

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

**Seventy-Seventh Session  
May 3, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 9:08 a.m. on Friday, May 3, 2013, 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 [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). 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 Teresa Benitez-Thompson, Chairwoman  
Assemblywoman Dina Neal, Vice Chairwoman  
Assemblyman Elliot T. Anderson  
Assemblywoman Irene Bustamante Adams  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblyman James W. Healey  
Assemblyman Pete Livermore  
Assemblyman James Oscarson  
Assemblyman Lynn D. Stewart  
Assemblywoman Heidi Swank

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Harvey J. Munford (excused)  
Assemblywoman Peggy Pierce (excused)  
Assemblywoman Melissa Woodbury (excused)



**GUEST LEGISLATORS PRESENT:**

Senator James A. Settelmeyer, Senatorial District No. 17  
Senator Tick Segerblom, Clark County Senatorial District No. 3

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
Lori McCleary, Committee Secretary  
Jennifer Dalton, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Craig Mingay, Deputy District Attorney, Churchill County  
Jeff Fontaine, representing Nevada Association of Counties  
Tim Bedwell, representing City of North Las Vegas  
Taylor McCadney, Legislative Intern  
Barry Smith, representing Nevada Press Association  
P. Michael Murphy, representing Clark County  
Vanessa Spinazola, representing American Civil Liberties Union of Nevada  
Nancy Parent, Chief Deputy Clerk, Washoe County  
John Pappageorge, representing Nevada Association of Clerks and Elected Officials  
John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts

**Chairwoman Benitez-Thompson:**

[Roll was called. Rules and protocol were explained.]

We have two bills today and I am going to be taking them out of order. We will start with Senate Bill 90 (1st Reprint) since Senator Settelmeyer is with us.

**Senate Bill 90 (1st Reprint): Revises provisions relating to certain confidential information. (BDR 19-468)**

**Senator James A. Settelmeyer, Senatorial District No. 17:**

District 17 encompasses all of Douglas, Lyon, Storey, and Churchill Counties. As a representative of Churchill County, they came to me. It is somewhat interesting being a rural representative; you always have to save at least one or two bill draft requests for individual counties. One of the problems Churchill County ran into was the expanse of the geothermal industry. This is

fantastic for Churchill County, as these companies actually pay property taxes, which contributes to the overall health of the economy. The last time I checked, nearly 30 percent of their budget comes from geothermal.

In that respect, they ran into a slight issue. The geothermal companies were getting a little bit scared of giving information to the county. The county wanted to see certain information, but the geothermal companies considered it confidential, proprietary information. They did not want that information given to another individual, who would then be able to determine where the best hot water was. The companies do not want the county to have that information. However, Churchill County needs that information to process the application. It created a problem.

This bill seeks to correct that. It would allow the county, in certain situations where the *Nevada Revised Statutes* (NRS) or federal law allow, to keep information deemed confidential not discoverable. With that, I have presented what I call a walk-through that was sent to you by email and should be on the Nevada Electronic Legislative Information System (NELIS) ([Exhibit C](#)). This walk-through includes each change of NRS that we are seeking and explains why we are seeking to change it. If you wish, I can do that walk-through with you now.

**Chairwoman Benitez-Thompson:**

I like that idea and we would appreciate the walk-through section by section. It is available on NELIS for Committee members.

**Senator Settelmeyer:**

We have Senate Bill 90 (1st Reprint) in front of us and the document I have provided you is the county confidentiality of information dealing with NRS Chapter 239. Section 1 establishes the section we are looking to change. Section 2 explains the sections in NRS Chapter 239 that will be modified. Section 3 is the definition of "applicant." Section 4 defines "application." Section 5 defines "local government."

Section 6 is where we start getting into the bill regarding the confidentiality of information we are seeking, if allowed by NRS, *Nevada Administrative Code* (NAC), or a federal equivalent. Again, we are not trying to make all information confidential. Only the information already considered confidential, is what we want to keep confidential. We want to make sure we do not create such a large loop that someone might try to hide something. In section 6, the application is conditioned upon its consideration, meaning it has to be information that has to be given to the county in order for them to approve the application. Once again, we wanted a very narrow loop.

Section 7 states the applicant must label the information submitted as confidential and list the NRS, NAC, or federal rule as to why it is considered confidential. Those assertions of that particular NRS and NAC are public record. The press will be able to find this and ask why it is considered confidential. We can tell them it is because of this section of NRS, NAC, or federal law. Upon receipt, the entity will transmit the request to the chief counsel or designee. The chief counsel will determine confidentiality within five days. If deemed confidential, they will only reveal as necessary to complete the actions necessary with the application.

The next part is very important. The presumption is that the information is not confidential until it has been stamped by the general counsel as confidential. That way, if there is a breach or a loss of information, the county is not liable for the information getting out. However, in most of these applications we are discussing, it is usually such a major application, the district attorney and the counsel are going to meet with the developer or geothermal company at the doorstep of the courthouse and be there to receive that data in order to process it quickly. Once again, we are dealing with highly confidential information.

Section 8 states the determination of confidentiality must be mailed to the applicant. Also within section 8 are the procedures if it is deemed confidential. Records are sent back when the confidentiality period has expired. A lot of this information is deemed confidential in NRS or federal law for 10, 20, or 30 years. There is a time frame. The applicant may withdraw the information, but by the withdrawal of that information, it constitutes withdrawal of the application. In other words, if the company decided they did not want the county to have the information, then the entire application is also withdrawn. The applicant can waive confidentiality within ten days of the confidentiality determination.

I do have a representative from Churchill County who will address questions. I would be willing to entertain questions at this time, if that is the desire of the Chairwoman.

**Chairwoman Benitez-Thompson:**

Sections 2 through 5 are all definitions. Are there any questions regarding those sections?

**Assemblyman Daly:**

It seems to me, you should not define "application" the way you have in section 4, as I feel it is defined too broadly. I feel an application should mean a request submitted by an applicant to a local government for a license, permit,

or similar approval in accordance with NRS 534A.010 to NRS 534A.090. Otherwise, it is for everything.

**Senator Settlemeyer:**

Part of the reason we wanted to leave that ability there is because this issue came about because of geothermal. We do have a small military base in Churchill County that occasionally has situations in which it has confidential information it wishes to be kept confidential in dealings with the county. We are only asking for applications that would even be eligible. In section 6, under NRS, NAC, or federal law, they would have to be qualified. There was some desire not to limit this completely to geothermal in case there are other situations where information under NRS, NAC, or federal law is deemed confidential. We want to make sure that it could be kept confidential. I can have Mr. Mingay address that as well, if you would wish.

