

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

**Seventy-Seventh Session  
May 9, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 8:37 a.m. on Thursday, May 9, 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 Harvey J. Munford  
Assemblyman James Oscarson  
Assemblyman Lynn D. Stewart  
Assemblywoman Heidi Swank  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Peggy Pierce (excused)



**GUEST LEGISLATORS PRESENT:**

Senator James A. Settelmeyer, Senatorial District No. 17  
Senator Pete Goicoechea, Senatorial District No. 19

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Committee Policy Analyst  
Jim Penrose, Committee Counsel  
John Budden, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Gerald Antinoro, Sheriff, Storey County  
Allen Veil, Sheriff, Lyon County; and representing Nevada Sheriffs' and Chiefs' Association  
Dagny Stapleton, representing Nevada Association of Counties  
Ronald P. Dreher, representing Peace Officers Research Association of Nevada  
Judy Stokey, representing NV Energy

**Chairwoman Benitez-Thompson:**

[Roll was taken and housekeeping matters were explained.] We have two different bills we are going to be hearing today: Senate Bill 273 (1st Reprint), presented by Senator Settelmeyer; and Senate Bill 342 (1st Reprint), presented by Senator Goicoechea. We have Senator Settelmeyer here, so we will go ahead and welcome him up to the witness table. I will open the hearing on Senate Bill 273 (1st Reprint).

**Senate Bill 273 (1st Reprint):** Revises provisions relating to deputy sheriffs.  
(BDR 20-470)

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

Thank you, Chairwoman, for that pleasant introduction and the opportunity to come and testify in front of you today. I see Assemblyman Daly is not here yet. He usually asks such entertaining questions. I gave him a flat tire, so he will be along shortly. Hopefully, after my testimony is done.

The last time I was in front of you, I brought a bill for one of my counties, dealing with Churchill County. This is another one of those situations where I was contacted by a county that asked me to bring forward a bill. This bill actually comes from the Storey County sheriff. What this bill pertains to is

a situation where, particularly in smaller counties with populations below 100,000, we are experiencing problems. The problem is, if you are a small county sheriff and you only have two or three people on duty at nighttime, and then you are faced with a situation where one of those people can no longer perform his duties, sadly, you need the ability to terminate your working relationship with him so that you can then hire somebody who can perform those duties. If you are in a small county that is spread out, like Douglas County, or Storey County, and you are in a situation where you have three people on duty and your county is 100 miles long and you have to be at separate ends of that county, and all of a sudden you end up with an individual who cannot drive at night, it creates management problems at the very least. More importantly, it creates a public safety issue. Basically, that is what the bill is about. It defines cause as being not Peace Officers' Standards and Training Commission (POST) certified, or not having the ability to drive.

This bill came about because, a long time ago, we changed the law allowing sheriffs to have situations where they have people working for them who are not POST-certified, because they wanted the ability to get them POST-certified. When we did that, there was an unintended consequence. All of a sudden, the sheriffs had a situation where they had people employed whom they could not get rid of, even if they were not qualified to do their job. That is what this bill is trying to correct. I know there will be fun questions, so I am ready when you are.

**Chairwoman Benitez-Thompson:**

Senator, did you want to take questions now, or did you want the gentleman to your right to speak before we open it up for questions?

**Senator Settlemeyer:**

Whatever is your discretion. If I get stumped on a question, I might have to ask somebody more intelligent than myself.

**Assemblyman Ellison:**

Does not the sheriff in that county still have the ability to manage under that law? I mean, if they are in violation of any law or breaking any law, you can lay them off at any point in time, can you not?

**Senator Settlemeyer:**

If they are in violation of a law, *Nevada Revised Statutes* (NRS) 289.555 states that persons convicted of a felony are not qualified to serve as police officers. That was passed in 2003. That is if they are a felon. But if you have an individual, and let us just think about the variables that are out there, it could be domestic violence, or something of that nature, where they lose the ability to

possess a gun. They are not convicted of a felony, but they can no longer hold a gun. It is kind of hard to be a cop without a gun. That is just a reality. If you are looking at situations with driving, let us say that you are no longer capable of driving, for some reason. It is kind of hard to serve in a rural area without being able to drive. Now, in the larger counties, I feel they have the ability to manage this because they could put somebody inside the jail, or something of that nature. When you are in a rural county, you really do not have that ability because the person in the jail, if something goes wrong, needs to be able to medically transport that individual, or get that person transported. That is where it comes back. Again, this is only dealing with the small counties. I think it would be wrong to effectuate this across all the counties, but in the smaller counties, this is a real issue.

**Assemblyman Ellison:**

Do they not still have the ability to manage, even under day-to-day operations? I understand what you are doing with the bill, and I like the bill. However, it would seem like, to me, the sheriff still has the authority to manage his department. If he has a deputy who loses, under domestic violence, his weapon, even while awaiting trial, to me it would seem like that sheriff still has a right to manage and to let that individual go.

**Senator Settlemeyer:**

We can have some of the sheriffs try to address that as they come forward. They could try to address it now, but I do not believe they have that ability, currently, to manage their departments. That is what this comes down to: an issue of management. More importantly, it is an issue of public safety because, if you do not have people out there who can do their job, you have a problem.

**Assemblywoman Neal:**

I have two questions. The first one is related to the bill. In section 1, NRS 248.040 is amended, but it says, "Except as provided in NRS 248.045." Then, the language under paragraph (b), on page 2, lines 12 through 13 says, "As used in this paragraph, 'cause' includes . . . ." I am confused. Does the word "cause" now go to NRS 248.045, or NRS 248.040? Because in NRS 248.045, it deals with the "appointment and removal of police officers by sheriffs of metropolitan police department; appointment and removal of deputies in larger counties."

**Senator Settlemeyer:**

Correct. To follow up, I understand what your question is, ma'am, and no, this does not apply. By doing the concept of NRS 248.040—and this is what the Legal Division had told me and what we tried to do in drafting—this would only

create a situation where this applies to the smaller counties under 100,000. I believe that NRS 248.040 is a reference to the smaller counties. Maybe you could ask your legal counsel to clarify that, but in drafting, that was completely our intent, and I have been told that the intent has been accomplished. This has been narrowly drafted to affect just the smaller counties ([Exhibit C](#)).

**Chairwoman Benitez-Thompson:**

Can we have legal counsel comment?

**Jim Penrose, Committee Counsel:**

Yes, NRS 248.045 applies only to the sheriff of a metropolitan police department, which, of course, in Nevada is Clark County. Therefore, NRS 248.040 would apply to a sheriff in every other county. The new language that is added to that section defines "cause," as I read the bill, only for the purposes of NRS 248.040.

**Assemblywoman Neal:**

Okay, great. Here is my second question. How many instances have occurred where a person has become a peace officer, or whatever, a sheriff, and they did not have a driver's license, or their driver's license was revoked and no one was aware of it? Because we have the provision in here for failure to maintain a valid driver's license.

