

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

**Seventy-Seventh Session
March 18, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 9:07 a.m. on Monday, March 18, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman 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
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Heidi Swank
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman Ira Hansen, Assembly District No. 32
Assemblywoman Marilyn Kirkpatrick, Clark County Assembly
District No. 1

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Bonnie Hoffecker, Committee Manager
Jennifer Dalton, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Barry Smith, representing Nevada Press Association
Michael Hillerby, representing Nevada State Board of Nursing, Nevada
State Board of Dental Examiners, and Nevada State Board of
Pharmacy
John J. Slaughter, representing Washoe County
Danny Thompson, representing Nevada State AFL-CIO
Priscilla Maloney, representing the American Federation of State, County,
and Municipal Employees Local 4041
Jack Mallory, representing Southern Nevada Building & Construction
Trades Council
Marla McDade Williams, Deputy Administrator, Health Division,
Department of Health and Human Services

Chairwoman Benitez-Thompson:

[Roll was taken. Protocol was explained.] Today we will be hearing two bills:
Assembly Bill 251 and Assembly Bill 252. I will open the hearing on A.B. 251
and welcome Assemblyman Hansen to the witness table.

**Assembly Bill 251: Requires disclosure to the public of certain contact
information for a member of certain public bodies. (BDR 19-159)**

Assemblyman Ira Hansen, Assembly District No. 32:

I am Ira Hansen, representing Assembly District No. 32, which includes some or
all of the following seven counties: Esmeralda, Humboldt, Lander, Mineral, Nye,
Pershing, and Washoe. I am here today to present Assembly Bill 251. This bill
is about open government and encouraging citizen participation in their
government.

I think many elected officials, including myself, start out as concerned citizens who care deeply about an issue. A concerned citizen should be encouraged to reach out to the members of a public body to share their expertise and/or their concerns. As a legislator, I know we are not experts on every issue that comes before us, so, for example, when a special education teacher tells me how a certain bill will affect his or her classroom, I listen.

All Nevada State legislators have their individual contact information available on one website where it is easy for the public to find. My name, my mailing address, my telephone number, my email, and even the name and email address for my attaché are available on that website. I think the staff at the Legislature has done an excellent job in making the website user-friendly. I receive a lot of feedback from my constituents, as I am sure all the members of this Committee do also. This feedback helps inform my decisions as I strive to represent the people in my district.

Many public bodies in Nevada have similar websites where contact information for individual members of the public body is readily available, or they provide contact information for individual members upon request. Unfortunately, this is not the case for all public bodies. That is the problem that I hope to remedy with Assembly Bill 251.

Assembly Bill 251 amends Chapter 239 of the *Nevada Revised Statutes*, which addresses public records. This bill requires a governmental entity, upon the request of any person and with certain exceptions, to disclose the individual email address or telephone number, or both, of an individual member of certain public bodies, if the person who is the subject of the request has previously provided that information to the government entity. The government entity's record of the information is a "public record."

Currently, there are some public bodies in Nevada that have established a general email address at which a public body receives email intended for receipt by the public body, and no contact information of any kind is provided for individual members. Typically, a staff person acts as a gatekeeper to monitor this general email address and to determine which emails are forwarded to individual members. I can see where this process may be helpful to filter out spam, but most of us have some sort of virus or spam protection for our email accounts anyway. My concern is that this process also restricts direct communication with individual members. Public bodies are often comprised of diverse groups whose individual members may not all share the same bias or opinions of the designated gatekeeper.

For the provisions in this bill, a "public body" is one that is subject to the Open Meeting Law, but also specifically includes the Legislature, the Legislative Commission, the Interim Finance Committee, and other legislative committees and commissions. As I said before, the Legislature already does this.

I mentioned there are certain exceptions in this bill. The six constitutional officers of the State of Nevada and members of any court or other judicial or quasi-judicial body would not be required to provide their individual email addresses or individual telephone numbers.

That concludes my official testimony. I would like to tell you a little about what started this. As some of you may know, I am very involved with the sage-grouse issue, and have done a number of reports and studies on them. When the new sage-grouse committee was set up, I requested their individual email addresses so that I could forward my reports to them. I was told those emails were unavailable to me and that I could only send the reports to one email address, which was controlled by a member of the staff. I did not want that. I wanted to be able to contact the members directly. If I want to contact this body, I should be able to get ahold of each of your individual email addresses and send you an individual email, both as a legislator and a member of the public. I was denied that. In fact, the individual who I sent the email to made a request from the Attorney General's office, and the Attorney General's office replied that the personal email addresses, even though they have been submitted to the government are not public documents. That is the genesis of this bill. This does not mean that if you serve on a board or commission you have to provide a personal email address or phone number. It does mean that if you have provided that to a government body, that government body is responsible to provide that to a member of the general public. We are not trying to force people to give up personal email addresses. All we are saying is that if they have, in fact, given it to the government it becomes public record and document at that point. We want to clarify that in law so when these situations come up they do not result in having to go to the Attorney General to see if they can avoid giving me stuff that was public records, as in my case. That is the genesis of the bill. It is fairly straightforward. Like every simple bill that I have seen here in the Legislature, I have been surprised at all the angles that come up. With that, I conclude my testimony.

Assemblywoman Bustamante Adams:

I appreciate Assemblyman Hansen bringing this forth. I have also been frustrated in trying to reach some individuals. I know that they do not have to provide an individual email address, but they should be required to provide some type of email address. It does not have to be a personal one, but some means through which the members of the public can contact them through that

specific entity. I know it might make it a nightmare, but you could have someone within that group look at the emails. I think it should go further—not a personal email address—but something attached to that specific body so that the members of the public can ask individual questions. I do not know if you have given any thought to that.

Assemblyman Hansen:

I have. I met with a lobbyist on this issue, and he suggested that perhaps these committees that want to remain somewhat private, individuals who want a little more privacy could have a specific email assigned to them instead of their own personal email. My thinking is that if an individual signs up to serve on a public body, commission, or board, you sacrifice a little bit of that desire to have complete anonymity. If you want that, then do not serve the public. The bottom line is if you are serving on a public board or commission, then the public should have reasonable access to you as an individual and as a member of the committee. I agree with you completely. It is true my bill does not go that far, but I think it could be amended, and I am open to that. To me, the main thing I want to do is allow the public full access to public bodies. That is what we are shooting for here.