**Craig Mingay, Deputy District Attorney, Churchill County:**

To further address your question, Assemblyman Daly, it is narrow in the sense that no additional information is considered confidential. It is only that information that has already been designated by state law or federal law to be kept confidential by the local government. In that sense, it is a narrow amendment to the statute. We have only run into this issue with geothermal. However, the request was to allow it to be more broad in case the issue comes up with the Navy base or another industry that may come in and have this type of proprietary information.

**Assemblyman Daly:**

I understand what you are saying. However, you are changing the entire chapter on public records. You have a broad definition for an application for a permit, license, or similar approval involving the exercise of governmental authority. There have been a couple of bills regarding public records this session, and these are things I have dealt with before. We added up all the places where there is confidentiality and there are about 180 of them in the law where someone can refer back to and claim something to be confidential. When someone makes a public records request, they have five days to answer by either supplying the record or telling the requester when it will be available. If they are not going to supply any part of the record, the specific statute must be cited explaining why it is confidential.

If someone is coming in for a building permit, which is an exercise of government authority to give them the license or permit, why is that application going to be confidential and why is the county going to determine what is and what is not confidential when we have statutes that already determine that? It is either declared by law to be confidential or it is open. I understand that is

what you are trying to get to in this narrowing. However, I believe you are spreading this too wide because then you are leaving it open to some county official to determine confidentiality. I will have a problem with this being narrow because I have dealt with too many government officials who will take license with this and be denying records.

**Senator Settelmeyer:**

If that is a discussion for this Committee, I will gladly follow that to narrowly tailor this. I would caution, we have a resolution going about and there is a good opportunity to potentially attract some private dollars to Nevada in the form of drone technology. Again, under federal law, this information remains confidential. Within the bill, I am not giving the county the ability to determine confidentiality. I am giving the chief counsel the ability to deem whether the information is confidential. He is the gatekeeper. He is the only one who will have the ability to keep that information confidential. If you want to further that, I would love to narrow that if you like. We could make it only the district attorney with no designee. I would hope that we could try to create a situation where we can encourage some of the businesses that are seeking to come to our state in that respect. Again, I would definitely defer to the Committee because, as we all know, this is your bill now. It is your ability to contort, it is not really mine.

**Assemblyman Daly:**

We appreciate that. We have gone through the other public records bill, Assembly Bill 31. We went through that very issue about homeland security, the airport authority, and public archives wanting information. I think there is a way to do it by saying the applications received by a local government that are confidential under NRS Chapter 534A, are confidential with the county as well. The original bill that came to us was going to have a balancing test based on some decision at the Supreme Court. The law says it is either declared confidential, which we could do for the issues you are talking about, or it is open. If we need to include the drone technology, we can look at that. To me, this bill opens it up too much.

**Senator Settelmeyer:**

The problem we had is that the industries did not feel comfortable, in any way, shape, or form, with our current statutes and have denied giving us proprietary information that the county has deemed critical for the application. An effort to try to get that information is the reason I brought this bill forward. I agree with you 100 percent. If I found out there was abuse of something I did, I would gladly come in with a bill to correct that. That is not our goal. Our goal is to create a situation where, as you are saying, it is already deemed confidential. Barbara Buckley used to say the reason we keep doing things again and again

around here is because somehow people do not get the point the first time. Somehow, on this particular issue, the point has not gotten across that this information will be kept confidential. That is what this bill is about.

**Craig Mingay:**

As the attorney for the county, I look at a record, say it is confidential, and tell the company it is confidential and we will not release it. If I get a public records request and deny it based on the confidentiality and I end up in court on that request, the county is obligated to pay the attorney's fees for the requester. In addition, since the company had already relied on me telling them it is confidential, the county is going to be liable for any damages to the company for the release of that information. Part of the intent of this bill is to provide some certainty for county officials. Certainly, going forward with this, as I review documents, I am going to err on the side of them being public records because of the huge liability implications to the county if I tell the county something is confidential and tell the company something is confidential and I turn out to be wrong.

**Assemblyman Daly:**

I am agreeing that there is a way to do this.

**Chairwoman Benitez-Thompson:**

In order to put this into context, Senator Settlemeyer, we have probably had three different hearings on confidentiality and public records, so we have spent about 10 to 12 hours of Committee time contemplating this issue. The good news is we found workable language that made the Committee comfortable. I think what Assemblyman Daly is saying is we can get there. I will leave the two of you to work through how that language might work so we can get to exactly what the county's needs are.

Talk to me more about the application itself for a license or permit, understanding that those are two separate processes. What is specifically on those forms that is being required that is proprietary information?

**Craig Mingay:**

As a specific example, when we issue a permit for a geothermal company, we require them to provide us with a copy of their underground water-monitoring plan. Generally, the actual monitoring plan is not proprietary and not confidential, but that document only makes sense if you look at the underlying data used to come up with that plan. For example, they have done all the temperature studies, they have a general view of where this hot water project is located, and where the actual aquifer is located. That does not show up in the monitoring plan. The monitoring plan tells us at what location the well is going

to be dropped. They will monitor the water quality to make sure they are not doing anything to the aquifer. When they go into production, it is that data that they spend millions of dollars to develop and it is that data the competitors to that particular company would love to get their hands on. However, in order to review the monitoring plan, we need to look at that data. As the statute currently reads, that information can be provided to the Division of Minerals. The Division of Minerals can keep that information confidential, but the same protection is not provided to the counties.

**Chairwoman Benitez-Thompson:**

I think that example is useful. What you are saying is we can have the same information in two places. In one place the information is not protected and in the other place it is protected. The intent of the bill is to get more consistency, is that correct? If the Division of Minerals is able to say something is confidential on their end, the county wants to be able to say it is confidential on their end.

**Craig Mingay:**

Yes, that is correct. It really assists our communication with the Division of Minerals because there is no question about what they can tell us and what we can tell them. There is no question about the three-way communication.

**Chairwoman Benitez-Thompson:**

Thank you for the example on permits. Could you talk to me more about the licensing process and where, within that licensing process, proprietary information is asked for?

**Craig Mingay:**

I do not have a lot of experience, in Churchill County at least, where one of our license applications required confidential information. However, potentially, if there is a private industry related to the drone project that wants a business license, potentially, some of that information could be proprietary or a national security issue.

**Chairwoman Benitez-Thompson:**

With your business license application, I am assuming that is a standardized form. Is that correct?

**Craig Mingay:**

Yes.

**Chairwoman Benitez-Thompson:**

It might be helpful for the Committee and me to see that form. I am a concrete person, so for me to be able to see that form and have an idea of what kind of questions may potentially solicit proprietary information would be helpful. The permitting example was helpful because I understand the permitting process. You are asking juicier questions, if you will, about a company's process in that land use. That seems clearer to me.

Are there any questions from Committee members?

**Assemblywoman Neal:**

I have a question regarding section 8. When you were going back and forth with Assemblyman Daly, you talked about the chief legal officer or the attorney of the local entity being the only one making the determination. Who is envisioned to be his or her designee who will also be a part of this determination? I think that needs to be established on the record.