**Senator Settlemeyer:**

Correct. To follow up, the reason the bill came about is that currently, under Nevada law, as I mentioned earlier, under NRS 289.555, a person can lose their ability if they have been convicted of a felony. Also, under NRS 289.580, a person can lose their ability to be a police officer due to failure to pay child support or to comply with subpoenas or warrants. In that respect though, everything else is open. I am not familiar with the number of instances. I know it has occurred a couple of times, and that is why the bill has come forward. You know there are situations where an individual can either not possess a firearm or has lost the ability to drive. They have lost their POST certification, or the ability to drive, because having a valid driver's license is not part of POST certification. Therefore, individuals can lose driver's licenses for numerous reasons, or they may just lose the ability from driving under the influence (DUI), or from other aspects. There are occasionally individuals who actually lose their ability to drive. You know, they get scared due to chase scenarios, or whatever, and they just no longer have the edge. I do not know how to say that appropriately. It has occurred.

**Chairwoman Benitez-Thompson:**

Senator Settlemeyer, this is different than when at first I had one context, and thank you for answering questions because it is putting into another. I feel like we are asking a really big public policy question here, which is whether or not peace officers and law enforcement should be able to remain serving on active duty if they have participated in such conduct in which they have lost their driver's license or their ability to maintain a firearm. Am I interpreting this law right? Are we asking for any small counties to have an exception for an officer that has a domestic violence charge against them to be able to carry their gun when no one else in the state can?

**Senator Settlemeyer:**

I think it is a little different than that due to the fact of the smaller counties. In the larger counties, if you have a situation where, let us say, if someone were unable to carry a firearm or drive or something of that nature, you could go to the jail. It is not a problem or an issue of safety within the jail because no one drives inside the jail.

**Chairwoman Benitez-Thompson:**

They could be reassigned to a desk job or something where they are not carrying a sidearm, or doing administrative stuff while that process is worked out. What would stop officers who have lost their certification in the rural areas and have been convicted of, let us say, DUI, and did not follow through with whatever that process is, so they have lost their ability to drive, or have a domestic violence conviction? What would stop them after they lose their certification from seeking employment in the rurals and being hired under this?

**Senator Settlemeyer:**

I believe it comes down to that you cannot be hired unless you are, again it goes to the POST-certification standard that the officer, or rather the sheriff, would have the ability to look at whether or not to employ someone with those qualifications. This is dealing with a situation after the fact, meaning that they were employed, they were on the road to POST certification but they never necessarily achieved it. Or, it was removed, because remember, it was a couple of sessions prior that we gave the ability in rural areas to say, you know what, you can hire somebody, send them to POST certification, get them enrolled, let them go through the coursework, and work towards that POST certification. However, we did not put anything in there that there was a time frame that the sheriff could say, "You know what, you have been trying to POST certify for three, five, ten, or whatever years, and you have not. You are still employed here, and unfortunately, now you have made it past the time frame to let you go, and I have no ability to let you go, but yet I have somebody on my force that cannot do their job." Therefore, I think that is kind of the issue of how it is

quite different, but for those real-life scenarios, or examples, maybe I should go to my sheriff in order to try to allow him to elaborate or to allow the sheriffs to elaborate on situations. This is discretionary authority to the sheriff. Every sheriff I know is going to do everything in his power to keep someone employed, because it is too hard to find and train people. This comes to the situation where occasionally you do run into situations where they need to have that ability, especially in the small counties. If you have only two people on at night, it is hard to have somebody who cannot do something.

**Assemblyman Livermore:**

This is not to question the Senator by any means. Being a local official, when you look at budgets, you also look at complements of people. When the sheriff's department used to come before me and express that they have only 15 people in the patrol division, and they do not have a spare person sitting around that they can keep this person employed during the period of time that they are still either trying to get POST-certified, or they are trying to cure their conviction that they have of some sort, I think it goes back down to the department's ability to manage the department within the budget given it. I do not think there are any exceptions made in small county government for these types of individuals just to stay in the department because you know, it is the right thing to do. I will just say that. Again, that is not a question. That is just an explanation of how I see the addressing of the bill.

**Chairwoman Benitez-Thompson:**

Are there additional questions or comments for the bill sponsor? Seeing none, why do not we go ahead and take testimony from the gentleman to your right.

**Gerald Antinoro, Sheriff, Storey County:**

The Senator is correct about how this came about. This has happened. Assemblywoman Neal, I believe, asked how many times this has happened. In my experience, since coming to the state of Nevada in 1994, I have been involved in three instances where somebody has lost their driver's license. One was not reported to the agency and was found out after the fact. The other two occurred in my current organization, prior to the time of my becoming sheriff. One of those individuals I had to address because of the timing once I became sheriff.

Assemblyman Livermore is absolutely correct. It does come to the ability to manage. However, between the union rules and the human resources laws and personnel offices, it really ties the hands of the sheriff. You cannot get rid of somebody who cannot perform. As the Senator said, in the small organizations, you have nowhere to put them. Therefore, you have got somebody who is on the payroll for weeks and weeks and weeks, if not months, going through

arbitration processes, or going through court processes, and everybody wants to wait and see. In the meantime, the sheriff is unable to provide the services to the public that need to be provided.

**Assemblywoman Neal:**

So, for the officer who you did not know had lost his license, how long had he been serving with your organization down there?

**Gerald Antinoro:**

That gentleman had been there for about four years.

**Assemblywoman Neal:**

Why did he lose his license?

**Gerald Antinoro:**

Unfortunately, he came down to Carson City and got arrested for DUI on two separate occasions.

**Assemblywoman Neal:**

In the instances of the POST-certification issue, how many officers have you had who were supposed to become POST-certified, and some serious lag time of a year, or three years happened and they were not POST-certified?

**Gerald Antinoro:**

That has not been my experience, but in discussions with the Senator, and with other sheriffs throughout the state, the potential is there. Basically, the existing law says that you have up to a year to obtain POST certification from the time of appointment. However, the POST Commission can grant extensions to that. Then, what happens is you potentially have the ability for a deputy to become tenured, and meet their probationary period with the organization, and still not have obtained a POST certificate. Or, in another instance, you have a tenured officer who fails to meet the continuing education requirements, so their POST certification lapses. There are in-house processes to address people not showing up for training and things like that, but when it is all said and done, you still have massive amounts of time where you have somebody who technically cannot be out there on the street providing the service that the sheriffs need to provide.

**Assemblywoman Neal:**

This is my last question. When you run your academies—I do not know how you guys do it, I am assuming it is an academy—how many people do you actually get, potentially, that come through? How many wash out? If there is an issue of finding qualified people, and then you need to have this carve-out in



statute to get rid of them, I do not know what is going on. It is starting to sound like the Wild, Wild West. But, I am trying to understand how many people come through that are actually qualified, and how many people wash out in your academies, typically.

**Gerald Antinoro:**

I do not have any numbers on that.

**Senator Settlemeyer:**

My recollection of the POST academy is about 35 or 40 percent wash out, if I remember correctly, from the POST academy that is actually down here in Carson City. If you are asking me to quantify how many people I think would fit in this category after they make it out, it is probably only 1 or 2 percent. However, it only takes the lack of one cop being on duty to cause a serious degree of harm for health and safety. Again, I cannot quantify that, how often it has happened. I will acquire from Mr. Clark, who is the head of the POST academy, the wash-out rate, and I will get you and the rest of the Committee that information of currently how many individuals wash out of the POST academy. As my sheriff in Douglas County, Mr. Pierini, is, I think, still the head of POST, or one of the main contacts of the POST academy, I will find that information out and get it back to you as soon as possible.