Assemblywoman Pierce:

I am concerned with section 1, subsection 3, paragraph (c). You are a businessman, right? What if one of your employees came and explained to you that even though they work for you, they are going to carry a cellular phone and answer it every time it rings on your dime even if it gets in the way of that employee doing their job for you. The fact of the matter is when I am not serving during session, I am working for someone else between the hours of 9 a.m. and 5 p.m., and I am not available to my constituents. That is one of the features of a citizen legislature. That part is just not workable.

Assemblyman Hansen:

I agree completely with where you are going with that. You do not have to check an email during your business hours. You can let a cell phone go to voicemail. I carry my cell phone, and if you look at my legislative card, my cell phone number is on it. I have it with me, and if you dial that number right now, it will ring. Like you, I do not answer it during these hearings, but when the meetings are done or in the evenings, I will absolutely respond to what are typically three to ten calls. That does not mean that as a businessman, during my private time, or on the weekends that I am required to answer them. I usually wait until Monday morning.

Assemblywoman Pierce:

I am speaking as an employee. When I am not here, I am somebody else's employee. I do not get to tell my employer that I will be answering constituent calls while they are paying me. Your bill says, ". . . which a member of a public body may ordinarily be contacted directly, on business days. . ." You cannot contact me directly on business days when I am not in session. I am working for somebody else.

I have supplied to the Legislative Counsel Bureau the number where I am staying here in Carson City. Would that be public? I do not see the point of that. I have a legislative email and think that has to be enough. Maybe that is a problem for legislators who shut down their email during the interim, but I do not. I can be contacted through my legislative email. I appreciate your thoughts on this, but when we are thinking about this kind of thing, it might be a good idea for us to ask ourselves whether the very quaint and charming citizen legislature of the nineteenth century is still working for us.

Assemblyman Hansen:

It is out of my scope to deal with whether our citizen legislature is the ideal. My focus is to try to provide what is best for the public. If we were to ask the public whether they expected me to be reasonably accessible, they would say yes, because they elected me. It is true that I have my own private business; a person gives up certain liberties when he agrees to be a legislator or serve on any public body. I think a reasonable person looking at this would say yes. In your case, you do not want any other emails out there other than the legislative one, and that is respected in this bill. The bill says if you do not put out a personal one, it will remain personal to you. If you do, in fact, give it to government agencies, then those government agencies would have the responsibility to provide that to the public. While I respect your right to privacy, I think the right of the public to be able to access people on boards, commissions, or this Legislature trumps that.

Assemblyman Livermore:

Some of the testimony we have had in the first 40 or so days of this session has centered on open meetings and how you publish material and all that kind of stuff. Everything comes back to the electronic thing that you are discussing here. You are very talented. You can provide a lot of information, and I have had a lot of information sent to me. It was not something that I could read in Committee. I read it at my leisure, and it gave me time to contemplate what you are telling me. When I contemplate information that is sent to me, it is not when I am sitting here in Committee. It is on my free time. This is my time to serve the Committee and to contemplate the information before me. I think that is what you are attempting to do. You had information that you wanted to send

to a committee. It was not a matter of who got it. It was just a matter of getting it to an individual so they could have it for the record, and, at their leisure, contemplate it before the next meeting. Am I correct?

Assemblyman Hansen:

You are correct. Keep in mind, just because we send somebody an email, it does not mean they cannot delete it. There is nothing that says they have to read the material I am providing. All I am trying to do is to provide a window for the public to be able to share something with somebody. When and if they chose to read it, is entirely up to them. This is simply an avenue for the public to access public bodies, commissions, or the Legislature.

Assemblyman Daly:

I appreciate the thought behind this. I think it could work, but it needs to be honed in a little bit more. I am thinking of some of the times when I have tried to get ahold of public officials. Many times, they will have a phone number if they actually have an office, and you leave a message and they never call you back. Not everybody has individual emails. Most of these commissions and boards, if they are set up and they have an agency behind them, they have a website. I looked up one this weekend to see who was on a commission. I cannot recall if they had emails or not. Other interim study committees want to be able to get ahold of you. I was on the one for the school district six years ago. I was appointed to that by the speaker. We did not have an office. It was not an agency; it was just that group. I gave them my cell phone number because they needed to be able to get ahold of me if they were having meetings. There was no mechanism to make any of that public, and at that time, I did not want my cell phone being public. They did not have email addresses set up for us. I think you need to hone in to the exact thing you are looking for because it can be too inclusive. We all made the decision when we ran for office to put that information out there. I put my cell phone on my business card as you did.

Assemblyman Hansen:

I am in the same boat. I agree with where you are going with that. Frankly, if somebody wants to keep things like their cell phone number private, this bill accepts that. This bill says that if you do provide it to the government agency, then as part of the open meeting process, they have to supply that to somebody that requests it. If you simply do not provide it—and you do not have to—then it will not be shared. I do not think there are any boards of any sort that do not have a generic email address for the committee or the board as a whole. That is the standard operating procedure. All we are doing here is making it so that if you have provided it to a government entity, then it becomes part of the public record that the public has a right to access.

Assemblyman Daly:

That is the point I was starting to make. Sometimes you provide information because the entity needs that information. Just because you provide it to them, it does not mean that you want them to make it public. For instance, on that one board that I was appointed to, the names of the individuals who were on that board were made public. I gave my phone number to that committee so that they could get ahold of me, but not for public contact. That is where you have to draw that line. We give information to the Legislative Counsel Bureau because they require us to give it, but that should not be public unless we agree to it. We give them our private cell number for emergency contact. Just because you give them that, it should not be public record. There has to be a line there.

Assemblyman Hansen:

I am certainly open to amendments on the concept. If you want certain things to remain private, I do not see why we could not do that unless it violates some law on open meetings. If you are part of a public body, maybe that is something that you are required to provide. I do not know. I have no problem with that. If somebody wants to retain as much privacy as they want, more power to them. That is up to them. I do think that if you are on any kind of public board or commission, the public has to have a reasonable way to get ahold of you. I think we should provide something.

Assemblyman Ellison:

Over the weekend, I was trying to contact some individuals who sit on a board. There were no emails, no phone numbers, and no other way to contact these individuals that sit on an appointed state board. It was very frustrating. If they have a board commission office and they do not want to have phones directed to their private cell phones, then they should have it directed to the board and then passed on to them. As far as emails, they should be held accountable for when you are trying to get ahold of them right after a hearing or something that is really important, like this one was. I like this bill. I think this bill is important. You will not only see my email address, you will see my cell phone, and my office phone. At night, it transfers over to my house. I want to be totally accessible to the public, but some of these people serving in public bodies are not. Assemblyman Hansen, I thank you for bringing this forward. I think this is important, but maybe your amendment can say that if someone does have a commission office and they do not want to share their personal cell phone number, then it can be directed to the agency which transfers the messages over to the individual. As far as that, I think they should at least have email addresses available for personal contact.