**Craig Mingay:**

In Churchill County, the district attorney is the chief legal officer and I would be his designee. I believe the intent of that would be another attorney within the office.

**Senator Settlemeyer:**

There was some discussion previously a situation could arise where, potentially, you may have a new district attorney and he may not be comfortable with the decision. It could be a situation where a designee could be someone from the U.S. Department of Defense or even the previous district attorney. A situation may be created, and if someone was uncomfortable with it, there might be a better designee who would be willing to put their neck on the line for the county and assume that liability. There was some discussion about that when the bill came out. However, if it makes the Committee uncomfortable, we could state it to be the district attorney.

**Assemblywoman Neal:**

I think it needs to be clearer. Basically, these are "or" statements. When you have "or" the designee, that is ambiguous. You are saying that some of this information is so confidential that you do not want to share it. I think that would give pause for concern. You could run into a designee situation if the person was absent or on vacation. We need to know who the designee would be. Some of our smaller counties do not have five different attorneys in the office. You might need to examine that and deal with that.

I was wondering, since the examples are based around the geothermal industry, why did you choose to be so broad in NRS Chapter 239? Why are we not dealing specifically with geothermal if that is our only issue? Are there other types of applications where we run into situations, outside of geothermal, where there is a need to be as pervasive as we are in NRS Chapter 239?

**Senator Settlemeyer:**

If the Committee would like to narrow this down to just geothermal, I can understand that. It would be my hope that we try to think of some of the other industries, such as the drone project and the Fallon Naval Air Station, that already exist or who we are trying to get into the state of Nevada. Again, this is only clarifying information that is already deemed confidential to be capable of confidentiality. I will leave that to the discretion of the Committee since I have turned the bill over to you. It is your bill to do with what you wish.

**Chairwoman Benitez-Thompson:**

Are there any additional questions? [There were none.] We will move to sections 6 and 7. Are there any questions regarding these two sections from the Committee? [There were none.]

I have a question about the process you are establishing in section 7, subsection 2. It states the local government would receive the records. By records, do you mean the application and whatever other information is required of that application?

**Craig Mingay:**

Correct.

**Chairwoman Benitez-Thompson:**

The application and whatever other information is required are received by the local government and then that information is given to the attorney or the chief legal officer for the county. In your county, it would be the district attorney, correct?

**Craig Mingay:**

Correct.

**Chairwoman Benitez-Thompson:**

Then your chief legal officer or designee has five business days to conduct any additional investigation or analysis. Tell me more about what additional investigation or analysis they would do. Would that be referencing NRS or federal law?

**Senator Settlemeyer:**

That discussion also happened within the Senate Committee on Government Affairs. It gives the time for the district attorney to go through the information to check that the NRS cited by the applicant is being cited correctly and that the application is in line with that. In other words, we want to make sure there is enough time, if someone states certain information is proprietary, for the district attorney to determine whether it is or is not confidential. The district attorney can determine if they have cited the correct statute or federal law. The desire is not to create information to be confidential that is not. We only want to ensure that what is confidential stays confidential.

**Chairwoman Benitez-Thompson:**

How would that be known, Senator? On line 24 of section 7, subsection 2 it states, "Pending this determination, the records must not be revealed in whole or in part to any person or government entity . . . ." Is there any kind of noticing on the part of the county or the public entities that there is a consideration for confidentiality happening? Is there any way for anyone other than the people who have the documents in hand to know there is a consideration for confidentiality?

**Senator Settlemeyer:**

The reviewing process itself within the bill, the aspect of asking it to be confidential, not the actual information, is a discovery issue. In other words, the assertions under the NRS, NAC, or federal law that the information will be confidential is a public record. At the time the assertion is made, people will be able to discover it. People will know that a certain project is coming to town, a permit request has been made, and which section of the law determines it to be confidential.

**Chairwoman Benitez-Thompson:**

On city and county agendas, they agendize the consideration of applications and permits. Would everything still be considered public until the point the stamp is placed on the business license or permit to state it is confidential?

**Senator Settlemeyer:**

Correct. We had a large discussion about that in the Senate Committee on Government Affairs. We came to the realization that we wanted to make sure that it is public information until the district attorney or the designee determines it is confidential. We did not want to create a situation where someone could, for example, request their marriage license be confidential because they did not want the ex-spouse to find out about it. That would create a five-day protocol. It is all public information until then. Again, we want to create the situation where it is someone with clear proprietary information, such as the geothermal

industry, that had already been having discussions with the county, submitted their application and, odds are, had already lined up the district attorney to be at the office to help accept that application. They know this is the type of information that should be, by either NRS, NAC or federal law, confidential and should not be released.

**Assemblywoman Neal:**

Why is there no fiscal note? Are these not extra steps? Section 8, subsection 3, paragraph (b) states, "The local governmental entity shall cause the records to be mailed to the applicant at the applicant's address of record." That is new language. Is this not extra time or work for anyone? Is this not going to cost the local governments anything?

**Senator Settlemeyer:**

Those fiscal notes would have been prepared and given to you by the local municipalities. It is my belief, and hopefully someone from the National Association of Counties or the National League of Cities and Municipalities may be able to address it; it may be an actual cost savings for them. If we do not have this and they have to go through the legal process of confidentiality in a lawsuit, that costs them more time. This bill potentially saves them time. It is probably hard for them to quantify, but it is my understanding, from talking to the county representatives, they felt this would actually limit their exposure for lawsuits and help them. They probably looked at it as a time savings and not an addition of time. Does it create an extra process for the district attorney who actually requested the bill? Yes, so I will let him address that particular aspect of why he wants more work. I would suggest it is probably because he wants to limit his liability and work in the future.

**Craig Mingay:**

Senator Settlemeyer is exactly right. Based on the exposure that the counties have with these types of records, saving that exposure through some certain process, where at least there is some review of this information, would create a little more work in the front end, but it creates a lot less in the long run.

**Assemblywoman Neal:**

I was just trying to make sure. I guess the other district attorneys in other counties are in favor of your adding more work for them, too. We will find out.

**Assemblyman Livermore:**

It is like everything else, at least in the areas of confidentiality. There are a lot of things that have a time limit. How long does this time limit of confidentiality exist? Is that also somewhere in the NRS?

**Craig Mingay:**

The actual review is five days.

**Assemblyman Livermore:**

I am not talking about the review. I am talking about once you stamp it confidential, when would someone under the Freedom of Information Act be able to receive those documents?

**Craig Mingay:**

It would depend on the statute that created the confidentiality. For example, the geothermal regulations indicate that those records can be held confidential for five years. Other records are different.

**Assemblyman Livermore:**

Eventually, there is a limit to the confidentiality agreement to where the press or whoever is seeking the information can eventually obtain it.

