

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

**Seventy-Seventh Session  
March 19, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 8:10 a.m. on Tuesday, March 19, 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](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  
Assemblywoman Peggy Pierce  
Assemblyman Lynn D. Stewart  
Assemblywoman Heidi Swank  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Assemblyman Randy Kirner, Washoe County District No. 26

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Philip E. Larson, Vice Chair, Local Government Employee-Management Relations Board, Department of Business and Industry  
Sandra Masters, Member, Local Government Employee-Management Relations Board, Department of Business and Industry  
Ronald P. Dreher, representing Peace Officers Research Association of Nevada  
Kristin Erickson, representing Nevada District Attorneys' Association  
John J. Slaughter, representing Washoe County

**Chairwoman Benitez-Thompson:**

[Meeting was called to order. Roll was called and protocol reiterated.] We are going to be hearing two different bills today: Assembly Bill 237 presented by Assemblyman Kirner and Assembly Bill 249 presented by Assemblyman Munford. We will go ahead and open up the hearing on A.B. 237.

**Assembly Bill 237: Adjusts the compensation of certain members of certain boards, commissions and similar bodies. (BDR 23-624)**

**Assemblyman Randy Kirner, Washoe County District No. 26:**

I am delighted to be before you today and to present Assembly Bill 237. I bring this bill to you as one who has experience with state boards, having served 11 years on a state board. This bill is being referred to you concurrently with the Assembly Committee on Ways and Means. That automatically implies that there is a fiscal note. I was told that Nevada Electronic Legislative Information System (NELIS) did not show the fiscal note, but for the record, the data that I got from the Research Division was that the fiscal note on this would be somewhere between \$150,000 and \$200,000.

If I may, I will speak to the bill. There are 56 state boards and commissions that currently authorize an \$80-per-day salary for members from the private sector who serve on these commissions and boards. That represents about 350 people on these boards, and if you go back to the history of the \$80-per-day salary, what you will find is that in 1975 it started out with Senate Bill No. 358 of the 58th Session, which provided \$40 per day to those private sector folks who served on commissions and boards. In 1981, that was raised to \$60 per day. In 1989, almost a quarter-century ago, it was raised to \$80. I have a number of constituents who have come to me and talked to me about the need to adjust this for inflation. If you do adjust it for inflation, it raises it to \$150, which you see in the bill.

The purpose of coming forward with this is to try to provide those citizens who do work on behalf of the State on boards and commissions a per diem, if you will, that salary. That makes more sense in terms of our current economy. That, hopefully, will add value and attract the kinds of folks that we need to support our boards and commissions.

Madam Chairwoman, that is all I have as a way of introduction. There are folks here who will testify in opposition as well as in support.

**Chairwoman Benitez-Thompson:**

Since this bill has been referred to both a policy committee and the money committee, I will just remind the Committee that we are not going to be considering the fiscal note. We are just going to be considering the policy impact of it. We will let Ways and Means do their job with the fiscal considerations. Questions from members?

**Assemblyman Stewart:**

I applaud you for bringing this bill forward. I think all the people on these boards and commissions suffered greatly financially with having to serve at such a low compensation. I just want to make sure this is not retroactive. This does not go back and cover the time that you were serving. Is that correct?

**Assemblyman Kirner:**

Yes.

**Assemblyman Stewart:**

Thank you.

**Assemblyman Livermore:**

I am looking for a particular board that I do not see in here: the Carson Water Subconservancy District. Is that included in this? I served on that board, and I got paid \$80 a day.

**Assemblyman Kirner:**

To be honest with you, I do not know. There is a long list. These are covered under *Nevada Revised Statutes* 281.160, which talks about persons entitled to payment for expenses, rate of allowance for travel, use of private or special vehicles, reimbursement for weekend travel, regulations and so forth. This is all covered under that.

**Assemblyman Livermore:**

Are these mainly State boards?

**Assemblyman Kirner:**

Yes, and State commissions.

**Assemblywoman Bustamante Adams:**

I had the privilege of sitting on the Sunset Subcommittee of the Legislative Commission during the interim. We review the boards and commissions. That is our task. During that review process, I learned that a lot of the people who were serving on the boards had made the decision not to take the per diem. They were not getting the per diem that was assigned to them through the statutes. The reason they had done that was because of the way the economy had gone down. Are you stating that you feel that the economy has recovered enough so that they could actually start taking their per diem?