Assemblyman Hansen:

In response to that, I looked at the same board you are talking about since we both attended it. They did have contact information, though it was not easy to find. I did find it. Interestingly enough, of the nine members on the board, every single one had a personal email listed on the website. We could have chased them down. Only one listed what may have been a generic one. I think most people on most boards and commissions are already in compliance with this because I think most people assume it is the law. Regardless, this would help clean it up.

Assemblyman Oscarson:

I echo the sentiments of some of my colleagues on the Committee. I think for transparency, communication, and our commitment to the public this is important, and I appreciate your bringing it forward.

Chairwoman Benitez-Thompson:

I have some questions to make sure that we make your legislative intent clear. In section 1, subsection 2 it excludes the Governor, the Lieutenant Governor, the Secretary of State, the Attorney General, the State Treasurer, the State Controller, and any judges. Talk a little bit about why those people would be exempt.

Assemblyman Hansen:

Frankly, I do not know the reason. I did not ask for that in the bill. There must be some reason for it. I could understand why people who are judges or quasi-judicial people functioning in that area would need a certain amount of anonymity because they may be dealing with criminals or would not want backlash on things like that. Maybe there is something that we, as a legislative body, cannot force something in a different branch of government to do something like this. I am not completely sure. I do not know the answer to that. I will have to do some homework on that and find out.

Chairwoman Benitez-Thompson:

I did not know if you had a statement that you would like to have on the record about why those government offices, specifically, would be exempt. The other question I had was regarding the language that specifically talks about a general electronic email address versus an individual email address and that the general email address does not count. I have heard some different things about the intent there based on the questions and answers today. Would your intent be that a general email to a board complies with what you are looking for, or do you really want individual-specific email addresses or a specific email address that is assigned to that person so it would not go to a generic board or commission email? Do you want it to be as we have as legislators where we

have individual email addresses versus a generic Legislative Counsel Bureau email address? You are looking for individual email addresses rather than generic inboxes, is that right?

Assemblyman Hansen:

That is somewhat correct. The generic one is acceptable if the individual does not want to provide a personal one. In other words, we are not forcing them to provide a personal email address. If they do provide it to a government entity, then it would become a public record and would need to be provided to an individual who requests it. If you want to keep your personal email personal, you simply do not have to provide it. You could certainly use the generic one for the board or commission in its place. That would be perfectly acceptable.

Chairwoman Benitez-Thompson:

It also sounds like you are amenable to a provision which is that the person must give us some way to contact them and that can be an individual email or individual phone number. It does not necessarily have to be both. Is that right?

Assemblyman Hansen:

That is correct.

Assemblyman Elliot Anderson:

I like the bill. In section 1, subsection 1, paragraph (b), subparagraph (2), it says, "The governmental entity does not comply with the requirements of this section by providing the general electronic mail address . . ." That seems different from what you just said.

Assemblyman Hansen:

That is if, in fact, they provided the personal one first. In that case, if they have, then the government one would not be sufficient.

Chairwoman Benitez-Thompson:

I will now allow testimony in support of A.B. 251.

Barry Smith, representing Nevada Press Association:

I wanted to clarify a couple of things as far as my understanding of what we are dealing with. In the questions to Assemblyman Hansen, there is a mix-up of personal and individual. The bill says an individual email address should be provided. It does not say a personal email address. I have many different email addresses. One is a Gmail address that I use anytime I think I am going on a website that I will get spam from. The point is that if I am on a board or commission and I provide contact information—email and phone number—to that board or commission, that is how I want to be contacted for information

from the agency that deals with it, from other board members, and so on. That is what I am designating as the way to contact me for that board or commission. Frankly, it is clear to me that already is a public record. It apparently is not based on the responses that the sponsor got when he tried to seek things out. This section in the law, last amended in 2005, clearly states that the database gathered by the government of email addresses is not a public record, but the personal contact information absolutely is a public record. It is very clear why that is, because communication going back and forth over board or commission business is absolutely a matter of public record. You can request those emails. That has been shown time and time again. You cannot hide individual email addresses that are being used for public business.

I wanted to address Assemblywoman Pierce's comments about being contacted at her place of business and so on. I agree that would be a nuisance. To my understanding, if you sat on the Carson City Planning Commission, for example, and said that you wanted your phone calls regarding planning commission business to come to a particular number during the business day, then that is how you would be contacted. That connection is being made here. If that is not where you want to be contacted about planning commission business during the day, then that is not where they should be contacting you. Does that make sense to you? Have I answered your question? No, okay.

I did a brief search. As the Assemblyman mentioned, there are a number of boards and commissions that make it very easy to find their email addresses and their phone numbers. I looked quickly at the Wildlife Commission, which has the subcommittee that you had problems with. I saw the Garlic and Onion Growers' Advisory Board had an individual's cell phone number right there on their website. The Douglas County Commission had individual emails that were "@douglascounty.gov." That is where they want to be contacted, and that is the individual email on record for them. Other ones are clearly personal emails that are listed on websites. The Pahrump Regional Planning Commission had emails and telephone numbers listed right on their website. As I said, it is clear from the record of when this law was last amended and from the case law on public records—being able to access emails having to do with public business and public bodies—why this is not already interpreted this way. This law needs to clarify the status.

Chairwoman Benitez-Thompson:

Are there any questions from Committee members? [There were none.] I do not see anyone in Clark County wishing to testify or anyone else wishing to come forward in support. We will move to testimony in opposition. Remember that means you are in opposition of the bill as it is written or that you support

the bill but have opposition toward specific language or specific sections of the bill.

Michael Hillerby, representing Nevada State Board of Nursing, Nevada State Board of Dental Examiners, and Nevada State Board of Pharmacy:

I would like to thank Assemblyman Hansen. We had an opportunity to meet and discuss some issues. One of those issues is the provision of the individual email address, which may be a person's business or personal email address. One of the things we talked about was potentially providing a direct board email address. We talked again with Assemblyman Hansen, and he pointed out that general delivery email address was not sufficient in his mind. Those are available for some agencies or boards. We talked about possibly providing a board or commission member a specific agency email address for the time they are on the board.

Additionally, we are opposed to the current language regarding the phone number. It does say that it must be where they can be contacted directly. I wanted to echo Assemblywoman Pierce's comments. As an example, for the Board of Nursing, many nurses are actively practicing and cannot be called or contacted during their work hours except in an emergency. The same would be true for dentists, pharmacists, and some others. Some of those individuals are business owners. Many of those are employees, are working behind the counter filling prescriptions or taking care of patients, and cannot be contacted directly.