**Senator Settlemeyer:**

Correct. Section 8, subsection 2, paragraph (b), subparagraph (1), "Upon the expiration of any period of confidentiality specified in the statute or regulation pursuant to which the records are determined to be confidential;" then they become public. It is within the bill. We are following what the existing NRS, NAC, or federal law is on confidentiality, and then it becomes public.

**Assemblyman Ellison:**

I read this bill and I met with the Senator earlier when this bill first came out. My issue about the bill is when you are in a competitive business and certain information is released, it takes your advantage away. I think this is why this bill is so important. You give the agency the facts and the minimum information they need. At that point, it should be enough. That is why I like this bill.

**Senator Settlemeyer:**

To address the Chairwoman's earlier question regarding the definition of "application," I believe that is something drafting did to make it consistent with other sections of NRS for the definition of "application."

**Chairwoman Benitez-Thompson:**

Are there any additional questions? [There were none.] Are there any questions regarding section 8 of the bill?

I have a clarifying question regarding section 8, subsection 2. Once a record is deemed confidential, the whole application becomes confidential. Am I reading that correctly?

**Craig Mingay:**

I do not believe that is the intent of the language. I think the term "records" is used there instead of "application." I believe only those specific portions of the application that qualify under the statute makes them confidential and would qualify to be kept confidential. To clarify that, for a geothermal special use permit application, we get binders of information. For 99 percent of the information there is no argument that it could be kept confidential. It is just this one portion, the back-up information related to the monitoring plant, that would be kept confidential. I do not believe the intent of that section is to make the whole application confidential, only the records that would be necessary.

**Chairwoman Benitez-Thompson:**

Are there any further questions from Committee members? [There were none.] It looks like you have deleted sections 9 and 10.

**Senator Settlemeyer:**

The original bill had sections 9 and 10 that exceeded the scope of my comfort level. The Senate Committee on Government Affairs decided to delete them and try to make the scope of the bill narrower.

**Chairwoman Benitez-Thompson:**

Is there any testimony in support of the bill?

**Jeff Fontaine, representing Nevada Association of Counties:**

We are in support of S.B. 90 (R1). This bill would enable counties to have access to all of the pertinent and necessary information they need when they consider permitting and licensing decisions that affect the health, safety, and well-being of their citizens.

**Chairwoman Benitez-Thompson:**

Are there any questions from Committee members? [There were none.] Is there any additional testimony in support of the bill? [There was none.] We will move to testimony in opposition of the bill. [There was none.] Is there anyone neutral to the bill?

**Tim Bedwell, representing City of North Las Vegas:**

We are neutral on this bill. We were opposed to the bill as it was introduced in the Senate. We spoke with Senator Settlemeyer and he has made some changes to the bill and I can see he is open to considering further changes. The opposition we have heard from Committee members mirrors ours. I believe the bill is in good hands and we have no additional concerns with it.

**Assemblywoman Neal:**

What were your concerns on the Senate side?

**Tim Bedwell:**

Quite frankly, we do not need this bill with regard to records management for the City of North Las Vegas. We do have the aerospace industry and other high tech industries that come to North Las Vegas and do bring confidentiality issues. However, we understand the Senator is representing people who do think they need this legislation for their county. Our preference would be that it not apply to the cities, but we do not know if that is possible. The fact is, we have a great volume of public records, so the people could make the claim that they have confidentiality requirements that we would then be required to act on in the time period of five days. The speed at which we would have to respond to those requests, depending upon the volume, is hard to project. The five-day period was a concern for us, and the fact that we do not believe we need the bill for our city with regard to public records. It opens up another avenue where people can bring something to us we did not have to respond to previously.

**Assemblywoman Neal:**

I may not be remembering this correctly, but does North Las Vegas, or maybe the county, lease a certain amount of industrial space to an aerospace company where there is some kind of sharing? We were talking about what the military currently has in place and what they were leasing in terms of certain areas. I thought North Las Vegas was one of them. Can you tell me?

**Tim Bedwell:**

We do have aerospace, civilian, and commercial industries in Las Vegas. We also have some property that is leased to the Air Force long term. I do not believe there was any effect on that with regard to this bill.

**Assemblywoman Neal:**

That is what I was wondering. Thank you.

**Assemblyman Daly:**

You are saying in North Las Vegas, if you had a similar situation where there was confidential information, this bill would not apply. How do you do that? Are you going to cite the statute that the company cites to say the information is confidential? Perhaps this is just a difference in interpretation between local governments.

**Tim Bedwell:**

I believe this really is a difference in interpretation, in some respect. What we do is probably similar to what they have done in the past. Those are concerns

that different attorneys tackle differently. What I would like to make clear is that I do not believe I am seeing anything in this bill that is going to damage us down the road. We just had some concerns. Since we were initially opposed, we felt it necessary to at least clarify. It is clear that the right questions are being asked and I think this bill will be handled correctly. With regard to that specifically, should there be any questions of us, I think the Senator would ask us. We have already had a dialogue with him.

**Assemblyman Daly:**

If you get information from someone whose information is confidential under a different statute, do you cite that statute to determine why it is confidential?

**Tim Bedwell:**

I cannot speak for the sponsor.

**Assemblyman Daly:**

I am just asking what North Las Vegas does.

**Tim Bedwell:**

I believe what they are trying to do is just codify the language in the NRS for the things that are already being done. At least that is my understanding of it. They could probably answer that better.

**Chairwoman Benitez-Thompson:**

Are there additional questions from the Committee? [There were none.] Are there any closing remarks from the bill sponsor?

**Senator Settlemeyer:**

One of the things we just discussed in the back of the room regarding section 7, subsection 2, is if we changed the word "shall" to "may." In other words, create it so only the chief counsel has the ability, at his discretion, to even entertain the discussion. That would eliminate any question of whether or not they would have more work. The district attorney could say the application for a marriage license in no way, shape, or form is confidential. Even if someone tried to cite the appropriate statute, the district attorney could say a marriage license, or something of that nature, is never going to be considered confidential. This is a suggestion we came up with a few moments ago to try to alleviate the concern of too much work. It would be total discretionary language for the counsel of whether or not he wants to even entertain the concept of confidentiality.

**Chairwoman Benitez-Thompson:**

We will keep conversations going. Any other additional comments?

**Senator Settlemeyer:**

Thank you for hearing the bill.

**Chairwoman Benitez-Thompson:**

I will close the hearing on Senate Bill 90 (1st Reprint). I will open the hearing on Senate Bill 74 (1st Reprint). We have Senator Segerblom here with us today, along with Taylor McCadney. Committee members, you have the PowerPoint presentation ([Exhibit D](#)) available on the Nevada Electronic Legislative Information System (NELIS), as well.