**Assemblyman Daly:**

I was just reviewing this as you were talking. It says that if a deputy who functions as the head of a department, or an administrative employee, or who has not completed the probationary period, they can already be removed at your pleasure in existing law, because it says, "except as otherwise provided in this paragraph," I am assuming, subsection 2. So, you are saying the problem is that the guy loses his driver's license, whereas the Chairwoman was saying if he was convicted of domestic violence and cannot carry his weapon, you know, not fit for duty anymore. That is cause, is it not? Or, is that covered somewhere in the bargaining agreements, or in some other statute or regulation? You have to meet the requirements in order to be fit for duty. If you are not fit for duty, it is kind of like not having a flagging card if you are a flagger. If you cannot meet the qualifications to perform the job, then you are not qualified, and it is not a non-just cause if they terminate you. I am trying to figure out where the problem comes in.

It seems to me, if a person does not meet their probationary period, or they have not gotten their POST certification in time, right up until that 12 months, you have discretion. You can say, "You better get it before day 364, or we are going to terminate you while we have still got time." I do not know where you are saying you lack discretion. My other concern is that, well, you can give

an extension, and there is no limit on the extension of the time that you can give that I have seen. If there is one, tell me. How do you determine that discretion? Because, for me, when I look at these types of things, you want to have hard and fast rules so people cannot play favorites. You say, "You meet your POST certification by here, or you are not fit for duty, and you are out. If we are going to give you an extension of time—we are going to give you an extension if there is some extenuating circumstance—maybe six months, three months, or whatever it is, and if you do not meet it, you are out." So that you cannot say, "Well I am going to give this guy, because I like him better because he is my wife's nephew, I am going to give him nine months." But somebody else, "I am not giving you any time." If you do not have these rules written down, I would think you would want to have hard rules so you cannot be seen, or viewed, or perceived, by anybody in that fashion. So, I do not know where the rules are now, but I think you have got some discretion already in what the existing law says.

**Gerald Antinoro:**

Yes, sir, there is some discretion already. Every organization throughout the state has that probationary period. I do not know if it is necessarily that probationary period that is the problem. However, there are many circumstances, as with the three different officers that I mentioned who had been arrested for DUI and lost their driver's licenses; those were well after the probationary period. In a perfect world, one would think that yes, there is discretion, and there are processes. However, as I said, with the human resources people that we have to deal with and the union issues that we have to deal with, you can typically have someone on the payroll for six months waiting to clarify a criminal charge or resolve a driver's license issue, and the whole time that individual is not able to work. That hampers the sheriff's ability to provide service for the community.

At any given time, I have two deputies on in my county, one for either side. If one of those individuals is gone, I do not have somebody to fill that position.

**Assemblyman Daly:**

So, you do not have a fit-for-duty provision? In other words, if an officer does not meet your physical that you do every two years, you do not have to keep him on until he loses 20 pounds, or he can do 50 pull-ups, or whatever the number. You have to be fit for duty. If you do something, like get convicted of a crime where you can no longer carry a firearm, you are not fit for duty. If you get a DUI, I can see where you have to go through the process and be convicted, and all that kind of stuff. What says he cannot continue his job? You decide to put him on administrative leave for internal reasons. I am just

trying to figure out, if you want to get rid of someone for cause, I think the cause provisions are pretty clear.

Believe me, I deal with collective bargaining and union issues all the time. If you wanted to get rid of someone for cause, you could make that determination, fire them, and they have the right to grieve and various things, and, if you are confident in the case, then go forward. I know the other side has the duty to represent, but they do not take on frivolous cases, in my experience. I do not know everything about that side of it, but it has been my experience that you have that discretion. You can make the determination and argue the grievance, and if you are right, you are going to win.

**Gerald Antinoro:**

You are absolutely correct, Assemblyman Daly. There are cause issues, there are processes to go through, and in theory, that is all great. However, when you actually get out there and start applying it, those theories start falling apart, because now you are being compared to Washoe County, or the Las Vegas Metropolitan Police Department, who have the ability to assign somebody to a desk. I do not have that ability. That is where the problems are, because when it comes time to deal with the unions or the human resource people, they say, "Well, let us just move them over here for now." That impairs my ability to perform the services that are needed. You are absolutely correct. As I indicated, in theory the procedures are there. In practice, it falls apart. That was the catalyst for this language with the Senator in the first place.

**Senator Settlemeyer:**

I have the ability, through technology, to contact the POST individuals. It used to be about 20 percent per year, to answer Assemblywoman Neal's question, of people who washed out. In the past though, the sheriffs have done a more selective job of who they send because they—no offense—probably got a little tired of spending time and resources on individuals who could not qualify. The current graduation rate is about 50 people a year at the local academy here in Carson City. I have actually been to every graduation since I started here as a legislator. Currently, they are only washing out two to four per year. So, that brings the wash-out rate from about 4 to 8 percent, currently. I just wanted to address your question while it was fresh in my mind. Thank you.

**Assemblyman Livermore:**

Let me put it into a different perspective, after a lot of the questions I just heard. I am a Commissioner and I serve on Commission District No. 3. Typically, the sheriff has patrols assigned to those districts. My constituents were calling me and questioning me regarding speeding, traffic violations, and things like that. I called the sheriff and he told me, "You know, I had this

individual who used to patrol, but I can no longer utilize him because he is going through this process," of whatever the issue might be. That is not an excuse my constituents want to hear. They want the activity of the funded position to actually occur and happen. I just cannot see how I could ask the sheriff to manage his department and then make sure that there are patrols during that time, or in that section of time, when you do not have any money to hire an additional person. I do not think the county is going to step up and give you two extra positions for just in case. I have been through those budget hearings, and I know how those budget hearings work. Every penny is accounted for, and you are held accountable for every penny, for making sure those pennies that are given to you are utilized in your department to the best of your ability to manage that. I see this gives you the flexibility and the authority to manage that department, so I appreciate the difficulties you have, but I just want to put on the record that it is all about dollars and cents.

**Allen Veil, Sheriff, Lyon County; and representing Nevada Sheriffs' and Chiefs' Association:**

I am here this morning to support S.B. 273 (R1), and hopefully, I can put a little clarification into what our issues are, both from the Association's standpoint, issues that I have had as a sheriff of Lyon County, and other things that my fellow sheriffs or chiefs have passed along to me.

I think a lot of what has been said this morning is absolutely correct. This should be a management right. We should have the ability to manage our agencies. When we run into a situation such as has been mentioned, where a deputy or an officer is arrested after they have passed probation, and therefore, they lose their driver's license for a period of 90 days, or it could be as little as 45 days, depending. What that does is it tells me that they can no longer meet my job description. I think all of us require a deputy or an officer to have the ability to possess a driver's license, and going along with that, have POST certification. If someone loses their driver's license after they complete their one-year probation, they can no longer meet the job description. I should be able to terminate them at that time for cause, or at least have the discretion to do so.

What has happened with our agency and other agencies, is we will get an officer who has been arrested for DUI, and they lose their license for 90 days. However, as Sheriff Antinoro said, either the county human resources, or the unions, or the police protective association (PPA) comes forward and says, "Well, just take that individual and put him at a desk. He does not have to drive." What that causes me to do is create a new job description because this person no longer has a driver's license. That takes away from my ability to manage. I am forced to create a new job

description. We should not have to be in that position. If a deputy has to have a driver's license, a deputy has to have a driver's license. The same goes for POST certification. I think we need to keep that fairly simple.