One other issue, particularly with licensing boards, is that many members are asked to sit in quasi-judicial roles disciplining licensees and considering information for license applicants. In some cases, particularly for health boards, as part of that disciplinary process, it may involve access to individual patient information. We would want to be sure that any of that kind of correspondence or information would continue to remain private. I do not think that is what the bill intends, but if we need to clarify that some of those would not, in fact, be public records as part of that. We would like to see that happen as well.

Lastly, I had this conversation with Assemblyman Hansen. Respectfully, we would make some argument that there is a difference between elected officials and appointed officials. Some of those people who are appointed to state boards and commissions did not even apply in many cases. They were asked to serve by the Legislature if they were bodies to which Legislative appointments were possible. They may have been asked to serve by a governor. I can tell you from first-hand experience, having worked in a governor's office, one of our regular and ongoing challenges was finding good, qualified applicants to sit on licensing boards and commissions particularly, as well as our other boards and

commissions. We would make an argument that there is perhaps some difference between putting your name out and asking the public to vote for you, where you would need those voters to get ahold of you, and serving on a licensing or other type of board or commission. We would be happy to work with the Committee and with the sponsor going forward to see if we can address some of those concerns.

Chairwoman Benitez-Thompson:

I wanted to address what you said a little bit more about making sure that some information was kept confidential when it comes to licensing boards and exchange of information. I think you specifically spoke about the health sector. The bill, as I understand it, targets only the person serving on the board. In no way do I see anything that captures the information that the board member might be dealing with on behalf of the board. If I am missing something, let me know.

Michael Hillerby:

To clarify, we do not see that the bill addresses that directly, but we wanted to let you know the types of conversation. One of those reasons is because those licensing board members often sit in the role. Being contacted directly and regularly by people who may be up in front of a disciplinary procedure could cause some problems.

Chairwoman Benitez-Thompson:

Talk to me more about that part where the individual sitting on the board—the nursing board, for example—sees a conflict of interest like someone sending an individual board member emails about a disciplinary action.

Michael Hillerby:

It is a bit of a gray area. Obviously, the bill deals separately with judges. That would be ex parte communication, which would be barred. It is more of a gray area with these boards and commissions. Our members are contacted by the public and by licensees and have that conversation. To the extent we can leave that jury pool untainted when there is going to be a disciplinary action considered by that board, that would be great. It clearly cannot be prevented, but one of the things we are obviously concerned about is those communications that happen outside that process where there is a little more structure.

Assemblyman Oscarson:

I believe when the Governor asks to appoint someone, they sign a statement accepting that appointment. It is not a situation where they are told to serve. They have the opportunity to say yes or no.

Michael Hillerby:

Yes, that is true.

Assemblyman Oscarson:

Again, I think some of the obligation on behalf of board members is to be accessible, however that may be. I am not saying that this is the perfect mechanism, but I am saying they need to be accessible to the people in the areas in which they serve.

Assemblyman Livermore:

Along that same line, I served in a couple of positions to which I was appointed by the Governor. I was on the state public lands and health and human services. I filled out an application, which included all my information, so my information was public. Mr. Smith spoke about the public's ability to have an open, transparent government. I do not think it is intended to be secret when the application was transmitted to the Governor's office. I want to point that out. I like the bill.

Chairwoman Benitez-Thompson:

Are there any additional questions or comments? [There were none.] Is there any additional testimony in opposition? [There was none.] I will now take any statements in neutral.

John J. Slaughter, representing Washoe County:

Reading the bill and hearing the discussion has been very helpful to understand the intent. We are absolutely supportive of transparency in government. Regarding the 2005 legislation, Washoe County supported a bill that a database of this information is confidential. That was specifically related to phishing, which is a spamming exercise. We were seeing around the country where these organizations were coming in and getting that information. I am happy to hear that is still protected.

The question I have is perhaps for the Committee to think about and discuss and relates to section 1, line 8 on page 2, where it notes ". . . previously provided the electronic mail address or telephone number . . ." I am wondering if members of these boards and commissions will have an opportunity to go back in and change the information that was provided previously when the statute comes into play if they prefer that information not be on the record. They could rescind their offer of a particular phone number or email address going forward. My thought is regarding whether there could be an opportunity or window of time where existing board members would have that opportunity. That is my concern.

Chairwoman Benitez-Thompson:

Are there any questions for Mr. Slaughter? [There were none.] Is there any other testimony in neutral? [There was none.] I will invite the bill's sponsor back up for response or closing comments and clarification of your legislative intent.

Assemblyman Hansen:

Nothing in this forces people to provide this information. If we are going to err, I want to err on the side of the public having reasonable access to these boards. I will take a look at some of the boards—the nursing board and so forth—and see if they currently provide email addresses that are private, or individual, not personal. I am not sure if there is a distinction there. I will do some homework on that. The intent is to try to maximize the opportunity for the public to contact the boards.

Chairwoman Benitez-Thompson:

Are there any closing questions? [There were none.] I will close the hearing on A.B. 251 and open the hearing on Assembly Bill 252.

Assembly Bill 252: Makes various changes to the Nevada Administrative Procedure Act. (BDR 18-539)

Assemblyman Ira Hansen, Assembly District No. 32:

I am here today to present Assembly Bill 252, which makes various changes to the Nevada Administrative Procedure Act. The Nevada Administrative Procedure Act is set forth in existing law to establish the procedures for agencies of the Executive Branch of the State Government to promulgate administrative regulations.

I would like to start by walking the Committee through each section of the bill.

Section 1 requires an agency to submit a notice of any meeting or workshop relating to the adoption of a regulation to the Director of the Legislative Counsel Bureau (LCB) at the same time that the agency posts notice of the meeting or workshop for posting on the Internet website maintained by the Legislative Counsel Bureau.

Section 2 provides that a regulation will be deemed withdrawn if the agency fails to adopt the proposed regulation within two years after the date on which the proposed regulation is submitted to the Legislative Counsel or successfully petitions the Legislative Commission for an extension of time by which to adopt the proposed regulation.

Section 3 requires an agency to include a clear and concise explanation of the need for the adopted regulation when submitting the informational statement required by current state law with any proposed regulation.

Section 4 allows an objection to be made by the Legislative Commission or the Subcommittee to Review Regulations if the agency did not provide a satisfactory explanation of the need for the regulation, or if the informational statement is insufficient or incomplete.

Section 5 makes the provisions of this bill applicable retroactively to any regulation which has been proposed but not adopted before July 1, 2013, and to any regulation adopted on or after July 1, 2013.