**Senate Bill 74 (1st Reprint): Revises provisions relating to public records.  
(BDR 19-603)**

**Senator Tick Segerblom, Clark County Senatorial District No. 3:**

I have asked my intern, Taylor McCadney, to testify today on behalf of the bill.

**Taylor McCadney, Legislative Intern:**

I am a University of Nevada, Las Vegas student studying political science. I am also a legislative intern working in the office of Senator Tick Segerblom. Today I will be representing him in presenting Senate Bill 74 (1st Reprint) for your consideration.

Senate Bill 74 (R1) was originally drafted at the request of former Senator Terry Care, who brought it to Senator Segerblom at the request of the Nevada Press Association. This bill addresses the issue of obtaining public records and costs charged by some state agencies. Every agency has a different fee structure for copying records. Some charge by page, some charge by manpower, but people who are trying to access these records—the people who are our watchdogs—are often impeded by these costs, which can be prohibitive.

The bill in front of you is a compromise. Senator Segerblom originally wanted there to be no fee charged. Thanks to him and all the parties who came together to work on this bill, there was a compromise reached.

As the Chairwoman mentioned, you should all have a copy of the PowerPoint presentation ([Exhibit D](#)). If you could, please follow along as I go through this brief presentation. I can take questions during the presentation or at the end.

Senate Bill 74 (R1) revises provisions relating to public records [([Exhibit D](#)), slide 1]. It requires those who have legal custody of a public record to prepare a copy of the requested form, rather than the requester making a copy for themselves [([Exhibit D](#)), slide 2]. This bill also states that a copy of this

public record shall be provided to the requester in the most immediate medium available. In other words, as soon as possible and by whatever medium is available.

The bill also limits and, in some cases, eliminates the costs associated with copying or researching public records. It requires that a fee for providing a copy of a public book or record in the custody of a law library operated by a government entity must not exceed 50 cents per page [([Exhibit D](#)), slide 3].

Copies of minutes and audio of public meetings are to be made available upon request for the public at no cost [([Exhibit D](#)), slide 4].

What this bill does not do is prohibit court reporters from charging members of the public body for a transcript of a meeting. It also does not require a court reporter to give the requester a copy of a transcript or audio from a meeting at no charge [([Exhibit D](#)), slide 5].

If you have any questions, I would be happy to take them.

**Assemblyman Ellison:**

A lot of the people who do work from home doing transcription, work part time for the courts and then also do transcription of court recordings as a private business on the side. They are not actually employees of the county or city. How would this affect them?

**Taylor McCadney:**

On slide 5, it does say this does not require them to do anything for free ([Exhibit D](#)). I am not an expert on that. I believe we have someone here from the Nevada Court Reporters Association. He would probably be better to attest to that specifically. That was one of the concerns on the Senate side.

**Senator Segerblom:**

We did negotiate with the Nevada Court Reporters Association for this specific exemption. If it is a private court reporter, he or she can charge the normal rate for minutes and other things they have done.

**Assemblyman Ellison:**

Is that true even if the person is full-time or part-time? I know some of them are 20-hour employees and they do the transcription at night or on the weekends.

**Senator Segerblom:**

If they were employed by the government, then they would be subject to the regular fees. If they are a private contractor, we are not forcing them to deliver their transcript any differently than they currently do, which is charging the professional rate per page.

**Assemblyman Livermore:**

Senator, I appreciate your bringing this bill forward. We have had discussions in this Committee about the movement of written reports to electronic reporting. My question is about the definition of a record. Is it the record of a meeting and material provided at that meeting, or is a record legal notices? If I go to my local government meeting and they have most of the information available electronically, what can I expect to get?

**Senator Segerblom:**

This bill actually provides that if it is electronic, they have to give it to you electronically for no charge. We are hopeful that in the future, that is where public records are going. When a reporter goes back and tries to get old records, sometimes going back 10 or 20 years, depending on how much work that involves in trying to make those available, oftentimes, public entities will charge exorbitant fees to pay for the staff person's time to go out and look in the garage. We are trying to get away from that. We do provide that if the information is not available electronically, they can charge a reasonable fee of 50 cents. Under extraordinary circumstances, they can charge additional fees. In general, we want everyone to go toward electronic information and that would be provided for free.

**Assemblyman Livermore:**

My skepticism has always been the transparency of people getting public records. I have never supported charging arbitrary fees in order to receive public records. I believe the public has a right to acquire these public documents. I like a bill that creates an avenue for public documents at a reasonable cost.

**Taylor McCadney:**

Again, this bill is a compromise. At first, the talk was the charge would be much less than it was and, in some instances, would be completely free. In testimony you will hear later, they were saying it was not necessarily feasible for them because of the time, the manpower, the cost of ink, and those sorts of things, especially when you get down to copying physical records. That is why there is a price of 50 cents per page. Part of the reason it was 50 cents per page, from the county clerk specifically, is for the uniformity. You have so many government agencies with a different charge for copying. It is also

different if someone is copying the information for themselves. Some agencies will have a facility for someone to copy the document for themselves and some places will not. You would have to trust that person to take the document somewhere else to copy and bring it back. If an agency has to charge, then it should not be different across the spectrum.

**Assemblyman Elliot Anderson:**

I have to say, Ms. McCadney, you are a bit more ambitious than when I was an intern. I took on a \$20 unpaid veteran's fee and you took on a 28-page public records bill. It is very impressive.

Senator, most of this bill I really like, especially the electronic provisions. However, the question I have is about the First Judicial District Court's letter ([Exhibit E](#)) concerning the fiscal impact to their fees. I think you know, working in the legal field, and I certainly see it in what I am doing, if you have a big document that is over 20 pages, you have to print it out for the judges in the district court because they are not allowed to copy it due to their tight budgets. With the money-saving requirements they already have in place, I am a little concerned about the fiscal impact to the district courts. I know the First Judicial District Court is going to lose a significant amount of money. I am assuming that would be the same for the other courts. Could you comment on the fiscal impact to the courts?

**Senator Segerblom:**

In the Senate, we brought all the parties together, Nevada Press Association, the clerks, and others, and reached this compromise. The First Judicial District Court never expressed their concern. Their opposition at this point is new. We thought we had addressed all those issues.

The Office of the County Clerk in Las Vegas submitted a letter ([Exhibit F](#)) that is available on NELIS. We worked hard with her because they were charging \$1 per page. She agreed to come down to 50 cents per page. That was a substantial revenue decrease for that office. Many of these entities have started making money on copies as opposed to charging what it actually costs them to make those copies. I am not sure we want to have government access dictated by making a profit as opposed to legitimate costs. That is really what we are talking about; having the press able to make copies. Sometimes the press will make requests for copies and then get a bill for thousands of dollars. That prohibits investigative reporters. This is a compromise and I apologize if some agencies are going to lose money. I am not sure why they were not at the table in the Senate.