What I see with including these definitions of cause in statute is that it will define just cause for all involved parties, including employees, county management, city management, and the administration of the agency. Everyone knows going in that if you lose your driver's license or if you are unable to be certified by POST or you lose your POST certification because of various reasons, that has been identified as just cause. It would greatly decrease, in my opinion, the number of grievances or arbitrations challenging termination of an officer or deputy that loses either their driver's license or their POST certification.

**Assemblywoman Neal:**

I am just curious about something. I agree that it is an issue. However, if they lose their position as a peace officer, and then they are no longer able to work—and I think somebody was leading to this question before—what is the likelihood of getting another security job somewhere else when they have been dismissed from, basically, a higher-level position which is POST-certified? Would they be able to get a security job where they are riding a bicycle? There are security officer jobs where no weapon is required, but there is also job history. Why were you released? I do not know if that is a great mark to have on your record. It is kind of like flushing out the people who may not be as employable. I would say I am leaning towards profiling candidates, but I should not be saying that. But I am saying that there is a possibility that there is something in the wind that this person may not be performing up to par. A DUI is not something that just happens, you know. You got pulled over twice for being drunk. I am sure there was a point before that where they were drunk, and nobody knew it. However, people who hang around with them know. They know, and they are like, "Hey, I smell a little bit of vodka on you today. Is that perfume?" Are we running into situations where we just do not know because we do not spend a lot of time with each other? What is happening?

**Senator Settlemeyer:**

I will try to address your question the best that I can, and I will let these guys follow it up, probably with much better answers. On the issue of an individual who would be released for failure to have a driver's license, they would then probably go cure that. They would probably go find the way, or spend the time, or take the requisite course, or whatever is necessary to cure it. At their next employment opportunity, they would be able to list that they have a valid driver's license. Would they have to disclose? I mean, if they chose to disclose why they were released to begin with, then yes, it probably would be a mark

against them on employment in the future for a different position. That is just a reality. Just as if they were actually arrested for DUI and lost their driver's license, if any employer asked, "Have you ever had a DUI?" and they click that box, that is already an issue. That is not even addressed by this bill in any way, shape, or form. This is really just going after the concept.

Yes, mainly the bill came about with the concept of the driver's license. But it seemed appropriate to me to address what I felt was an error that, sadly, I voted for. I made a mistake previously in legislation, where we created a situation where these sheriffs have people on their department who are not POST-certified, and they do not have a remedy. We did that thinking we were doing them a favor. In reality, we were doing them a disservice. I feel badly for that vote going backwards because I feel I have done this society a disservice because now we have situations out there where we have unqualified individuals trying to enforce laws, when, in my opinion, they should not be there.

**Chairwoman Benitez-Thompson:**

I have a question, Senator Settlemeyer. In the population cap that we are looking at for this bill, it would apply to every county except Washoe and Clark, is that right?

**Senator Settlemeyer:**

Correct. I was really intending to get into the small counties where it is an issue when you have two, three, maybe five guys on duty at nighttime, and all of a sudden, you have one who does not have a license. If the Committee was far more comfortable with a lower population cap, by taking it to something else, go right ahead. Please do so.

**Chairwoman Benitez-Thompson:**

Perfect. I can understand the situations you are talking about being very relevant with the gentleman we have here about Storey County and Lyon County. I am thinking perhaps Carson City and Douglas County have bigger law enforcement.

**Senator Settlemeyer:**

They potentially have a larger pool to draw from.

**Chairwoman Benitez-Thompson:**

They have a larger pool of employees, and what we are talking about in this situation may not be as applicable. Thank you for being amenable to that. Are there additional questions for the bill sponsor, or for our sheriffs who have joined us here today? [There were none.] Do you gentleman have any

additional comments before I open it up for testimony in support? [There were no additional comments.] I will go ahead and take additional testimony in support.

**Dagny Stapleton, representing Nevada Association of Counties:**

We understand the additional flexibility that this bill provides. We understand the need for it, especially in rural counties, and we are in support of the bill. Thank you.

**Chairwoman Benitez-Thompson:**

Are there any questions? Seeing none, let us open up for testimony in opposition.

**Ronald P. Dreher, representing Peace Officers' Research Association of Nevada:**

Thank you very much for giving me an opportunity to come here today. Unfortunately, I have to oppose S.B. 273 (R1) on behalf of all of us. In our opinion, it will also have an economic impact detrimental to rural counties. In short, we believe it has unintended consequences.

You have heard a lot of testimony here earlier by two sheriffs that have collective bargaining. I am going to get into that in a minute, but I want to walk through and talk about the consequences that you will have if, in fact, this is allowed to go forward. [Read from prepared testimony ([Exhibit D](#)).]

Inequitable distribution of this policy is not appropriate. [Continued to read from prepared testimony ([Exhibit D](#)).]

The two sheriffs who testified today both have collective bargaining agreements, just for the record. In those collective bargaining agreements they have discipline and discharge standards. They have policies that can control the issues that were brought in front of you today. The question is this: do they have the ability to manage? You bet they have the ability to manage. Do they have a right to terminate under certain circumstances? Absolutely, they do. [Continued to read from prepared testimony ([Exhibit D](#)).]

You heard Sheriff Veil mention just cause. Just cause is not mentioned in S.B. 273 (R1); the term "cause" is. [Continued to read from prepared testimony ([Exhibit D](#)).]

You can have POST certification, and there has been a lot of that talk, and the bill mentions that, but we have never had a problem with POST certification. As a matter of fact, I have testified over the years along with Dick Clark, the head of POST, to get standards raised so sheriffs in rural counties could have

their POST-certified people, the deputies that come on, qualified within that probationary year. The exceptions that you heard raised, given by POST, are that they allow extensions of that time, and it is usually because the sheriffs do not have the time or the money to send these deputies back to POST to get all the certifications they need. So, they grant extensions. Now, along with that extension of a year, it can be extended as much as 18 months. That is not because they have had a DUI, or something like that. That is because the sheriffs in the rural counties did not have the money to get the POST certification.

Another thing that can be obtained in the collective bargaining agreements, and is obtained, is the right to extend probation. It is okay to do that, and collective bargaining agreements do allow that to happen. We do that all the time, especially in the rural counties. My record, my reference, what I do—I represent deputies in Elko County, Humboldt County, Lyon County, Lander County, Carson City, and many of the rural agencies, including Washoe County and Mesquite. I am very familiar with collective bargaining agreements throughout the state. [Continued to read from prepared testimony ([Exhibit D](#)).]

I need to speak to a couple of other points that were brought up, especially those points brought up by Assemblywoman Neal, and the like. The right to possess a weapon, for example, taking that a step further, when a person has a domestic violence charge, they do have the right to continue carrying that weapon until the adjudication goes through that process. The next part is, the smaller agencies have reserve officers which they utilize all the time. You heard the sheriff mention that he only has a couple of deputies. Well, I will tell you what, if they only had a couple of deputies, that would be one thing, but they have very good reserve deputy forces that can come in and handle the other situations when these couple of officers do in fact lose their right to maintain those licenses for those couple of days. The problem that I see with S.B. 273 (R1), is the fact that it has as a cause the last standard that says, "Failure to maintain a valid driver's license." That is probably what is wrong with this.

Madam Chairwoman, I heard you talk about or look at the population cap. In my opinion, reducing the population cap does not resolve the problem. You have salvageable veteran officers here that should not be cast away. To my knowledge, there is only one county, perhaps two, that do not have collective bargaining agreements for their sheriff's deputies, either through a union or through other professional organizations. Most of this is resolved already through that. As you say, it is a policy issue. It is a discipline-discharge



issue. Assemblyman Daly brought up the issues of due process, just cause, and the process that we already have in law to be able to satisfy these concerns.

What I am saying here—and I testified on the Senate side, too—is what you are having here is an attempt to circumvent the collective bargaining process. It is an attempt to set up policy that deals with NRS Chapters 288 and 289. We have discipline-discharge standards in that where we can make these very simple standards. Madam Chairwoman, with that, I am going to open it up for questions because I really think this bill needs a lot of work. Senate Bill 273 (R1) is not good policy in my opinion.

**Chairwoman Benitez-Thompson:**

Let us start with this. You said there were two sheriffs' departments that do not have collective bargaining agreements in any shape or form. Do you know what those are by chance?

**Ron Dreher:**

As far as I know, Eureka County does not have one. I know they are represented by some group, but I do not know which one. I do not believe they have a collective bargaining agreement. The other one used to be White Pine County. They may or may not have one now. To my knowledge, the rest of the counties in Nevada have collective bargaining agreements.

**Chairwoman Benitez-Thompson:**

Before I get to questions for Mr. Dreher, I had one request for the bill sponsor. Before I neglect to mention it, could you get for me those counties that are under 45,000, the number of deputies and sheriffs within their departments? [They said they would.] Perfect. That will help us get a better idea of what we are thinking about here. Thank you for that.

Are there questions for Mr. Dreher?

**Assemblyman Daly:**

Are there already provisions in law somewhere else on the definitions of just cause if you lose your POST certification, or do not get it within the twelve-month probationary period?

**Ron Dreher:**

Yes, it is there, even in collective bargaining agreements, in policies, in local governments, and the like.

**Chairwoman Benitez-Thompson:**

Could you state that NRS chapter again? I was trying to write it down. You said the definition for cause is in NRS, did you say 273?

**Ron Dreher:**

No, Madam Chairwoman. The definition of cause that I am talking about is the definition they are trying to put in S.B. 273 (R1). I believe Assemblyman Daly's question was if there was currently a definition in there. Every local government agency that has a collective bargaining agreement, and their discipline-discharge standard is in that article, normally states that discipline shall not be meted out except for just cause. Just cause is a definition provided in arbitrations that list a series of criteria that has to be met to meet a just cause standard. So, as far as it being in the law, I am pretty sure that NRS Chapter 284 states cause, and that is under the state employees' discipline-discharge procedures. Then when you get to individual collective bargaining agreements, you will see it in there as well. Some counties have that in their county policies and procedures, while others do not.

**Chairwoman Benitez-Thompson:**

Thank you for clarifying for the record, because at least during your testimony, I thought I heard that it was already somewhere in NRS. So, it is just in individual collective bargaining agreements. I am sorry, Assemblyman Daly, I did not mean to step on your toes. Do you have additional questions?

**Assemblyman Daly:**

Yes, thank you, Madam Chairwoman. That is what I thought I heard him say as well, which is why I was asking the question. I know that, most of the time, in law, you do not usually define just cause. There are common things that are just cause. If you act out violence against your superior, or other officers or whatever, you are going to get fired. If you are stealing, you are going to get fired. It seems to me that you indicated in the collective bargaining agreements it is pretty established that if you lose your POST certification, that is just cause. So, we are really arguing over the drivers' licenses and the small counties and various things. I know you also said that they have the reserve officers, and some of these other things that you can do. How long does it usually take? What are they really supposed to do if they do not have a position for the person who lost his driver's license for whatever reason? I know you said that people make mistakes, and they should not lose their career. However, there are others where, if you make that mistake and you do not have your driver's license, it is a black mark on you, and it is going to be tough. If you are a professional truck driver, or an airline pilot, if you are a lot of other things where you have to have a clean driving record and you are driving someone else's vehicle, on down the line, in fact, I do not think they

would be eligible for rehire in most instances on most police forces if they had, especially multiple DUIs. You would be gone.

**Ron Dreher:**

You are absolutely right. We certainly do not have a problem with that. As a matter of fact, in my experience, I have worked with sheriffs, police chiefs, and others across the table in collective bargaining to define when that maintaining a driver's license standard is applied to termination, and what you do to help an individual through that process before they reach that. As you heard the sheriffs mention, and as is required by law, and in law, you can lose your license, and first of all, you are going to get a temporary license for seven days. That is the first hurdle to overcome. Secondly, they can reinstitute a license in as little as 45 days. Through that process, you are talking about 45 days where the deputy can be utilized in other methods, as you heard, whether in detention facilities, at the front desk, or working partnerships with another officer or deputy. There are all kinds of utilizations for that because you do not have every deputy out there working the street every single day. You use them for other resources, and you can mix and match. In an effort to salvage, we are talking about post-probationary employees, not probationary employees, as you pointed out, because during that first 12-month period, anyone can be gone without cause. Unless it is a Title VII issue, which is discrimination based on sex, race, age, et cetera, it can be met. What you are talking about, Assemblyman Daly, is at the negotiation table, or in policy with the department, working in conjunction with labor and management.

**Assemblyman Daly:**

I just want to try to get to if that is the issue, the driver's license, and I know there are a variety of things you can get—the use of your driver's license, even though it has been suspended for DUI for work—but you have to apply through the court and do all of those things. I understand what you are saying about some administrative positions. Is there a time limit? How long would you expect the department to put out the offer? On these issues of the extension of time, what is typical of collective bargaining agreements? Do you have six months? Does it have to be given uniformly? For the departments that do not have the agreement, you could say, "Hey, these are the minimums." There would have to be something in there that you would put in the law for the departments that are not there. So, you would say, "You can give an extension of time, but it cannot be longer than this." If you are giving it, you have to give it to everybody under the same circumstances. Those two things would be useful to try to address the situation. I am interested in how long you have to hang on to a guy for whom it will take six months before he gets his license back. Fifteen days is one thing; 180 is another.

**Ron Dreher:**

The fact is that issue is definitely a mandatory topic of collective bargaining under NRS 288.150. It is negotiated. It should be negotiated. I do not think it should be codified in state law by providing each county or agency an opportunity to have that done at that time. I am not sure, when you are talking about the extension of time, whether you are talking about extending probation or putting in law the amount of breaks you give an individual before you finally say, "That is enough." Maybe I misunderstood your question. If you are talking about codifying, for example, if you lose your license for six months, you are done. Again, those are issues that go back to the negotiating table and the right to discipline and discharge. The right to negotiate that has been in law for a long time, and we do that. I would ask that this Committee leave it where it is and let us handle it in that format. We are not experiencing the problems that you heard here. I have represented several officers in these DUI matters with very competent attorneys on both sides through the arbitration process. They have, in those instances, received discipline. Some have been terminated. But that is due process, and that is why we have this in collective bargaining and the discipline-discharge standards. In my opinion, that is why this is not needed. The issue of maintaining a driver's license should not be in state law.

**Assemblyman Ellison:**

I have a couple of questions for you. First off, this is not a perfect world. As much as we would like to think it is, it is not. In some of these areas out in the middle of nowhere, if you have an officer who lost their driver's license, and you have a three-man crew, and you do not have a jail right there, what are you going to do with that guy? You have to go back to the county of origin, usually, if you can, and see if you can put him to work in a jail. You say reserve officer, but not all reserve officers are POST-certified, are they? So, what do you want to do? You want to create a position for this officer to sit at a desk while you guys go through this? I do not think so. I have employees. If they lose a driver's license and they are electricians, if I cannot get someone in, now you have cost me double money to put a driver with this guy. If not, I have to try to do something else with him to try to keep his position. Even in a perfect world, that does not work. So, I have got a real problem with your testimony. I want to save every officer I can, but to create a position and put a loophole in for this guy while he is going through this process, no.

I agree, there are ways to handle this. I think that is true, but not when you are out there trying to create a loophole under a law for something you are trying to do. That is what you are saying. You are saying you want to put him to work in a jail. Well, what if there is not one? You might have to go 50, maybe 200 miles away to get him work in a jail. What happens if they are

fully staffed, and they are not POST-certified? Not all jailers are POST-certified. Is that not correct?

**Ron Dreher:**

That is not correct. To my knowledge, all of our reserves have to be POST-certified, or in the process of getting POST-certified.

**Assemblyman Ellison:**

No they are not.

**Ron Dreher:**

I am telling you based on my experience. I do not want to argue. Obviously, we can have POST come in. I am sorry.

**Chairwoman Benitez-Thompson:**

Let us do this. I can have legal counsel follow up on the POST certification.

**Assemblyman Ellison:**

Also, if I may ask you to answer this question. Are all reserve deputies POST-certified?

**Ron Dreher:**

To the best of my knowledge, they are supposed to be, or they should be getting their POST certification, or they are not considered police officers under our POST certification procedures as they currently exist. They too, have the right to go through their year to get that. It can be extended, but the idea is to get them POST-certified. It is not a question, Assemblyman Ellison, of creating a job either. We are talking about something temporary. We are not talking about something permanent. That is why I am saying the best place to handle this is at the table in negotiations so both sides understand what just cause is.

**Chairwoman Benitez-Thompson:**

I do have a series of further questions. Assemblyman Ellison, if you do not mind, we will keep moving through the questions.

**Assemblyman Ellison:**

No, I do not mind, Madam Chairwoman. However, I would like to have the maker of the bill address those questions before he leaves. Because, I will tell you, it is important to this bill. Thank you.

**Chairwoman Benitez-Thompson:**

Yes. Thank you, Assemblyman Ellison. Let us go to Assemblyman Stewart.

**Assemblyman Stewart:**

I just have a couple of comments. First of all, I think law enforcement officers should be held to a higher standard than the public. They enforce the law. They enforce domestic violence. They enforce drunk driving. I think it is important that we bring that up—that they should be held to a higher standard. Secondly, on the point of a veteran officer or deputy who gets drunk, who perhaps has a death in his family, is despondent and gets drunk, to fire him, and then have to hire a new person to go through the training and everything, these sheriffs have to keep budgets. They are not going to do something stupid like that if this person has a good record and this is an unusual circumstance. They know they have to maintain a budget, and they are not going to waste money on hiring somebody else if this person has a proven record. I think those are two important points that we should consider.

**Assemblyman Healey:**

My first question has been addressed, but it needs to have some work in terms of how long. These budgets are small. These agencies do not have budgets like we do in some of the bigger counties. My other question pertains to your comments regarding cause versus just cause. If the bill sponsor were to consider changing that to just cause, does that address your concern?

**Ron Dreher:**

Assemblyman Healey, yes, it would. I would also like to see in there some kind of appeal process because that is what is missing. There is no appeal in this law. It just says, cause means this and you are terminated, period. It would require a couple of things. The preference would be to take care of that by getting rid of that last sentence all together and leave it to the POST standards. But you are right, just cause would help.

**Assemblyman Healey:**

Based on your testimony, if you are potentially being discharged or disciplined under just cause, there is an appeal process built in to just cause. Is that correct?

**Ron Dreher:**

Assemblyman Healey, no, there is not. We would have to actually codify that in the law as well, in order to allow an appeal process to take place. Senate Bill 273 (1st Reprint) and NRS 289.550 do not provide that.

**Assemblyman Healey:**

I thought in your comments you said that under just cause in a contract, if an employee is going to be discharged for just cause, that there are steps that they have to be notified, and so forth, so that there is a process built in on the

back end of what just cause is. If I understand that correctly, it would be redundant to have to codify it here. That is why I made the suggestion that if they changed it to just cause, then that covers the appeal process, which I think, by your testimony, I understood to be your concern.

**Ron Dreher:**

It would have to say in the law, when you are talking about just cause, that if it is already included in a collective bargaining agreement, then you would be absolutely right, the appeal process would be there. However, the law, as it is currently written, does not incorporate that as some laws do. For example, absent a collective bargaining agreement stating otherwise, then just cause standards apply. Something that refers it back to a collective bargaining agreement that allows us the appeal process that you are talking about is all we are asking for.

**Assemblyman Oscarson:**

To the question my colleague asked, after I ask this brief question, I would like legal counsel to weigh in. Assemblyman Healey had some good points, and I would like to see if Mr. Penrose could give us some clarification on that. I just want to reinforce that the rural issues for these departments that we are talking about are very different than the urban issues. There are significantly different factors that they have to consider: smaller departments, smaller budgets, all those kinds of things that go along with it. I think it is important for this Committee to know that there are different levels of POST certification. There are different levels that could be considered in some of the discussion that Assemblyman Ellison brought up as well. Madam Chairwoman, with your permission, if Mr. Penrose could weigh in on the labor issue, I would appreciate it.

**Chairwoman Benitez-Thompson:**

What is the question for legal counsel, Assemblyman Oscarson?

**Assemblyman Oscarson:**

Whether in fact they are covered under some other state regulation, or law, as far as being able to participate in a process where they might be able to appeal.

**Jim Penrose, Committee Counsel:**

I will do my best. It would seem to me—and in a former life I did represent employees who were governed by collective bargaining agreements—and I would certainly argue, and I think I would be sustained, that notwithstanding the provisions of this bill, an employee who is governed by a collective bargaining agreement would, nevertheless, have the opportunity to grieve a termination and would have whatever rights are afforded under a collective

bargaining agreement. That process is, in fact, the due process that Mr. Dreher alluded to. It could be made clearer, I would agree, by providing specifically in the bill that nothing in this language prejudices the rights that otherwise exist under the collective bargaining agreement.

Frankly, I was struck, given the objective of the bill—which is apparently to provide basically an expedited termination process for officers in this situation—by the fact that the bill really does not provide that. I can, by way of analogy, refer you to a situation I have dealt with involving teachers who lost their teaching licenses. There is a statute that makes it illegal for a school district to pay a teacher who has lost a teaching license. It used to be that we would attempt to arbitrate those cases so that, notwithstanding the loss of the teacher's license, the teacher could continue to be employed for weeks, or months, or potentially years while that issue was being litigated. Ultimately, the Legislature addressed the issue by providing what amounted to a summary termination process for somebody who was legally disqualified from working as a teacher. In any case, what this bill does, as I read it, is simply provide a definition that the sheriff's department would assert in the termination process under the collective bargaining agreement to argue that the arbitrator would be required to apply this standard in determining whether or not the deputy ought to be terminated.