In a recent news article, one of several reasons cited by the Director of the Legislative Counsel Bureau for the backlog in drafting bills for the 2013 Session was a need to draft regulations after a moratorium expired. Shortly after Governor Brian Sandoval took office in January 2011, Executive Order Number 2011-01 was issued to order all state agencies to refrain from the drafting of administrative regulations except in certain circumstances. Assembly Bill 252 is intended to enhance the justification for state agency regulations, to ensure regulations are promulgated in a timely manner, and to ensure the Legislature is informed of the promulgation of regulations from the beginning. I believe this bill will improve the current process and timeliness of the promulgation of administrative regulations in the state.

That is my formal testimony. Now, the reason I have all these binders piled up here is because I serve on the Legislative Commission. Back when I was appointed, I ran into Assemblywoman Carlton in the hallway who congratulated me for being appointed to the Legislative Commission. I did not know what it was at the time. After serving on the Commission, I had eye-opening experiences as to how important it is.

This is my binder from my position on the Judiciary Committee. That is all the bills we have heard up to date for the last seven weeks. These individual binders are those that I received for serving on the Legislative Commission. There are seven of them, and they are new regulations and rules that everybody has to live by in the state of Nevada. Most of us think we are the ones making most of the laws in the *Nevada Revised Statutes* (NRS), but there is another world out there known as the *Nevada Administrative Code* (NAC). That is what this is.

Keep in mind almost all of this does not come from people who are elected. They come from boards and things that we were just talking about. The only time this is funneled back through us is through the Legislative Commission. Our responsibility is to review all these regulations and see if they meet legislative intent. There are public hearings, but as you study this whole thing, you realize there is a massive body of law that has every bit as much authority as the laws that you and I are passing right now. They punish people and the whole nine yards, yet virtually nobody had any understanding of most of them. These are brought back to the Legislative Commission, and that is what our function is.

I was serving with Assemblywoman Marilyn Kirkpatrick, and we had some very interesting discussions over this. We recognized there was a lack of teeth in the law for us to give these a thorough review. One of the key things that came up was that there was an absence in the definition of "need." Were these regulations really needed? The process that we reviewed had a tendency to rush the process through. We would have all of these sent to us. I usually got them the day before a hearing. If you look at some of them, you will see that I have a bunch of sticky notes—that is the Ira Hansen method of reviewing all this—and then I take a highlighter and as they come up in the hearing, we would go through them. I would say Assemblywoman Kirkpatrick and I kind of annoyed some of our fellow members because they wanted to get in and out of there in a hurry, and we went through every single one that we had concerns about. When we were all done, and the smoke cleared, we both agreed that there was a need to enhance the process that people who provide these administrative regulations must go through before they are put into law. That is the purpose of this bill, to give the Legislative Commission more authority and responsibility.

If you are like me, the number one complaint I have gotten as a legislator is people asking what I am going to do about the constant growth in rules, regulations, and red tape. People say that every time they turn around there is a new regulation. This is what we are talking about. If you look at this pile of binders, that is a pretty legitimate complaint for the average member of the public. This is a unique responsibility that we on the Legislative Commission have. The intent of this bill is to provide a responsibility and teeth for the Legislative Commission to review these in a more thorough manner and to force the government agencies that are pushing these regulations to prove there is a need for them, not to do it simply to do it. They must provide a reason for a new law or regulation to be put onto the public as a whole.

That concludes my presentation, and I would be happy to answer any questions.

Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:

I wanted to come show my support to Assemblyman Hansen because being on the Legislative Commission is very important. I can tell you that the green building regulations were passed on the Legislative Commission, and nobody really looked at the changes. The entire process, which was passed in 2005, was supposed to be a great piece of legislation. In 2007, we realized that it had a \$940 million fiscal impact to the state. Everybody looked back, and there were no questions asked on those regulations. So, lesson learned. It made me start wanting to read those regulations more closely. I tell all of you that the regulations are what you intend your bill to do. I am always asking what exactly a legislator is trying to accomplish.

There is another significant piece within this bill that I think is really important. Section 2, subsection 4, talks about the time frame of regulations. We are approving regulations that are five and six years old at this time. It is very frustrating because we cannot trace the history. We do not know what happened. They start the workshop process, then they delay it because there are questions. Lo and behold, before we know it, it has been three years and the regulation has never been adopted, or it has been five years and now we are seeing the bill and have no idea what the context of the original bill was. It is not as easy as folks would think to go back and trace it.

Assemblyman Hansen is very much correct. Each regulation is supposed to come with an impact statement so that people know the reasoning for the regulation. We agreed to disagree, but we initially agreed that those impact statements are supposed to say something. We were getting a lot of blank spaces in there and people saying that they just had to have it. In the December meeting, we wanted to set a new standard. Starting in January, those statements better be filled out because we have gone three years with some of them not being filled out. It was not fair to the agencies to decide all of a sudden to reject all those regulations, because that meant big problems for everybody else. In January, we set that standard that they needed to be filled out. This goes one step further and explains it. One thing that is most troubling to me when regulations come before the Legislative Commission is definitional changes. I would see an entire statute changed and a definitional change was done, and I would wonder about the impact and how it affected everybody. There are huge costs with going in and changing all those definitions, but nobody ever talked about why we were changing a definition. I believe that it is the Legislature's prerogative, not the agency's prerogative, to change the definition. This belongs to the Legislature, so we need to hold folks accountable to making sure that there is a reason to do that. Assemblyman Hansen and I agreed to bring this together so that for those of

you that are going forward on the Subcommittee to Review Regulations or the Legislative Commission can have a real understanding of what the intent is.

Assemblyman Stewart:

Having served on the Legislative Commission for several years now, I have some of the same concerns that you both do. Oftentimes, we get the information very close to the time that we have the meeting, and people who are opposed to the regulations do not have time to respond or they have not had the opportunity to go over the regulation thoroughly. I think this bill is very much needed.

Assemblyman Elliot Anderson:

I was looking at section 4. You have noted that administrative law plays a key role in our government. We delegate a lot of authority because we are not experts and we only have 120 days to do our work, so it is somewhat necessary. I was looking at the strike out in section 4. From the way I read it, it looks like we are giving the Legislative Commission more power to approve regulations that maybe do not conform to statutory authority passed by the Legislature. I realize that there are a number of other provisions in *Nevada Revised Statutes* Chapter 233B in addition to that section. I was hoping you could comment on that because it feels like we are granting the Legislative Commission a little more power than may be necessary. I could be wrong. I thought it would be good to get some background on that particular strike out.