**Chairwoman Benitez-Thompson:**

The letter from Diana Alba, Clark County Clerk, Office of the County Clerk is available on NELIS. She indicated she realizes it is a reduction in cost, but she is inherently supportive of improving public access to records and supports this bill.

**Assemblyman Elliot Anderson:**

That is really regrettable that they are just phoning this in. That is not the way to do it around here, obviously. Being that they are in Carson City, they should know that.

I do want to hear from the courts. As you know, they are already pretty stretched and I am trying to get them more money in a different area. I would rather appropriate it and pay for those services the traditional way and not by making it off of fees. You know where we are with the budget situation. It is a discussion beyond this Committee.

**Senator Segerblom:**

I do not want to make the courts unhappy either. As a lawyer, that is our number one job—to make the judges happy. The fact is, since they are not here, if you would like to work with them to reach a compromise, I am willing to consider that. We started at 10 cents per page and went up to 50 cents per page. I believe we made a pretty big compromise ourselves.

**Assemblyman Stewart:**

I appreciate your bringing this bill in order to save the public money and give them more access. If someone from out of state or out of country requested information, would this preclude the agencies from charging the requester postage?

**Senator Segerblom:**

That is actually a question I never thought of. We do not have anything in the bill regarding postage, so I do not think it would. This is basically only the copying charge, so I assume it would not.

**Assemblyman Stewart:**

If it has to be embossed, or something of that nature, would this preclude them from charging for things like that?

**Senator Segerblom:**

This does not affect sealing a document or things like that. In fact, there is another bill in the Assembly Committee on Judiciary where we are giving the

county clerk an increase of their fees so they can charge for certified marriage certificates and things like that.

**Assemblywoman Neal:**

My only question is on section 1, subsection 4, subparagraph (b), where it states, ". . . shall not require the person who has requested the copy to prepare the copy himself or herself." I was wondering why that was included. Were we running into situations where the agency did not want to make the copy, requiring the requesters to make the copy themselves?

**Taylor McCadney:**

I think the purpose of that being added is, again, for uniformity, but also for agencies that have the facilities for someone to make their own copies. There is also a discrepancy in the uniformity of the prices. If an agency copies it for you, it may be a different price than if someone was to copy it themselves. There are also different costs for colored copies. I think it provides more control.

**Assemblywoman Neal:**

Are you saying the words "shall not require the person who has requested the copy" deals with that issue? I do not understand that. We are mandating that the person who requested the documents will not copy it for themselves. Are you saying this alleviates the burden in the counties that do not have a copier?

**Taylor McCadney:**

It alleviates the burden for them to copy the documents at a different cost. That is my understanding.

**Assemblyman Daly:**

Our laws on this are really all over the place. You are talking about a person making their own copy. There are many agencies that will not let the record out of their custody. You cannot make your own copy because they will not give it to you. They will give you a copy after they have reviewed it to make sure there is no confidential information. Different places will allow you to inspect it. We have a law that says a person can inspect a document, but you really cannot. The agency will require an appointment or have you put the request in writing. When you say it cannot exceed 50 cents, I thought there was something in the bill that said they could not charge more than the actual cost.

Recently, in my regular job, we made an informational request to the Department of Transportation. It was about 8,000 pages and we were charged \$2,800. At 50 cents a page, it would have been \$4,000. I do not know if this

helps. It was a "not to exceed" price and they charged us a fair price. They had to go out to get it copied because they would not give it to us. Even though the documents were scheduled for destruction in two weeks, they still would not give them to us.

**Senator Segerblom:**

You are addressing the problem we tried to address. As you can imagine, given all the agencies and all the government issues, to do it in one bill at one time was just more than we could handle. We tried to eliminate the excesses, which is really what prompted the bill—agencies charging \$1 or \$2 and people waiting forever. This is a work in progress. I can assure you, we need to come back. Many entities, particularly unions, want to get background information about contracts and things, and it is very easy for the agencies to snowball them by charging X amount per page. It is the same with investigative reporters. They will ask for information about payroll records or contracts and end up with a bill for \$10,000. That is prohibitive for just about anyone.

**Taylor McCadney:**

Assemblyman Daly, the section that you are talking about is section 4, subsection 1, where it states, "Except as otherwise provided in this subsection, a governmental entity may charge a fee for providing a copy of a public record. Such a fee must not exceed the actual cost to the governmental entity to provide the copy of the public record unless a specific statute or regulation sets a fee . . . ." In section 4.5, it also goes into detail about how they can charge extra for extraordinary use of technology or manpower. That is where the leeway comes from for them to charge more than the actual cost of a copy.

**Assemblyman Daly:**

We knew it was a lot of paper and they charged us a fair price based on their costs. They did include staff time and various things. I think some of the worst agencies for charging high prices for copies, as Assemblyman Anderson alluded to, are the courts. They charge a lot more than the actual cost of a copy. It is a profit center for them, as far as I am concerned.

**Senator Segerblom:**

That is part of the problem we face. They build making money on copies into their budgets. If we try to scale back the cost, we have to scale it back gradually because we do not want to destroy their finances. Again, it is not good public policy to have an agency run on making copies of public documents.

**Assemblyman Livermore:**

In section 5, subsection 2, new language states, "and a copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge." Most local government agency meetings are streamed live so the public can watch them at their leisure at home. If I want to get a copy of a meeting recording, the fee for that is \$20. I do not see anything in the bill regarding copies of video that were taken at the public's expense and broadcast as part of the public record. How do you deal with that?

**Senator Segerblom:**

I thought we had something in the bill about DVDs.

**Taylor McCadney:**

Are you asking how we account for people who need copies of DVDs and those sorts of things?

**Assemblyman Livermore:**

Most public meetings are broadcast over public access television, which is free, although you need to use the cable company system. If someone does not have access to that and they want a copy of the meeting, how do you go about getting a copy? The process of getting a copy would require contacting the public access television broadcaster. They will make a copy, but it is about \$20 a copy.

**Taylor McCadney:**

The easiest way for me to answer that question is from section 1, subsection 4, paragraph (a), which states, "Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium." I think the word "medium" gives leeway to that sort of thing. If you have someone who needs a copy of a video, it could be provided electronically by using a USB port or providing a link to the video. I do not know if it would necessarily be an actual DVD or tape.

**Assemblyman Livermore:**

If you really want to get the minutes of a meeting and watch what transpired, it is available through a computer or a DVD. The meeting minutes are not verbatim; they are general minutes. Many people look to acquire those tapes because it is true public record. I think if you are going to address the availability of public records, that should be included in the bill.

**Senator Segerblom:**

I agree and I think that is a major oversight. We should add DVD or audio/video record to that section.

**Chairwoman Benitez-Thompson:**

I do know you have sections of the bill that contemplate the audio recordings. We could put DVD in the bill today, but next session there may be a new technology that none of us even imagined.