**Assemblyman Kirner:**

No, I am not saying that at all, and I understand that. While I was employed by a private sector employer, I felt that it was inappropriate to double dip. I did not take my \$80 even though I would spend maybe three days in a month in preparation for meetings, being the chair of the committee and so forth. Once I retired and was not employed again, then they began paying me my \$80 a day. My response to your question is no. I do recognize that there are folks who will not take the \$80 a day, but then there are others who may be retired or may have other circumstances where the daily allowance is appreciated.

**Vice Chairwoman Neal:**

Does the Committee have any further questions for Assemblyman Kirner? [There were none.] We will move to testimony in support of the bill.

**Philip E. Larson, Vice Chair, Local Government Employee-Management Relations Board, Department of Business and Industry:**

With me is Sandra Masters. We both serve on the Local Government Employee-Management Relations Board (EMRB). The Board is composed of three members. Our chairperson, Seaton Curran, is a patent attorney in the private sector. I serve as the vice chair. Sandra serves as a Board member. In the past I have served as a Board member and Sandra has served as the vice chair. This Board, which is appointed by the Governor for four-year terms, hears disputed cases involving local government employees who typically would work for a city, a county, a police department, a sheriff's office, a school district, a water district, a special district, and so on and so forth. If an employee feels that he has been targeted by his employer and an unfair or prohibited labor practice has occurred, he can retain his own counsel and come before our Board to put on his hearing. If that occurs, typically his employer or possibly employee association will be required to retain their counsel and appear before us, as well, to defend their position.

The Board meets once a month for three days in whatever venue the person lodging the complaint is located. We typically meet in Las Vegas, as that is where the population is, but we have been to Reno, Carson City, Elko, Ely, Lovelock, and lots of other places that are out of the way in Nevada.

Board members are compensated, as Assemblyman Kirner mentioned, for preparation time, including but not limited to review of case files, review of appropriate case law, and case exhibits in preparation of questions for upcoming hearings. That is typically two days, and then we meet three days per month. In this capacity, the Board is expected to be able to comprehensively read and absorb information related to pending cases, transcripts, and exhibits as prepared by the complainant and respondent attorneys. [Continued to read from [\(Exhibit C\)](#).]

I would also add, relative to Assemblywoman Bustamante Adams' comments, we are both retired. I am a former IT manager. Ms. Masters is an entrepreneurial wonder. I will let her explain that in a little more depth when she speaks.

In closing, we would ask you to weigh the merits of our remarks here this morning and consider a modification to the current compensation level for Employee-Management Relations Board members. Your consideration and attention to this request is greatly appreciated, and we thank you for your time. I will turn it over to Sandra Masters.

**Sandra Masters, Member, Local Government Employee-Management Relations Board, Department of Business and Industry:**

I live in Reno. All of what Mr. Larson says is entirely correct. What he does not tell you is that we go into Las Vegas once a month. Our day starts at 8 o'clock in the morning like yours. We do not have any lunch. We have a couple of breaks, but we work through lunch. We get off usually around 5 p.m. or 5:30 p.m., and we do that for most of three days. We hear cases where the lawyers who are presenting to us are making \$400 an hour, and I feel that it is appropriate that we at least consider the kinds of things that we are looking at and evaluating because we have to be very involved in all of the case history. It is not an easy task. There is much to be considered and involved with. I just wanted to enhance a little bit of what Mr. Larson has told you about what we do and how we do it. It is very fitting that you now consider the task of looking into perhaps evaluating the performance and giving it credibility with a little bit more enhancement in the feedback we get on the payment scale.

**Chairwoman Benitez-Thompson:**

Are there questions from Committee members?

**Assemblywoman Neal:**

I have a question for the gentleman at the table. You brought up the issue that the increase would bring more people with integrity to the boards and commissions. What are the issues that you have seen for people who have a lack of integrity or commitment who are serving for the \$80 per diem?