Assemblyman Hansen:

Our intent is to give the Legislative Commission more clout. In the past, all the Commission was allowed to do was see if the intent of the legislation was being complied with. In this case, we are going one step further and looking at the need for the new regulation as well. That has been absent. This enhances that by giving them a little more authority. You still have the same concept of looking at whether it carries out the legislative intent. Beyond the legislative intent, it also adds the idea of whether it is truly needed. It gives the Legislative Commission another tool in their toolbox to deal with the constant growth in bureaucratic rules and regulations. That is what the intent was.

Assemblyman Elliot Anderson:

I understand that, and I certainly think we should make it more stringent. We should allow the Legislative Commission more power in terms of determining the need. If it fits the authority but is not needed, then I want to give you guys the power to say no. My concern is that by removing that, we are allowing the Legislative Commission to approve things that are not allowed by the statutory

authority. That we would be delegating power outside of the statute. That is my concern.

Assemblywoman Kirkpatrick:

I want to back up a little bit. In 2005, we had no real oversight. Temporary regulations were going in and no one ever knew about them. We did not know where the workshops were posted. The Legislative Commission has always had the authority to go in and to approve regulations. What we are seeing—and it is not stricken as much as you would believe, but put into a new section of the bill—is more clear. Not only do you have to do the statutory requirements, you have to determine that there is a need. I go back to using the example of the definitional changes. If Assemblyman Hansen had his December books here, you could see we went through six agencies and changed definitions. What was the need to do that before the legislative session and before the Legislature had the ability to look at that? I will tell legislators—and it is probably not a good political/public statement to make, but it is the truth—that any time legislators allow someone else to write the regulations without any direction, you get what you get, and many times, it is not anything that it was supposed to be. This would not only give us the intent of what the legislation is—and it goes back to section 2, subsection 4—but also the need. Here is what the agency testified to us when we had to do a nursing definition change that bugged me the most. We were changing the definition of nursing throughout the *Nevada Administrative Code* (NAC). Why did we need it? Their answer was just because, and because they were doing it nationally. For you as legislators, the agencies put fiscal notes on your bills when you have to write regulations. So, where is the fiscal note on that? Why did they have to do that right then and there and not through the statutes when 63 legislators could determine if we wanted to follow the national definition? Finally, what happens if we rejected it? It does not take away, Assemblyman Anderson, as much as it puts it in a different section and ties it to the need. We can approve it based on the intent all day long, but where was the bill for the definitional change? I do not remember hearing that bill changing all the definitions within the nursing NAC. That is only one example. We received quite a few of them last time.

Assemblywoman Neal:

My question is related to section 4, subsection 5, paragraph (d). I agree with the intent of the bill. I am all for drilling down on making people explain themselves. What is going to be the criteria for a satisfactory explanation? What does "satisfactory" mean?

Assemblywoman Kirkpatrick:

I am going to let Assemblyman Hansen follow up on that question. We can give you all a copy of the impact statement that was put into law. Senator Wiener

did this in 2005. If they are not even filling it out, how do you determine if there is a need or if it meets the intent? There are some very pointed questions.

Assemblyman Hansen:

Your question actually goes back to Assemblyman Anderson's question. Originally, the language in section 4, subsection 1 read "After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carried out the intent of the Legislature in granting that authority." That is what we crossed out. Instead of just having the legislative intent, we then jump to the section you are referring to in section 4, subsection 5, paragraph (d), which still has the intent in paragraph (c), "The regulation does not carry out legislative intent; or (d) The agency has not provided a satisfactory explanation of the need for the regulation in its informational statement as required pursuant to NRS 233B.066, or the informational statement is insufficient or incomplete."

What Assemblywoman Kirkpatrick was getting at is that when we receive these informational statements, the original intent of them was clearly to force an agency to explain why we needed the regulation. We found that they did the absolute minimum. It was very common for them to write "NA" or "not applicable," and everybody was just running those things through. The original legislative intent of trying to force agencies to provide a serious reason why we needed new rules and laws was being bypassed. They were not paying attention to that informational statement. We will get you a copy of a generic one, but you can find it in the Administrative Procedure Act, Chapter 233B. The original intent of that informational statement was to do what we are trying to do here. We are giving that a little more teeth because people were ignoring it.

In the example Assemblywoman Kirkpatrick brought up, they were supposed to be providing a complete review of the regulation every three years and a complete report of regulations that they found redundant or unnecessary every ten years. When I asked the Legislative Counsel Bureau for copies of reports, a large percentage of the agencies had never supplied them. The Legislative Counsel Bureau acted like, "What are you talking about?" What we are trying to do is to force these agencies to provide a reasonable reason for why we need more laws and regulations outside of the legislative process. Think of the review we are going through right now. For one piece of paper that is not very thick—referring to the bill before us—we are having hearings in the Committee. Assuming after the amendment process and everything else it

makes it out of this Committee, it will go to the Senate and go through the same thing for one bill that is only three or four paragraphs. Look at one binder here. By comparison, they go through almost no hearings. The only thing we had to go on one day prior to reviewing all of this was the informational statement. That is why it is so critical that we provide some teeth for the Legislative Commission so that these agencies are forced to comply with the informational statement in the future.

Assemblywoman Neal:

I understand, but when you look at section 4, subsection 5, paragraph (b) where you struck "[or]," does that mean now when you go to review, it has to fit both the statutory authority and the legislative intent? Is that now conjunctive? It is an "and," not an "or." The third, which is paragraph (d), stating "the agency has not provided a satisfactory explanation" will then be a catchall. Is that how that should be read? If you do not fit within the statutory authority—your explanation—or the legislative intent, then the Commission will be able to say that it was not a satisfactory explanation.

Assemblywoman Kirkpatrick:

Currently, the Legislative Counsel Bureau does the drafting of many of the regulations. They really have no teeth to tell an agency that they do not have all their ducks in a row and that they cannot start drafting. This also helps them in saying that they need the impact statement, the federal requirement of the need. This gives another layer for us to make sure they have all their checks and balances in place before it is even drafted to go out to a public workshop. That is why it says "or."

Assemblyman Hansen:

If I could add to that, it was quite interesting because on the informational statements, I would actually get ahold of Brenda Erdoes and ask about the status, thinking they were incomplete. She would tell me that until somebody at the Legislative Commission level brought it to their attention, they were not allowed to deal with it. In other words, they could have weeded some of that out long before it got to us, but, for whatever reason in the statute, they did not feel they had the authority to do it. This will certainly enhance their ability to weed some of this out before it gets to the Legislative Commission level.