Are there additional questions from Committee members? [There were none.]  
I will open testimony in support of the bill.

**Barry Smith, representing Nevada Press Association:**

I am speaking this morning in support of this bill. It was mentioned that the Nevada Press Association was involved in bringing this bill. Really, it is on behalf of the public. By far, the most copies requested and made are on behalf of the public and the ability to make those records accessible to them. It does try to get at the matter of what is the actual cost and how much should be charged. There was a lot of give and take that went into this bill. These are the provisions we arrived at. As a benefit, I think it encourages governments to create electronic records that would be free. It would not cost the public and it would not cost the agency time and personnel. I think that is ultimately a goal we are reaching for.

There was a good question about video records and whether that is provided. We did not talk about that a lot, but I think it should be covered. If a copy of that is readily available in that form, the cost to copy it should be the actual cost. This bill does not really set what that cost should be.

One other provision that was not talked about much is in section 4.5 regarding the extraordinary use of personnel or resources. This section would require the request be made in writing because if you are going to get into an extraordinary cost, the kinds of things that are thousands of pages or dollars, then it is a benefit for everyone to have that in writing to clarify exactly what is being sought. The estimate of the cost from the agency back to the requester would also be in writing.

**Chairwoman Benitez-Thompson:**

Are there any questions from Committee members?

**Assemblyman Ellison:**

When they do the recordings or transcripts in the courts, there may be exhibits. Someone is going to have to scan them or the exhibits go back into a file.

From what I gather from many of these court systems, the older transcripts and exhibits have never been scanned and are still in storage. Someone has to bring all that information back and then make copies. Can you comment on that?

**Barry Smith:**

The courts have their own specific rules and have adopted protocols for how to handle evidence and requests for public access. I think that would be up to the courts as to how they handle their own evidence. I would say if you start getting into extraordinary use of personnel, then there may be separate costs.

**Assemblyman Ellison:**

That is not specified in the bill as a separate cost.

**P. Michael Murphy, representing Clark County:**

I am not an expert in this area, but I believe we are mixing two different issues. One is public documents and the other is statutory fees for records that are specifically delineated in statute, which would be court records, court exhibits, and court documents. This bill addresses public records. The issue you are speaking of is addressed in other statutes in reference to fees that are charged for specific records. I hope that helps.

**Chairwoman Benitez-Thompson:**

Does that get to your comfort level, Assemblyman Ellison?

**Assemblyman Ellison:**

After I hear some of the other testimony, maybe that will help. However, it seems to me, if you go to a justice court and ask for copies, most of them will be court records, would they not?

**Barry Smith:**

Yes. There is a separate statute that deals with the amount that the court is allowed to charge for copies of records.

**Chairwoman Benitez-Thompson:**

Are there any further questions from the Committee? [There were none.]

**Vanessa Spinazola, representing American Civil Liberties Union of Nevada:**

We are in support of S.B. 74 (R1) because it promotes open government and transparency and is in line with NRS Chapter 239, which fosters democratic principles. I do want to note on the record that we did represent a woman named Karen Gray who requested records from the Clark County School District and they wanted to charge her \$5,000 for these records. It had to do with discussions that happened in a school district meeting referring constantly to

emails and telephone calls that were not part of the record. We did litigate that case and it was ultimately found that the true cost was \$135. We believe things like this happen out there all the time. People are being overcharged for records, basically for a way not to provide them the records.

In response to Assemblyman Daly's question, the way we read the bill, it actually says the cost may not exceed 50 cents. If agencies still want to charge 10 cents, they would be welcome to do so.

**Assemblyman Livermore:**

Coincidentally, I just received an email regarding charges for DVDs of public meetings. The email is from Stacy Woodbury, who is watching this meeting. She states that the Legislative Counsel Bureau (LCB) charges \$5 for a DVD of a meeting of the Legislature, so there are some fees. It would be nice if that were included in this bill.

**Chairwoman Benitez-Thompson:**

We will see if the bill sponsor and Ms. McCadney will contemplate language and circle back to you on that. Are there any further questions from Committee members? [There were none.]

**Michael Murphy:**

There has been a lot of work done by a lot of different parties. We have tried to include as many people as possible. I am very proud to say that the Nevada Press Association, Clark County government, and other governments have worked together to try to come to a compromise. I think this is an excellent example of one of those situations where not everyone got what they wanted, but not everyone did not get what they needed. It has been a compromise. I think in this situation, not everyone is happy with everything that is in the bill, but I do believe it is a good start. I would like to thank Senator Segerblom for allowing us the opportunity to work together, bring all this together, and all the parties together so we could come to a successful solution to the problem.

Having said that, I do believe there was a mixing of the two issues about fees that are charged for documents that are specific, such as birth certificates and other things that require seals, versus public documents, which include copies of a particular report or something of that nature. That is the separation of these two issues, as I see it.

There was also a request by our clerks to have language that states "may" charge. That was so that if the fee were such that it was so low, perhaps one or two pages of something, they would actually have the ability not to charge at all. It would cost more to receipt a couple of pages of a document than it

would to actually just provide them to the citizen. I believe this is a good step in making sure that everyone gets what they need and, at the same time, providing appropriate controls to the process.

**Assemblyman Elliot Anderson:**

My question is in line with the effect on the Eighth Judicial District Court. I am not sure if you are aware what the effect would be, but I want to express my concern on the record that right now we are basically requiring folks who are going into court, criminal defendants, to print out huge documents. There is also another issue: access to justice on the converse of this when you take money away from the courts. I was wondering if you could comment on the effect on the district courts.

**Michael Murphy:**

I cannot address the court's issues and believe it would be appropriate for the courts to do that. Our county clerk, Diana Alba, is not the clerk of the court. I believe that would be better addressed by them. I can tell you that we tried to include everyone in this process. There was no intent to cause harm to anyone financially, but at the same time put this balancing act in place where the public feels they are not being overcharged and government is still able to run government. This 50 percent reduction is certainly a concern, but it was a far cry from a reduction of 90 percent. I think we saw this as an appropriate compromise. We do understand the Senator's concerns that it should not be that we are trying to make money, we are just trying to recoup costs.

**Assemblyman Elliot Anderson:**

I also want to be clear with my intent in asking these questions. I am big on transparency, but I am very concerned because the way Nevada currently runs its government is by fees. We are not a high tech state and I think for core governmental principles, such as transparency in education and everything else, we should not be relying on fees to fund it. This is a broader discussion, but I just want to be very clear with my intent in asking these questions. There are many things to balance in terms of what is important.

[Vice Chairwoman Neal assumed the Chair.]

**Vice Chairwoman Neal:**

Are there any additional questions. [There were none.] We will hear from the next speaker.