**Philip Larson:**

That is an excellent question. I am not familiar with the makeup of every board. I can only speak for this board. I have never been a lawyer or a paralegal. As I said, I retired as an IT manager with County of Sonoma about 10 years ago in Santa Rosa, moved up here, and applied for this board. In the last three years, I probably learned more about the law and administrative law as it relates to local government employees than I perhaps cared to, but it is necessary. I think some boards have to think a lot, and they have to make important decisions that are far-reaching. Other boards perhaps could be viewed as plum assignments. I do not know of any in particular. Does that address your question?

**Assemblywoman Neal:**

Yes, it does. I was just curious. I was wondering if we were appointing a lot of nonthinkers to boards.

**Philip Larson:**

With all due respect, I will tell you that this board has a political makeup. It currently has two members who are Republicans, and I am the token Democrat on the Board. I firmly believe that is why I was selected when I applied, despite heavy work in a local government environment for 25 years and understanding how that works, which is very conducive to understanding the organization and the issues with respect to county managers, human resources, collective bargaining agreements, et cetera. I probably got selected for all the wrong reasons. It was because I was a Democrat, and I applied. I mean that with no disrespect.

**Chairwoman Benitez-Thompson:**

Are there additional questions or comments from Committee members? I see none. Thank you for your testimony, Mr. Larson and Ms. Masters, and thank you for the hard work you do on those boards and commissions. We know it is oftentimes hard to find people who will do such hard work for so little, and I think that is not only true of our commissions but certainly throughout our State government here in Nevada.

Is there any additional testimony in support? [There was none.] I will go ahead and take testimony in opposition.

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

I thank Assemblyman Kirner for bringing this bill forward, but I have to on this day move in opposition to A.B. 237, not because the individuals that came up to this table do not deserve it. They do. However, unfortunately, as you all know and as you have heard in the past, we had bills in front of this Committee that would amount to a couple hundred dollars for uniform replacement for highway patrol people, yet we could not afford to do that. For years, they have gone unnoticed. We have had a number of State employees who have taken furloughs, have had their benefits and wages reduced through all of that, and they are not in any way, shape, or form looking at any kind of an increase in this biennium.

In this bill, we are talking about something that would effectively give the people on the boards that are listed in A.B. 237 what amounts to about a 90 percent pay raise. I will tell you that over the past few years when this came forward—I believe it was the 2007 and 2009 sessions—we were 100 percent in support of doing exactly what this bill wants, but do you not think that you have to take care of the employees of the State right now that need that? They need to have the furloughs reinstated. They need to have the wages and benefits.

It is not a question that the people you had come up to this Committee do not deserve that. What they said in here is what they do. They are very dedicated. Well, you have to look beyond that. They do apply through the Office of the Governor to be appointed on these boards, as Assemblyman Kirner pointed out. He was a member of the Public Employees' Benefits Program (PEBP) for 11 years. He also had other employment at that point. He did make a pretty good living doing what he did for his other employer. We are talking about how most of the people on the boards that you see here are private employees or come from the private sector. There is other employment that they have. For the retirees, it is not much. Eighty dollars a day in this day and age for what these individuals do, for what the EMRB does, is a pittance. It is definitely not enough. Unfortunately, in this day and age, until this economy recovers and we are able to afford that to these employees in this state and give them something back, their cost of doing business is minimal, and coming from local government sector, I can tell you there are very few areas out there that are providing any cost of living increases.

I would be supporting this bill except for that, and I would ask this Committee to look at some of the facts that I have put out for you to review before you give any other commissions in the State any kind of increase. At least recommend supporting this from a policy perspective, that you have to also look into the fact that there are others in the State that need to be treated just as equally. They would love a 90 percent pay raise, too. The last time I believe they raised anything, it was by about 1.5 or 2 percent. For those reasons, I have to be in opposition to A.B. 237.

**Assemblywoman Bustamante Adams:**

If it was not from \$80 to \$150, would you support an increase to a different amount, or are you totally opposed?

**Ronald Dreher:**

The increase amount means nothing. If it was equal for all State employees, that is not a problem. Like I said, I would love to give them \$150 a day. They deserve a lot more than \$150 a day. I know the people in this room who came forward have to deal with issues that we put in front of them on a constant basis. You are asking laypeople to decide the fate of unfair labor practices, administrative law, et cetera. We would support giving them something, as long as you do likewise to the other State employees.