Assemblywoman Kirkpatrick:

I want to follow up on that. The Legislative Counsel Bureau does the yeoman's work, but at the same time, if we do not give them the ability for some checks and balances as well, then we sometimes have them drafting things 15 or 16 times. We want to make sure that before people go out to a workshop, we have everything in order. You will see that some people do not even read about

the workshop or know where it is. This will help with the public perception of when those are. This will help make sure all the facts are out there before the very first workshop. It is only fair to LCB to have the tools to make sure people do their job.

Assemblyman Daly:

The Legislative Commission is not new to me. I have been on their mailing list for a very long time. We have gotten better about having the backup information of what the regulation actually is, some of the other steps about the workshops, and the hearings. The Legislative Commission is very important. I remember having conversations with people who were going to do regulation who said what they were going to do, and if you did not agree with it, they did not care. I knew that the battle was going to be at the Legislative Commission. Having the proper amount of oversight at that level is important because they really are making laws. I read through this. I think it will work.

The one technical question I have is in section 1, lines 7 and 8 of page 2 where it says that the notice will have to be posted on the same day. That needs to be clarified so that it is practical, business hours being what they are. It should be changed to "as soon as practical" instead of "the same day," which could be problematic. Otherwise, it would be hard to follow. The rest of the bill, giving the Legislative Commission the authority to do that and showing a need is useful. You should tell them that they have to give you information more than one day before the meeting. It is difficult. I get the notice, and you can get online and look at them now, but many times, if there are several of them, it is hard to get through.

Assemblyman Hansen:

For clarifying the legislative intent, obviously it would be the same "working day." If you got it Saturday night at midnight, it would not have to be until Monday, I would assume. The record can reflect that.

Assemblywoman Pierce:

This is a rhetorical question. What happens if we who are elected think there should be a regulation and the agency does not? The "or" in section 4, subsection 5, paragraph (c), now gives equal weight to an agency as to the opinions of those of us elected to the Legislature. If the intent of this legislation is to give a lot of power to unelected bureaucratic agencies and to take away the power of the elected officials, then this bill does a good job of that.

Assemblywoman Kirkpatrick:

If you go back to section 2, subsection 4, that is specifically why we put in the regulation of two years. After two years, if they do not adopt regulations, then

they have to start over. That also gives you a legislative session to bring them back before the Legislature. I am not reading, and it was never the intent to give equal powers as much as to let the Legislature have the ability along with the Legislative Counsel Bureau to send them back to do the proper paperwork. Honestly, when we get those regulations, unless you have a good excuse, it is difficult not to approve them. I am sure Assemblyman Hansen would agree that we are not a rubber stamp agency. This gives us the ability to go in and say that someone did not meet the criteria or they did not show a need, so we can reject that based on that. There are a couple of issues. There are only a couple of options. You reject it, send it back, or withdraw it. The Legislature requires regulations to be done. We all know that sometimes you come back during session and there was nothing done with your bill. There is one agency in particular that can find a reason why they do not do regulations on your bill, but they are the first to put a fiscal impact on it. This is meant to keep them moving forward because we do not sit here and create laws for them to say that they do not want to do it. I am happy to check with the Legal Division, but that is not the intent at all and we put the two-year time frame in so they could get that done. We will verify that with Legal because we are on the same page, Assemblywoman Pierce.

Chairwoman Benitez-Thompson:

I was thinking of the same thing. Sitting on the regulation subcommittee, I was shocked at how when we got into meetings, we were looking at regulations that, through statute and legislation, had been passed and should have been formed five or six years previously. The agencies were just getting around to it. I think at the expiration date of two years, if they have not formed regulations, they owe an explanation to the Legislative Commission about why those regulations were not formed. They can also ask for an extension. I certainly think they should have to answer for why regulations were not formed.

Are there any additional questions?

Assemblywoman Bustamante Adams:

During my freshman session two years ago, I realized how important the Legislative Commission is because everything that we work so hard for on our bills can be unraveled during the Legislative Commission portion of it. I appreciate being able to add more authority to make sure that the laws that we pass are enacted and carried out.

I get the minutes, and I am grateful for that. Could you remind me of the make-up of the Legislative Commission?

Assemblywoman Kirkpatrick:

There is a formula based on the numbers in each house of the Legislature. Currently, there are six Democrats and six Republicans. In order to pass any regulation, you need a majority of the votes, so you would need seven. That is for the Legislative Commission. The Subcommittee to Review Regulations does not work with that same formula. Currently there are four Democrats and two Republicans. Two of those Democrats are from the Assembly, two are from the Senate, and then there is one Republican from the Assembly and one Republican from the Senate. The Subcommittee to Review Regulations only meets when the Legislative Commission does not and there are regulations that have time frames. Depending on the numbers within each house, that is how it works. We have not had any that were partisan or died as much as those of us who sit on the Legislative Commission work together to determine the legislative intent for our fellow colleagues, which are all of you.

Assemblyman Ellison:

When I read this bill, I thought it was way overdue. I am glad they have brought this forward because it brings accountability to the system. This is so important. I was shocked that some of the checks and balances were not in there when I read the original bill. Thank you for bringing this forward. It is going to help in the future.

Chairwoman Benitez-Thompson:

I will now take testimony in support of this bill.

Danny Thompson, representing Nevada State AFL-CIO:

The scariest provision of a bill can say, "and the division shall adopt regulations that carry out the provisions of this chapter." We all come here and work with all of you to find solutions. Oftentimes, these things are left to regulations that carry out the provisions. I cannot tell you how many times I believe the legislative intent has been thwarted by these regulations. It is a whole process, and we have not been involved with it. It can take a turn completely different from what you intended. I served on the Legislative Commission for eight years, and came to know the importance of what they do. This bill really strengthens the Legislature's hand in the adoption of these regulations because it gives you the tools you need to deal with these things, especially given the fact that regulations go beyond two years. You all meet every two years. You can have and have had situations where the regulations have not been carried out even after the Legislature has met again. We support the bill, urge your passage, and thank the sponsors for bringing the bill forward.

[Assemblywoman Neal assumed the Chair.]

Priscilla Maloney, representing the American Federation of State, County, and Municipal Employees Local 4041:

The American Federation of State, County and Municipal Employees supports this bill. We have had an extensive amount of activity before the Legislative Commission in the interim and have seen everything that was spoken of by the bill's sponsors. I want to give brief examples. It is not about calling out a particular agency proposing a regulation, but for an example, one agency wanted to change a value of 10 percent in the *Nevada Administrative Code*, 10 percent of the time you get x as a state worker, to 50 percent. That was just out there and we were left to wonder where they came up with that percentage and whether there was a discussion. The personnel commission's hands were tied because it was just thrown out there with no justification. That regulation is still out there and it has been nearly a year. Whether or not that regulation is ultimately withdrawn by the agency and does not ultimately go to the Legislative Commission is an example of the kind of thing that can happen in these regulatory hearings.