**Nancy Parent, Chief Deputy Clerk, Washoe County:**

We support S.B. 74 (R1) as amended. We appreciate Senator Segerblom's compromising with us. In the original bill, our concern was if they did reduce

our fee for records to 10 cents, the administrative costs of reducing that were not cost effective. The way it is written, we can charge the 50 cents per page or we can waive it. I believe there are many instances where the request will be for one page and we probably will be giving those for free in certain instances.

Mr. Murphy touched on the fact that Clark County is not the clerk of the court, nor is Washoe County. Both of those are a result of judicial action that has been taken. The smaller county clerks are clerks of the court and I am not sure how this will apply to them.

As far as extraordinary effort, many of the county clerks' records are on microfilm and date back to the 1800s. It is very labor intensive to research that film and find the records people are looking for. We believe in open and transparent government and what we do is keep the records of the Board of County Commissioners and other boards, and we fully respect the public's need and want to get to those records. We have had a gentleman spend time in our office off and on for the last couple of months. He is interested in the Truckee River Flood Management Authority, what happened, and how it all came to be. We have spent hours and hours with him pulling out the books or researching different words to pull up what he is looking for. He is very happy with our office and the service we provide and that is what we continue to do. I believe S.B. 74 (R1) allows us the flexibility to provide this service but still control abuse of the system.

[Ms. Parent also provided a letter ([Exhibit G](#)) from Washoe County Clerk Amy Harvey.]

**Vice Chairwoman Neal:**

Are there any questions from Committee members? [There were none.]  
We will hear from the next speaker.

**John Pappageorge, representing Nevada Association of Clerks and Elected Officials:**

We are in support of this bill. There is nothing more I have to add that has not been added by previous testimony, and I would be happy to answer any questions.

**Vice Chairwoman Neal:**

Are there any questions from Committee members? [There were none.]  
Is there any additional testimony in support of the bill? [There was none.]  
We will open testimony for those who are neutral on the bill.

**John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts:**

I am wearing multiple hats today at this hearing. Unfortunately, no one from the First Judicial District Court was able to be at the hearing, so I told them I would put their concerns, in the form of their letter ([Exhibit F](#)), on record. I have also been in contact with the Eighth Judicial District Court, and they do not have any particular concerns about this measure being overly burdensome. Mr. Pappageorge testified that the county clerks of Nevada support this bill. In the rural counties, the majority of those county clerks do work as court clerks. If I can answer any questions or clarify anything about court records, I would be happy to do so.

**Assemblyman Elliot Anderson:**

Again, I will ask if you could speak to what the effect would be. I have been trying to get a veteran's court up and running. The answer we always get is that resources are too tight. I know, from my own experience, we have to print anything over 20 pages to deliver to judges. They have an office policy to save money and their own clerks cannot print anything over 20 pages. I do not know if that is throughout every department, but I am pretty sure it is. Obviously, they are very tight if they are requiring things like that. If you could put on the record what the effect would be, I would appreciate it.

**John McCormick:**

I honestly do not know the specific effect on the Eighth Judicial District Court. However, they did inform me that they are much less concerned with the fiscal impact now that Clark County is on board with the bill, and they believe they will be able to handle it. Beyond that, I think I would be speaking out of turn if I tried to dive deeper into their issues.

**Assemblyman Elliot Anderson:**

Could you get that information for me?

**John McCormick:**

Yes, I would be happy to.

**Assemblyman Ellison:**

Do the justice courts, when they have documents or evidence, scan them? If not, what do they do with them?

**John McCormick:**

Justice court practice varies across the state. A lot of them are moving to electronic records. We do have a Supreme Court rule regarding a records retention schedule that applies to the justice and district courts. It allows them

to destroy records after a certain period of time so they do not have to keep some things in perpetuity. Currently, justice courts can charge a specific fee for copies of records that are not otherwise mentioned. Certificates under seal and various other things have a specific cost assigned to them currently. They can charge 30 cents per page for other records. Again, it varies widely by county how they handle that type of thing. They are governed by Supreme Court rule as far as retention. This includes evidence. As Mr. Smith indicated, the Supreme Court has had a commission working on that, and they came up with a protocol on how to handle evidence and provide adequate public access. I can provide that to you if you would like.

**Assemblyman Oscarson:**

In the rurals, many times there is difficulty even communicating or connecting with services and they would not be able to transmit things electronically. Goldfield would be a classic example of that. I wonder if you have spoken with the judges in the rural areas, the Fifth Judicial District Court, regarding whether they have any input on this?

**John McCormick:**

I have not heard anything specifically from the Fifth Judicial District Court, Nye, Esmeralda, or Mineral Counties regarding the matter.

**Assemblyman Oscarson:**

Would you mind checking with them and getting back to me to let me know their response?

**John McCormick:**

I would be happy to.

**Vice Chairwoman Neal:**

Are there any additional questions from Committee members? [There were none.] Is there any testimony in opposition to the bill?

**John McCormick:**

If I may clarify, Madam Vice Chairwoman, I was testifying in neutral for the Administrative Office of the Courts and in answering the questions, but I also agreed to speak for the First Judicial District Court, as they had no one available this morning to enter their letter in opposition on the record. The First Judicial District Court is in opposition, Eighth Judicial District Court is neutral, and the Administrative Office of the Courts and the Supreme Court are neutral. I am not qualified to speak to the other nine judicial districts at this point.

**Vice Chairwoman Neal:**

There is someone else who signed in in opposition to the bill, Jim Litchfield, with the Chiropractic Physicians Board of Nevada. It does not appear he is here to speak on the bill. We are currently taking testimony in opposition to the bill. Is there any further testimony? [There was none.]

I will close the hearing on S.B. 74 (R1). Is there any public comment in relationship to this bill? [There was none.]

This meeting of the Assembly Committee on Government Affairs is adjourned [at 10:50 a.m.].

RESPECTFULLY SUBMITTED:

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Lori McCleary  
Committee Secretary

APPROVED BY:

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Assemblywoman Teresa Benitez-Thompson, Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** May 3, 2013

**Time of Meeting:** 9:08 a.m.

| <b>Bill</b> | <b>Exhibit</b> | <b>Witness / Agency</b>                                   | <b>Description</b>  |
|-------------|----------------|---|---|
|             | A              |   | Agenda  |
|             | B              |   | Attendance Roster   |
| S.B. 90     | C              | Senator Settlemeyer                                       | County Confidentiality  |
| S.B. 74     | D              | Senator Segerblom/Taylor<br>McCadney, Legislative Intern  | PowerPoint presentation   |
| S.B. 74     | E              | Rick McCormick,<br>Administrative Office of the<br>Courts | Letter from First Judicial<br>District Court in<br>opposition           |
| S.B. 74     | F              | Senator Segerblom   | Letter from Diana Alba,<br>Clark County Clerk                           |
| S.B. 74     | G              | Nancy Parent, Washoe County                               | Letter from Office of the<br>County Clerk, Washoe<br>County, Amy Harvey |