**Assemblyman Stewart:**

Do you not think you have to take into account that it has been 25 years since they have gotten a raise? The other people you talked about, have they gotten a raise in these 25 years? I think so.



**Ronald Dreher:**

Yes. I am 100 percent in support of what you are saying. No, they have not received any increases for that period of time, but you have to look at it a little bit differently. You have to think about if people are aware of what they are going to receive for compensation when they apply for these boards. If they apply to sit on a commission in this state, they know that they are going to get X dollars. In this case, it is \$80 a day. It is not as if some of the people who are applying for the boards are coming in here without some knowledge of what it is they are getting. As I said, I would support the increase in a heartbeat, Assemblyman Stewart, if we looked at quid pro quo for the other State employees. I do agree with you. They do need it.

**Chairwoman Benitez-Thompson:**

Are there any additional comments or questions from Committee members? I see none. Is there additional testimony for the legislative record in opposition? Seeing none, I will open up for testimony in neutral for anyone who wants to put any comments on the record. Seeing none, I will close this hearing on A.B. 237.

We will open this hearing on Assembly Bill 249.

We welcome to the witness table Assemblyman Munford. The microphone is all yours.

**Assembly Bill 249: Revises provisions governing vacancies in the office of district attorney. (BDR 20-39)**

**Assemblyman Harvey Munford, Clark County District No. 6:**

I am here to present Assembly Bill 249. This bill is related to an appointment that was made in Clark County, to the district attorney's position. I was motivated by my constituents and residents of the area to look into the process, procedure, and method of replacing that vacancy when there are still about three to four years remaining in that term.

As you know, the district attorney for each county is an elected position. [Continued to read from ([Exhibit D](#)).]

In summary, it only takes three years—or could be more than three years, almost close to four—for those candidates that become eligible to be chosen for that position. If the county commission is given the power to choose who will fill that vacancy, that takes the choice away from the voters in regard to who is going to serve the constituents for four years. They have no choice in that at all. They are totally removed. They have a right to have someone who they

feel is going to represent their needs and their concerns, but it is totally eliminated and disregarded. I feel that the residents should have the opportunity to choose and to determine who should take that position.

**Assemblyman Ellison:**

Would this create a new election? Say that somebody passed away right after election. Is this bill saying they would have to create a new election? If that was the case, that could cost hundreds of thousands of dollars to the county.

**Assemblyman Munford:**

I would say that if there are more than two years remaining in the term whenever that incident might occur, whether it be death, resignation, or disability, it has to be at least two or more years for a new election to occur. Even with the President, the Twenty-Second Amendment of the *United States Constitution* says that he cannot serve more than two terms or a maximum of ten years.

**Assemblyman Ellison:**

Would it not be easier to put "the next general election" in the language of the bill? That would have covered that.

**Assemblyman Munford:**

Then why would the district attorney be able to sit there for almost four years without people having the opportunity to vote for him?

**Assemblyman Ellison:**

I am saying that there is usually an election every two years for cities and counties throughout the state. This cannot be a federal issue. It would be a State issue. There is usually an election every two years. Should it not say "the next election" in the bill?

**Assemblyman Munford:**

Do you mean to say that he could be put on the ballot in the next election after two years?

**Assemblyman Ellison:**

Yes. Say somebody got elected in January, and by June they passed away. They would then appoint somebody to take his place until the next election in two years. That way it would not create a financial burden for the county. That is what I am looking at.

**Assemblyman Munford:**

I see what you mean. In order to set up an election, there would be a cost. In this case, there was no death. It was just an appointment because the district attorney retired after serving for less than a year. He had just won his election, then he retired with almost four years left in his term, and then they appointed someone. I feel that they should have had another election to give the people a chance to choose. There were three or four candidates who wanted to fill that seat. My whole aim is this: do not take away the opportunity for the people to have some input. Their opportunity to vote was taken away from them. That is the motivation behind this. Do you see my point?

**Assemblyman Ellison:**

Yes, I understand what you are saying. I am just looking at the cost to the cities. We are probably talking about \$1.5 million in Clark County alone for an election. I have no idea.

**Assemblyman Munford:**

That is countywide.

**Assemblyman Ellison:**

What I am looking at is where it could be put in the next cycle.

**Assemblyman Livermore:**

I cosponsored this bill, and I agree with Assemblyman Munford. The bill requires that an office of the district attorney which has been vacated be placed on the ballot at the next ensuing biennial election. It does not call for a special election. It is a biennial election that takes place on a two-year cycle. That is why you have county commissioners who serve on staggered terms; so you do not have all that. My point is, Assemblyman Munford, as a member of a board of supervisors, I had the opportunity to select a new member because of the death of one of the supervisors. The person selected had known going into the fact that she had to run in the next election.

I can give you another example of why I think this bill is important. I am not going to throw any names out here. In this case, the way the current law reads, after 12 or 14 years a long-standing district attorney could decide that he is going to retire but is going to run for reelection. He has his deputy attorney who may have a better chance of being appointed rather than elected. This bill eliminates that appointment of perpetuating your successor. I believe Assemblyman Munford is completely correct in his presentation. The district attorney should serve the will of the people who elected him. It is they who should elect and appoint a district attorney beyond the vacancy. I want to really strongly support Assemblyman Munford's bill in this case.

**Assemblyman Munford:**

He is absolutely right in terms of the language in the bill. It is not to immediately have an election but to wait for the next election that occurs biennially. Legal Counsel might have to tell me, but I think when the last district attorney was appointed in Clark County, there was an election about a year after that. They might have had some municipal elections or something of that nature. That is what you mean, too, Assemblyman Livermore. Even if it is the municipal election, a candidate for district attorney could be put on the ballot, and then it would not be any extra cost to the county.

You might have misinterpreted me, Assemblyman Ellison, thinking I was saying an election should be had as soon as the vacancy occurred. I can see the merit in the point you were making about cost. There would be quite a bit of cost.

**Chairwoman Benitez-Thompson:**

Are there any additional questions from Committee members? Seeing none, I will go ahead and open up the table for any testimony in support. We will put Assemblyman Livermore down in support. [There was no other testimony in support.] At this time, we will go ahead and take testimony in opposition. Seeing none, I will open up for testimony in neutral.

**Kristin Erickson, representing Nevada District Attorneys' Association:**

We are neutral on this bill.

**John J. Slaughter, representing Washoe County:**

We are neutral, as well, and just wanted to get on the record. It is our understanding of this bill that, if there is a vacancy, the next election would be the election that the district attorney would stand for. In that case, we do not see any additional fiscal impact of having to hold a special election. We just wanted to make sure that we were clear on that.

**Chairwoman Benitez-Thompson:**

For clarification, is your interpretation that there will be a special election or that there will not be a special election?

**John Slaughter:**

We understand the bill to mean the next general election.

**Chairwoman Benitez-Thompson:**

You understand that the candidate's name will be on the ballot of whatever election is up in that next two years.

**John Slaughter:**

Correct. There will not be a special election, which would cost Washoe County about \$200,000 to put on. This bill is not doing that.

**Chairwoman Benitez-Thompson:**

Are there any questions for Mr. Slaughter? I see none. Assemblyman Munford, I will invite you to make any closing remarks.

**Assemblyman Munford:**

I just wanted to apologize for any misinterpretation of the bill. I think it even threw me off a little bit. I think the language got turned around in my presentation. I extend my appreciation to Assemblyman Livermore for bringing about the clarification so we all could comprehend the intent of the bill, which is to have the election with no fiscal cost; just move it to the next election that occurs in the county. That is what this bill is about.

**Chairwoman Benitez-Thompson:**

Thank you for clarifying your intent for the record. I appreciate that. Seeing no additional questions or comments, I will go ahead and close the hearing on A.B. 249. I will open up for public comment. [There was none.]

Meeting adjourned [at 8:58 a.m.].

RESPECTFULLY SUBMITTED:

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Maysha Watson  
Committee Secretary

APPROVED BY:

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Assemblywoman Teresa Benitez-Thompson, Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** March 19, 2013

**Time of Meeting:** 8:10 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 237	C	Philip Larson / Employee- Management Relations Board	Copy of testimony
A.B. 249	D	Assemblyman Munford	Copy of testimony