatives of their choice to come with them if they suspect they will be disciplined. We want to provide that protection to avoid future problems with witnesses providing statements. Frank Adams is here with the Nevada Sheriffs' and Chiefs' Association. We have worked hand in hand on this issue for years. I estimate that about 98 percent of the departments in local and state government already permit the representatives. This bill codifies the process. I understand the concerns addressed by Senator Settelmeyer and the sheriffs, but the problems they are stating cannot and do not happen. I have been doing this a long time. Those situations are avoided.

We also codified the confidentiality section, which is a big concern. If I represent five officers, as I did in the City of Sparks recently, each statement I receive from each officer must remain separate. I cannot divulge what was said from one officer to another. Each statement was done individually. The parties have to be separated. This was put in the bill to protect confidentiality.

I am unsure of the sheriffs' concerns. If the sheriffs only want the witness to participate and not representatives, we addressed this concern, but *NLRB* provides witnesses that right.

SENATOR SETTELMEYER:
The ruling under *NLRB* says that once management assures a person he or she is only a witness, Weingarten protections no longer apply.

MR. DREHER:
Witness officers are mindful whether they want a representative under *NLRB*. If witnesses feel they will be subjected to discipline, they have a right to ask for a representative of their choice under *NLRB*. This has always been the case. We want to avoid problems by giving witnesses that right to representatives of their choice if they choose to use them and get an investigation done. It is good to give witnesses the choice. Agencies will tell witness officers, “I need you to come upstairs to internal affairs for a minute and talk to me,” and once a witness officer shows up, he or she is told, “We are conducting an investigation on another officer and we would like for you to give us a statement.”

Witness officers might not know what happens when an officer is called into internal affairs, and once they arrive, they instantly are put on the hot seat to say they must give a statement and that they are not entitled to a rep. This is how it has worked in the past. When officers go to internal affairs, they do not know what is going on and they agree to give statements without representatives. Statements can be made and it can become apparent to witness officers that they might be a principal in the investigation.

Assembly Bill 265 aims to put those issues aside and to get statements the correct way so we do not have to return to the table time and time again. It will limit grievances to collective bargaining agreements that these people were not given their rights. There were agencies where, if witnesses began looking like principals, interviews stopped and the witnesses received notice. Senator Hardy stated in the bill's hearing that at this time, the cat is out of the bag. We want to avoid this. We want to allow departments to do their jobs. Why do we want to return to the table? The bill concerns *NLRB* due process and provides representation for witnesses and confidentiality.

CHAIR LEE:
I will hold this bill to get more feedback.

MR. DREHER:
The Sheriffs' and Chiefs' Association and the Peace Officers Research Association of Nevada have done a considerable amount of work on this bill. We will not please everyone, but we have bent over backwards to compromise. This bill has come before the Legislature many times to take baby steps in getting it where it is, and we want to get the law to where we do not have to return to it every Session.

SENATOR HARDY:
My concern is confidentiality. In the legal world, a person can know something in one place but must act as if they do not in another. There is brotherhood in police departments, as officers feel they are in the fight together. The confidentiality of people becomes problematic when they are in a close situation. If a witness officer is known by potential principals and also known by the original principal, there is a tug of loyalty that affects people in a real way.

Even if I do not say anything about Officer A to Officer B, it can get back to Officer A through body language or in some other manner. Mr. Dreher, you are an expert, but representatives of witnesses who might be potential principals do not have the assurance of confidentiality. The amendment, Exhibit I, mentions confidentiality, but I have faith in human nature to say that when faced by brothers, people have the ability to communicate in a nonverbal manner.

CHAIR LEE:
We will now go into our next work session bill, A.B. 304, which is explained in the work session document (Exhibit J).

ASSEMBLY BILL 304 (1st Reprint): Makes various changes relating to fire performers and apprentice fire performers. (BDR 42-885)

SENATOR HARDY:
In the culture of the Polynesian family, I go to performances where children are dancing. I have misgivings about putting an age limit of 18 or 21 on an ability to have these people trained when they are young. Olympic skiers are as young as 16 years old. I understand fire and the problems associated with fire. I have seen high school students twirling a fire baton in the middle of a football field and the football field did not burn down. I have discomfort with putting age limits on fire performers.

TOM CLARK (Controlled Burn, Inc.):
The question concerning religious and cultural performers came forward in the Assembly, and it was confirmed to us that people of any age are protected under federal statute to continue to perform under religious or cultural perspectives. These people would not be covered under Assembly Bill 304. This legislation covers live performances of people such as my client, Controlled Burn, Inc. If people are going to do religious performances, they still have to go to the fire marshal and the fire marshal grants them the ability. This is outside the scope of this legislation.

CHAIR LEE:
Please give that information to Senator Hardy, because I am not going to move on this bill today.

CHAIR LEE:
The Senate Committee on Government Affairs is adjourned at 9:09 a.m.

RESPECTFULLY SUBMITTED:

_____
Cynthia Ross,
Committee Secretary

APPROVED BY:

_____
Senator John J. Lee, Chair

DATE: _____

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
A.B. 471	C	Assemblywoman Marilyn Kirkpatrick	Proposed Amendment 6931
A.B. 59	D	Michael Stewart	Work Session Document
A.B. 376	E	Michael Stewart	Work Session Document
A.B. 413	F	Michael Stewart	Work Session Document
A.B. 192	G	Michael Stewart	Work Session Document
A.B. 238	H	Michael Stewart	Work Session Document
A.B. 265	I	Michael Stewart	Work Session Document
A.B. 304	J	Michael Stewart	Work Session Document