As for changing cause to just cause, I have to disagree with Mr. Dreher's comment there. I think it would make it even more explicit that, in fact, an arbitrator would have limited discretion to overturn a termination decision. I think the bill makes it pretty clear that, notwithstanding whatever standard may apply out there for determining just cause, if the circumstances described in this bill exist, the arbitrator pretty much has no discretion except to uphold the termination or disciplinary action.

**Chairwoman Benitez-Thompson:**

Let us do this, because we have the bill sponsor, Senator Goicoechea, up for his bill next, and Senator Settlemeyer's bill is holding him up, so let us wrap up with any additional questions from Committee members. Seeing none, thank you for your comments, Mr. Dreher. Is there any other testimony in opposition? Seeing none, let us move to neutral. Are there any comments in neutral for the legislative record? Seeing none, Senator Settlemeyer, I will invite you back up for any closing comments.

**Senator Settlemeyer:**

Thank you, Madam Chairwoman. I appreciate it very much. I do believe the smaller counties are different. I have always done my best to defer to the



Clark County delegation on matters that dealt with Clark County. I am hoping there will be a discussion of the population cap.

In Storey County, they have 17 officers, and at nighttime they have 3 officers on duty. If, all of a sudden, one of those officers cannot drive, that is a problem. That is what the bill is after. There was some discussion on the opposition testimony, but this bill just gives them discretion. The cops and the sheriffs that I know are going to do their best to work with a person. If they get a DUI off duty, they are going to work with them. If they get a DUI while on duty in a police car, then probably no, they will not want to work with them. Then, on the second DUI, yes. They are looking for discretion. This is not automatic. This gives the sheriff the discretion to address the issue.

On the due process stuff, this is cause that triggers a due process hearing. Therefore, there is due process. The bill still allows that. As for the discussion of the temporary restraining order, he is correct. If you get arrested for domestic violence, you could be allowed to keep your gun, unless the judge issues a temporary protective order (TPO). If the judge issues a TPO, you cannot have a gun. It is very rare that a judge does not issue a TPO in a domestic violence situation.

As for the discussion of using reserve members, the unions do not allow the use of a reserve full-time. They are only used for extenuating circumstances, whether it be a concert, or something where they need additional officers. They do not allow it for a full-time position. I understand where everybody is at with the concept of potentially having an individual lose their career. I am very responsive to that problem, but to me, it comes down to a fundamental aspect. You are dealing with an issue where, yes, they may lose their career. However, if you do not, someone else could lose his life in that type of situation.

This last one is just for fun. My colleague gave this to me who is a reserve, Senator Goicoechea, who was not POST-certified. With that, thank you.

**Chairwoman Benitez-Thompson:**

Thank you very much. I will be looking forward to the follow-up. Thank you, also, for those numbers from Storey County to help the Committee consider the population cap that could potentially be appropriate for this. I think those counties that fall under 45,000 are Nye, Churchill, Humboldt, White Pine, Pershing, Lander, Lincoln, Mineral, Storey, Eureka, and Esmeralda. If you could get us the size of the departments for those counties, that would be great. The bigger population cap of 47,000 would include Nye and Douglas, so we could potentially look at those, too, if you could get them to me.

**Senator Settlemeyer:**

I will get you those numbers. I am also going to have them give you the numbers of how many are on duty, because that is also relevant. For instance, Storey County has 17 officers, but only 3 at night.

**Chairwoman Benitez-Thompson:**

That is how you work your budget piece, right? The total amount hired, and then folks who are actually on duty, right?

**Senator Settlemeyer:**

Yes, that their limited staff are at critical times, because I think that is also relevant. They have 17 officers, but if only 3 are on duty at any one time, that is the issue. Thank you.

**Chairwoman Benitez-Thompson:**

We will look for that follow-up. With that, we will go ahead and close the hearing on S.B. 273 (R1). We will move to Senate Bill 342 (1st Reprint), and welcome Senator Goicoechea to the witness table.

**Senate Bill 342 (1st Reprint): Revises provisions governing the vacation and abandonment of certain streets. (BDR 22-665)**

**Senator Pete Goicoechea, Senatorial District No. 19**

I am bringing you Senate Bill 342 (1st Reprint) today. I hope we do not have opposition like the last bill. The intent of S.B. 342 (R1) is covered on page 4 of the bill, subsection 12: "The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of a street for the purpose of conforming the legal description of real property to a recorded map or survey of an area." You have to be aware that, in the rurals,—which I fortunately get to represent a lot of—in the mining camps like Austin and Eureka, as those communities came into being, they laid out lots and blocks and streets and then put tents and ultimately shacks and eventually homes on those lots, blocks, and streets in those areas. Unfortunately, as we have moved forward and technology has improved, including surveys, we find that sometimes the lot you own is actually in the middle of the street. Moreover, your house is sitting in the middle of another street.

Over the years, there has been a lot of work done and a lot of expense incurred in these small mining camp communities. In some cases, they are not small anymore, and we are trying to reestablish those lines and adjust those lot line boundaries.

This bill was brought forward for Lander County, predominately for the City of Austin. Even though I no longer represent them, I was their Assemblyman for a number of years, and I apologize, and they apologize. There was a miscommunication. Ray Williams and Deputy District Attorney Nichole Ting were supposed to be here, but I got a message this morning that they were not going to make it. It was quite a drive, and there was some miscommunication. So, I apologize on behalf of Lander County.

The bottom line, and what this really does is, it allows a county—any county in the state, including Clark—or their board of county commissioners, if they do have something that is, again, trying to make a street or a lot line conform with a legal map, they have the ability by ordinance to provide for that vacation of the street. Of course, if we are worried about transparency, the bottom line is the ordinance process requires two public hearings.

This bill also requires, if you look at section 6 of the bill—and this was an issue that we dealt with on the Senate side—written notice be provided to each public utility and video service provider to make sure that anything they do in this realignment, and to conform with the legal document, does not, in fact, impair their dedicated easements. Of course, as you go through the existing statute in the bill, it makes a difference whether the easement was an acquired or a dedicated easement as far as how you go back and reconform these lines.

The bottom line in the bill is that it just allows counties, by ordinance, the simplified procedure to go back and do some lot line adjustments. Let us get the streets out in the street, and the homes back on their lots where they are supposed to be. It would be a fair trade. I see Assemblywoman Neal is looking a little concerned about that. However, there is no way this is about eminent domain or anything like that. This is clearly just doing lot line adjustments, and it has to be done by ordinance in a public forum.

**Assemblyman Ellison:**

In the rural areas, we run into this a lot. We just had some, before I left the county in Jarbidge, and found out that was actually a street, and nobody even knew it. They just thought it was an alley, but it was not. The county had the right to go back in and vacate that, and that is what they did. In most of the counties, this is already an ordinance, is it not?

**Senator Goicoechea:**

The ordinance is in place pertaining to *Nevada Revised Statutes* (NRS) 278.480, but through this, it would allow them, rather than going through the complete process of actually going through courts and appraisals, they could just go back with a simplified ordinance and say, "Okay. We can adjust this lot line." It just

cleans it up. It takes it from a one-year process to, possibly, you would have to have at least 45 days by the time you went through the public hearing requirements. At least, it kind of streamlines it. It saves a ton of money, especially in these communities where they might be dealing with 10 or 15 of them, in a small community like Austin.

**Assemblyman Daly:**

I have a question to clarify, at least, what I think, and it might help some other people as well. I know I have spent some time out in the rural counties, and, if you go and ask for an address, they may say, "Well, the official address is the brown house on the corner." That is the address. So, you have to understand that. It is not streets and numbers everywhere.

Just a scenario, as I am thinking, say you are in Austin in 1880. They draw the maps and lines, and they put it on a map and write the descriptions. Parallel here, you know, so many degrees north there, and this is where the things go. Then, as things go forward—and you are in rural communities prior to deed searches and all of these things—they said, "Well, we did not bother to change the description on the map. Go ahead and build your house here. We will move the street over there." So, now, when people are trying to reconcile this and someone is trying to sell a house, they are going back to a map that may be 80, 90, maybe 100 years old. They find out that, according to the description on the map, the legal description of the city as it is laid out, your house is in the middle of the street. Nobody bothered to change the map when they moved the street.

Now we have all gotten more sophisticated, even in the rural counties. Those are the things you are trying to address, from what I read of the bill, so that a county can do that by ordinance. There may be those very same issues in counties like Clark or Washoe as well, because there are rural areas in both those counties, whether people think of it that way or not. Are those the types of scenarios you are talking about? Where Austin was laid out, and they just said, "Well, just go ahead and build it here and it will be fine," but they never changed the map, so now you have got to reconcile that to today's standards.

**Senator Goicoechea:**

That is exactly right. I am a lot more familiar with the community of Eureka, having spent time there on the Board of County Commissioners. But in 1948, Judge Sexton went in and just took legal action and said that the streets are where the streets are, the houses are where the houses are, and they plotted the map in 1948. Well, again, you have to understand that most of the surveying was done with a wagon wheel in those days; so many revolutions meant so many feet. It is pretty steep country, especially in Austin, and so they

are not accurate. However, we continue to have the same problems in all the rural communities, as Assemblyman Daly pointed out, in areas which are not in Washoe County. It is kind of a smaller rural community issue, but there is nothing in this law that precludes it to anything. There is no population cap on it; this is a statewide issue.

**Assemblywoman Neal:**

I just want to be clear. This is just simply redoing a map so that the properties are in the place that they are supposed to be set up. This has nothing to do with moving a property to a different place. Because, I was not thinking eminent domain, I was thinking easement. Then, I was thinking when an easement prescribes, and you are now a part of that particular, or you are using it, and you feel like my rights are associated with street X, now, you are telling me that I should be on street Y.

**Senator Goicoechea:**

That is exactly correct. They are just trying to make sure that you actually have the property you have. However, there is care taken in the bill, and we also reflect in subsection 6 of this bill to make sure that the easements and the utilities are, in fact, notified. Because, clearly, as you do your lot line adjustment, and you adjust the lot, all of a sudden, there is a dedicated easement there for either a video company, a power company, or whatever. Unfortunately, that easement is in place. It is an easement on your property at that point, and it has to be recognized. But again, you are just trying to make sure that, especially if you are trying to clean up your lot lines, if you would want to sell the property, or get a loan on the property, it is impossible to do when you find out your house is sitting on the street.

**Chairwoman Benitez-Thompson:**

Are there additional questions? Seeing none, I understand that the folks who would testify in support could not make it today. If you want, please have them send a letter or something we can post to NELIS. We are referencing it in Committee, so we can make it part of the minutes. Is there additional testimony in support?

**Judy Stokey, representing NV Energy:**

I am here in support of the bill, and I appreciate the sponsor working with us and making sure that this keeps all those easements protected. Thank you.

**Assemblyman Daly:**

The question goes along with this. So, we are going to be redoing these lot lines. Obviously, if you had an easement that ran along the front of someone's property, and that lot line you thought was in the street where you

have your utility is really in the middle of their house, when we adjust that line, they are going to adjust the easement. There is not going to be any saying, "No, no, no. We want to keep our easement right where it is." When you do not, in fact, have your utility in that location. You have it out where it actually is going to be moved. You are not planning on haggling over that, are you? You need to move the easement the same as you move the lot line. In that, it is clear in here that you have to move it the same as the lot line has to be moved. Right?

**Judy Stokey:**

Our understanding is that, the way that the bill reads, this is going to notify us so that we can work with them to make sure that all of that is taken care of.

**Chairwoman Benitez-Thompson:**

Are there additional questions? Seeing none, thank you for your testimony.

**Dagny Stapleton, representing Nevada Association of Counties:**

We do understand, especially in the rural counties, the need for a simplified procedure for the abandonment of streets, and we are in support of the bill. We appreciate the bill sponsor for bringing it forward. Thank you.

**Chairwoman Benitez-Thompson:**

Are there questions? Seeing none, is there additional testimony in support? Seeing none, we will move to opposition. If there is no opposition, we will go to any comments that folks would like to put on the record in neutral. Seeing none, are there any closing remarks from our bill sponsor?

**Senator Goicoechea:**

Again, I would like to thank the Committee. I think I probably need to respond to Assemblyman Daly's question just a little bit. Probably, the easement would not move, because the utility would be in place. So, through this process, they would have to make sure that easement went to wherever the utility, or cable, or whatever, was located. It might be a case of, as you were trying to do this lot line adjustment, maybe the property owner would have to allow that easement, or dedicate that easement to the utility if it was not to be in the street, and/or if it was an easement that was thought to be on private property, and it was on the street, then the county would have to recognize that. All that would be incorporated in the ordinance. Does that make sense? We cannot, clearly, ask them to move the utility.

**Assemblyman Daly:**

Yes, that is the way I understood it. What I was just trying to say is, so if the lot line was through the middle of the house, and the easement was ten feet

inside the lot line, for a sidewalk or whatever—because there are lots of different kinds of easements, access easements, and various things—when you move the lot line, the easement has to move because the utility is not actually where the easement was. Because it is, in fact, where it is. That is where you are going to move the easement to, whether it is on private property, or adjacent to, or five feet in, or actually in the road. That is where they are going to get the easement; where they have actually placed the utility. That is all I was trying to clarify.

**Senator Goicoechea:**

Right. That is correct. Really, all the bill says is, "Hey, if you are going to do one of these adjustments, you have got to make sure all the parties are notified." Again, I think that is part of the transparency. With that, I would appreciate your support. It has been a pleasure to be here this morning. Thank you.

**Chairwoman Benitez-Thompson:**

Thank you. With that we will go ahead and close the hearing on S.B. 342 (R1), and we will open up the microphones for public comment. Seeing none, I will adjourn this hearing of Assembly Government Affairs [at 10:07 a.m.].

RESPECTFULLY SUBMITTED:

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John Budden  
Committee Secretary

APPROVED BY:

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Assemblywoman Teresa Benitez-Thompson, Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** May 9, 2013

**Time of Meeting:** 8:37 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 273	C	Senator Settlemeyer	Amendment
S.B. 273	D	Ron Dreher /PORAN	Prepared testimony