[Assemblywoman Benitez-Thompson reassumed the Chair.]

In another example, an agency had built something into their 2011 budget, and it said in black and white that the budget item was dependent on a future regulatory change. Assemblywoman Kirkpatrick may recall that unusual situation because she asked some tough questions. This bill gives the Legislative Commission the tools to push further and dig deeper asking what is going on and slowing things down. The American Federation of State, County and Municipal Employees vigorously support this bill.

Chairwoman Benitez-Thompson:

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

Jack Mallory, representing Southern Nevada Building & Construction Trades Council:

We support this bill for the same reasons stated by Mr. Danny Thompson. It is also important that there is also emphasis placed on notifying the Legislative Commission when there are going to be workshops on regulations so that folks can pay attention and make sure that the intent of the statutes that you pass are fully met through those.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee? [There were none.] Is there any additional testimony in support here in Carson City or in Clark County? [There was none.] Is there any testimony in opposition? Opposition means that

you agree with the spirit of the bill, but you have issues with a section of the bill or any language in the bill.

Marla McDade Williams, Deputy Administrator, Health Division, Department of Health and Human Services:

We have concerns with section 5 applying retroactively to existing regulations. It is not a good use of staff time to try to work through an additional process when they are still trying to work the process to get these adopted. I would like to offer some points of clarification. The Legislative Counsel Bureau does have the authority not to draft regulations that we propose to them. We have had it happen to us on a couple of occasions where they say that we do not have the authority do something and they will not draft the regulation. I did not want to leave the room without putting that on the table.

We do not control all aspects of the process. We do our due diligence to identify the issue, pull stakeholders together, and get everybody on board to figure out what we are doing. We send out notices and encourage all our licensees to make sure they are aware of how we communicate with them. We go through this process first, and then my staff pulls together the language that they want to move forward. We have that language reviewed by our Deputy Attorney General. Our Deputy Attorney General does not draft regulations for us. Once we have the first set of comments done, at some point we submit them to the Legislative Counsel Bureau. We have a one-year period of time to submit regulations to the Legislative Counsel Bureau for drafting. It begins July 1 of an odd-numbered year to June 30 of an even-numbered year. That is a one-year period of time to submit regulations to be drafted for us. If, in all the due diligence we have done, we are still having trouble with the bill drafters in trying to work through concepts, it extends the time frame. Your bill drafters work as well as they can with us, but they have other obligations. It is not like they are ours to work through language for a period of time. There are delays in the process that are not necessarily under an agency's control. I wanted to put that on the record so that you are aware of that process. We are not in opposition to the bill. We can comply. My concern is with the retroactive section regarding the workload that will put on the staff in trying to figure out where we are and when our two years will expire.

I would also be remiss if I left the table without saying that although the Legislative Commission has not rejected some of our regulations, they have not acted on some of them. I have taken one set back two times, and they are still not adopted. What would help that process is giving the Legislative Commission the authority to change language at the meeting, agree to it, and move it on instead of sending it back or not acting on it. We would

then be working with people, trying to get their questions answered. There is no clear line of communication telling us when they are okay with it or want it back. Unlike the State Board of Health, which meets on a quarterly basis, we adopt our schedule at a meeting so everybody knows when we are going to meet a year out. We know what time lines we have to meet for adoption of regulations at our board hearings. The Legislative Commission and the subcommittee do not have regular meetings. We are subjecting our agency to a time line that we do not have any control over.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee? [There were none.] Is there any more testimony in opposition? [There was none.] Is there any testimony in neutral? [There was none.] I will invite the bill's sponsor back up to address any comments.

Assemblyman Hansen:

Addressing the concern from Ms. McDade Williams, they can ask for extensions. I want to point out that is in the bill, so if there is not enough time, they can do that. The one point of clarification I do want to make is on the Legislative Counsel Bureau's ability. I was talking about the informational statement and not overall. Obviously, if they submit a regulation that is not in compliance, the LCB can weed that out. On the informational statement, what Brenda Erdoes pointed out was that as long as they provide an answer, even if it is nothing more than "NA" for not applicable, then that goes forward to the Legislative Commission. That is what I was getting at when I said they do not have enough teeth to deal with some of that.

Overall, I think it is an excellent bill. If there are issues, I hope that we can amend it and move it forward. I want to thank Assemblywoman Kirkpatrick for going out of her way to assist. That was very much appreciated.

Assemblyman Stewart:

Assemblyman Hansen, would you be agreeable to an amendment to have the Legislative Commission given authority to amend a regulation? Perhaps there is a regulation that has been brought, and a couple of words could be added or eliminated to change it so it would be agreeable to us, rather than sending it back.

Assemblyman Hansen:

Yes. In other words, we could expedite the process. I thought that was a good idea. I was talking about a line-item veto concept. In a more positive way, we could amend that. If there were a way to do that without wrecking the intent

of the bill, we would accept that. The purpose here is not to simply gum up the works; it is to try to make these things so only the most necessary and streamlined regulations are put in place.

Chairwoman Benitez-Thompson:

It seemed to be my impression on the subcommittee on regulations—and you folks see so much more on the Legislative Commission, especially within section 2, subsection 4—having the ability to have an agency revisit if a regulation is not made within two years would be beneficial. Referencing some statements made, there is an opportunity for the agencies to explain what the holdup might have been and what the reasons for delays there were. The intent is not to lambaste every agency out there, but my intuition is that you would probably see certain types of agencies present themselves more often and some you would not see at all or hardly ever. I do not think the Health Division is one that rose to the level of concern for you in sponsoring this bill, but there are other specific agencies that you would like to have explain themselves regarding the types, intent, and need for the regulations they are coming to you with. This bill allows for the capture of that.

Assemblyman Hansen:

That was very well-expressed. We agree completely with those sentiments.

Chairwoman Benitez-Thompson:

I will now close the hearing on Assembly Bill 252. Is there any public comment? [There was none.] This meeting is adjourned [at 10:38 a.m.].

RESPECTFULLY SUBMITTED:

Jennifer Dalton
Committee Secretary

APPROVED BY:

Assemblywoman Teresa Benitez-Thompson, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 18, 2013

Time of Meeting: 9:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster