

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

**Seventy-Seventh Session  
April 24, 2013**

The Committee on Government Affairs was called to order by Vice Chairwoman Dina Neal at 8:35 a.m. on Wednesday, April 24, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Dina Neal, Vice Chairwoman  
Assemblyman Elliot T. Anderson  
Assemblywoman Irene Bustamante Adams  
Assemblyman Skip Daly  
Assemblyman John Ellison  
Assemblyman James W. Healey  
Assemblyman Pete Livermore  
Assemblyman Harvey J. Munford  
Assemblyman James Oscarson  
Assemblyman Lynn D. Stewart  
Assemblywoman Heidi Swank

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Teresa Benitez-Thompson, Chairwoman (excused)  
Assemblywoman Peggy Pierce (excused)  
Assemblywoman Melissa Woodbury (excused)

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Karen J. Starr, Assistant Administrator, Division of State Library and Archives, Department of Administration  
Daphne O. DeLeon, Administrator, Division of State Library and Archives, Department of Administration  
Christopher B. Smith, Chief Emergency Management Homeland Security Advisor, Division of Emergency Management and Homeland Security, Department of Public Safety  
Selby H. Marks, Homeland Security Administrator, Division of Emergency Management, Department of Public Safety

**Vice Chairwoman Neal:**

[Roll was taken and housekeeping matters were explained.] We are hearing two bills today, Senate Bill 20 (1st Reprint), and Senate Bill 39. We will open the hearing on Senate Bill 20 (1st Reprint).

**Senate Bill 20 (1st Reprint): Revises provisions governing the submission of certain publications to the State Publications Distribution Center. (BDR 33-305)**

**Karen J. Starr, Assistant Administrator, Division of State Library and Archives, Department of Administration:**

Senate Bill 20 (1st Reprint) updates language that aligns the submission requirements for state and local government publications with the current electronic publishing environment. Section 3 requires the Nevada State Library and Archives (NSLA) administrator, Daphne DeLeon, to adopt regulations prescribing the procedures for submitting electronic versions of a publication to the State Publications Distribution Center. It provides consistent procedures, which are necessary to ensure ongoing preservation of electronic data as technology changes, and to provide for efficient processing of that data.

Section 3 also reduces the number of copies being submitted to the State Publications Distribution Center, which is housed at the NSLA, by requiring an electronic copy to be submitted, and prescribes procedures required

for submission of the electronic version. This process leverages the technological transition to electronic publication to make government more economical and cut down on costs by reducing the number of paper copies being submitted. It requires that an actual electronic copy be submitted to State Publications Distribution Center, not just the notice of a copy which points to a file loaded elsewhere, thereby ensuring preservation of the original copy.

**Assemblyman Healey:**

In this day and age, with the green movement and trying to reduce paper and so forth, I see that we are reducing the number of paper copies. Why do the paper copies even have to be produced prior to a request for a paper copy? It seems to be a big waste. In case those paper copies are never requested, now you have ten of them sitting on a shelf. If the electronic version is now being provided, why can it not be printed on demand?

**Karen Starr:**

We are in a transitional period with the way we do publications in this country, particularly with our rural public library community. Having paper copies available in some instances provides people with the information they may not otherwise be able to access electronically. Moving forward, I think you will see the destination that you are describing, Assemblyman Healey. However, right now I think we are in that transitional period.

**Assemblyman Healey:**

Thank you for that. If the electronic version is being provided to the State Publications Distribution Center, why can it not just be printed on demand? If a resident walks in and says, I would like a copy of that. No problem. Give us five minutes and we will print it for you. Then just print on demand so that no paper copies have to be produced ahead of time, and essentially, in the end, potentially wasted.

**Karen Starr:**

That is a good question. I am looking at a background that Daphne DeLeon may be able to provide extra context on, and I appreciate your patience.

**Daphne O. DeLeon, Administrator Division of State Library and Archives,  
Department of Administration:**

Assemblyman Healey, if you look at the bill, state agencies and local governments have the option of either submitting paper copies or the electronic version. If they submit the electronic version, no paper copies need be submitted to fulfill the mandate for the Distribution Center.

**Assemblyman Healey:**

In looking at costs and trying to save, why would we even allow that to be an option? Why would it not just be print on demand? That would eliminate the waste. We could move to a much greener process and mandate that versus giving an option.

**Daphne DeLeon:**

As Ms. Starr mentioned, we are in a transition. This statute has been in place, mandating that paper be submitted. We know that there are some agencies, for instance, the Nevada Historical Society that prints the Historical Review, that still prefer to provide us printed copies as opposed to the electronic version. That is just one example. We also have a couple of entities of the University of Nevada, Reno (UNR) that still provide paper copies. Eventually, maybe next session, when we see more of our agencies complete the transition to electronic publishing, that is what we will get. At that point, we will most likely mandate it and just do away with paper copies completely. Another reason why we have not gotten rid of paper copies is that we are setting up our procedures that allow us to distribute the electronic copies in a comprehensive way, with the metadata attached to ensure that all our state depositories will be able to easily facilitate access to them locally.

**Assemblyman Livermore:**

With regard to where it says, "Every local government shall, upon release of each of its publications," is there a limit to the vastness of this publication? In other words, how many megabytes are allowed?

**Daphne DeLeon:**

It is not restricted by size. This is one of the reasons we are including the option to set up procedures in order to facilitate the submission of these large electronic files. Most likely, we will set up a file transfer protocol (FTP) site that local government and state agencies can push the material onto, and then we can pull it down, as opposed to trying to email very large files and having to piecemeal them over successive messages.

**Assemblyman Livermore:**

Would you break that down and repeat it for me? I do not quite understand how you would piecemeal large volumes. I did not catch that. Could you describe that for me?

**Daphne DeLeon:**

If you have a very large file, Assemblyman Livermore, or if you have a file that has an attachment that is larger than two megabytes, it could tie up your email box so that you would not be able to receive any more messages. If you have

a file that is 10 megabytes and you try to attach it to an email, it simply will not deliver because it is too large. You would then have to split it up. It could be a megabyte apiece for portions of a publication, and it could be split up over successive messages.

**Assemblyman Livermore:**

If you have that difficulty, how will the public, who may not have the access that most state agencies or government bodies have, print or receive large files without overloading the system? I am trying to make the connection between where you think this transition is moving to, and where the public is able to acquire a copy through the mail, or something like that.

**Daphne DeLeon:**

The State Publications Distribution Center is premised on the structure of sending state publications to public libraries throughout the state. The premise is that the citizens would go to the library, whether it is an academic library or a public library, to access these files.

Based on a broadband grant that we received approximately two years ago, we have upgraded many of the rural public libraries to include very robust computers that would allow the public to download this material.

**Assemblyman Livermore:**

My point gets down to this: if it is a 250-page document, the library may have limited printing capability. A person can only sit there and scan for limited hours. How long can you stare at the computer system? Again, I am only trying to protect the public interest in obtaining documents and information. As we transition to this, the game is not level.

**Daphne DeLeon:**

You are exactly right, Assemblyman Livermore. The field is not level. However, there is always the option that the public library can print the file and submit or send it to the patron. Usually, there is a cost, but it is usually at cost. It is much more reasonable than if they were to go anywhere else.

**Assemblyman Elliot Anderson:**

I just wanted to follow up on one of Assemblyman Livermore's questions, and ask my own. I do not see how it is that big of a burden to put something on a CD for example, or if you have to, email it. It seems odd to me that you would have to break up a document into so many different emails. Why can you not put it on a CD or a thumb drive and then deliver it? It seems like an odd thing to say. That is another option, Assemblyman Livermore. The library could burn a CD with the document on it and then give it to the public to take

and open on their home computer. There are a number of things we can do with technology to make things accessible, and I would say more accessible to the public.

To get to Assemblyman Healey's concern and my concern, why do we not just say: unless not practical, or you do not publish or provide things electronically. We could still get to the same intent. It would still be a transition, but we would not necessarily require ten copies. Does that make sense?

**Daphne DeLeon:**

Assemblyman Anderson, are you suggesting that we update the language that still provides the agencies the option if they are not electronically publishing to submit paper copies?

**Assemblyman Elliot Anderson:**

My suggestion would be requiring electronic submission unless their publications are not electronic. Then you would still have that transition piece in for agencies that have not gotten to the point of electronic publishing, and therefore, cannot submit an electronic copy.

**Daphne DeLeon:**

I think that is a very good suggestion. My staff and I will go back, amend some of the language, and submit it.

**Assemblyman Daly:**

I want to make sure that I understand properly on page 2, section 1, subsection 4, paragraph (f). I think this is streamlining, but I just want to make sure I understand it. The way I read that, and I did not look up, nor do I recall what *Nevada Revised Statutes* 239.124 and 239.125 are, but you have a process where you have contacted most of these agencies and you have a document retention schedule. These things are kept permanently, or they can be deleted after five years. So the way I read that, you are saying that if we have already done a document retention schedule with this agency, the things that are only required to be kept for five years you do not need to send to us, but the things that we have said have to be permanent, you do have to send to us. That is the way I was reading that. Is that correct?

**Daphne DeLeon:**

You are correct, but let me provide clarification. That paragraph (f) was to clarify that everything that is subject to a records retention schedule is actually a record, and is outside the purview of the State Publication Distribution Center, because, by definition, it is not a publication. Not all of the things that would

be submitted have a records retention schedule, so there would be no duplication there.

**Assemblyman Daly:**

I was listening to some of the comments, and I agree that we are in a transition period, but these are the difficulties that I have experienced, and I would say to lend some caution and let the agency do what they need to do. There is a provision in there that requires you to adopt regulations regarding electronic submittal of these records. In the transition, you have a lot of people, and counties that have a huge capacity, while other counties or agencies, do not. You have different formats, and various things. People have sent me emails that I cannot open to view their document because I do not have the right program. I think all those things are in a state of flux. There is no consistency, and I think some of those things need to be addressed in the regulation. I think the structure in this bill will actually allow for that.

On the other hand, some people like paper. I like paper. To me, it does not exist if it is not on paper, especially if it is an official record. My last question is, if someone wants to get this record back from you after it has been turned in and potentially deleted from someone else's file because you are the final holder of the document, do you have a process to certify a copy? Do you press a stamp on it? Do you reproduce them in the same color? For instance, if someone has an embossed letterhead it is not going to come through, so you certify a copy somehow. Is there a way to do that?

**Daphne DeLeon:**

We do have a process to certify copies. Usually, it is for archival material that is in the State Archives collection. We look at the original, as well as the copy made from it, and we do have a stamp that I sign that says it is a true and complete copy. I think, for the State Publications Distribution Center, when we bring a publication in, we are going to have to set up regulations to ensure authenticity. Then, we are going to have to set up regulations in our storage device to make sure that the file is not altered. Based on those procedures, if someone were to require it to be certified, we would follow the same procedure, and we would put a stamp on it and I would certify that it is a complete copy.

**Assemblyman Daly:**

As we transition from paper, say you get an historical document, a letter, and you look at the original, and you can see that it is a letterhead and all that stuff. It has the original signature; you can tell someone wrote on it with a pen. As we transition to this electronic version, those are some of the things you are going to put in your regulation, I am hoping, so that it cannot be altered.

Because everyone knows that anybody can Photoshop a bunch of stuff these days. You can put your signature on documents and make them look brand new. Therefore, I am hoping that there is a protocol that we will have to address on how we are going to do that, because you are not going to have an original to look at.

**Daphne DeLeon:**

There is a procedure for electronic documents. There are many ways that you could document what comes in, and you could make sure that metric is not changed. One of those things is a hash number, or hash mark. We have included that in our procedure, and it has been used in other states. We could look at other models and then institute things here in Nevada State Library and Archives.

**Assemblyman Healey:**

I want to be clear that my intent was not to affect the end consumer of these potential paper copies. My point was to the back-end; the agencies that provide these documents to you, and who are also providing at the same time these printed copies that will potentially sit on a shelf and never get used until they are thrown away or, hopefully, recycled. My point was simply to get us to a greener environment that ultimately saves the State a lot of money on paper. I have put these programs into place in my businesses, and we have saved tremendous amounts of money from being a little more conscious. However, if a customer walks in and they need a copy, we provide them a printed copy. In addition, I would love to work with you on some language suggested by my colleague from the south.

**Assemblyman Elliot Anderson:**

Ditto to what Assemblyman Healey said about providing a free printed copy. Maybe that would make Assemblyman Livermore and others feel happy as well. I think that is a possibility that could really work. I think that saving local government some money on one end would be a really good idea.

I want to drill down to what we are talking about here with publications. We are not talking about records so much as we are talking about informational things that we get here all the time. I know Assemblyman Daly's concern was about certifying documents, but the way I read the bill, this is more to do with the nice little colored glossy things that we get here all the time from different governments with all the different information that they produce for whatever reason. Is that correct? Do I have the scope understood correctly?



**Daphne DeLeon:**

You are correct, Assemblyman Anderson. However, publications also include reports, as well as the *Executive Budget*, and anything that is created by the agency specifically to share information about what they are doing in their programs with the public. That is the main criteria for how you define a publication versus a record.

**Vice Chairwoman Neal:**

I have a question on the explanation you just gave Assemblyman Anderson regarding publications. You added a section on section 1, subsection 4, paragraph (f), which is the local government piece, which adds to NRS 239.080 in terms of what is listed under publications. In the other bill you brought us, there was a specific discussion on retention of information. Let me backtrack. When you gave the explanation to Assemblyman Anderson, you did not discuss document retention. Is that included in publications?

**Daphne DeLeon:**

Retention and disposition schedules do not apply to publications. Those only apply to records.

**Vice Chairwoman Neal:**

In section 1, subsection 4, paragraph (f), why is there a need to now include the records of local government? Why is this necessary?

**Daphne DeLeon:**

Paragraph (f) was actually added based on a request from Clark County. Because paragraph (e) explicitly excluded records from the Publications Distribution Center, local government also wanted to be very explicit that records were not included in publications, even though by definition a record is not a publication.

**Vice Chairwoman Neal:**

Does this have anything to do with how you put out the extended discussions that we had on Assembly Bill 45 where they said, "Hey, I see you have a Senate bill. Let us try to get our carve-out as well in this bill?"

**Daphne DeLeon:**

Senate Bill 20 (1st Reprint) and Publications are completely separate from the discussion of Assembly Bill 45 and the authority within that bill for records. Records and Publications are, by definition, completely separate. In my opinion, there would be no place in S.B. 20 (R1) for those issues in A.B. 45 that arose regarding access to records. It is specifically for the State Publication

Distribution Center, if you look at those statutes, and by definition that is confined to publications as defined.

**Vice Chairwoman Neal:**

I was asking that question because in the amended version of A.B. 45, you added digital imaging pretty much all across the bill. For my own edification, I wanted to know the whole picture of what the Library and Archives Division was attempting to do with these two bills. You are saying you want to be inclusive to digital images, and then you have this bill. I was curious if there was any interplay.

**Daphne DeLeon:**

There is some interplay in the documentation of what government does. There are two facets to it. The publications side, which is the efforts that are documented by state and local agencies to provide and share information directly with the public, goes into the State Publication Distribution Center. By definition, that is permanent. Even though it has no retention schedule, everything that comes through the State Publication Distribution Center, NSLA is required to ensure its continued access, and its preservation in its authentic form. On the other side of information regarding government, there are all of those records that we create within state agencies and local government entities to fulfill their mandates. They might not be created specifically to share with the public, but they have legal, administrative and historical value. We create a retention schedule that provides guidance to the agencies that says at a minimum, based on these values, this type of record needs to be held.

What interplays with that, if you look at A.B. 45, and the comments regarding digital imaging, that allows our conversion unit, imaging and preservation services, to provide that option to local government and state agencies to not only microfilm, but to allow them to request an electronic version of the record. If they have an electronic version of this record and it is in compliance with regulations that are coming out of NSLA, that electronic version can be the official record, and they do not have to hold on to the paper from which the electronic version was converted.

I hope that gives you a bigger picture of how the State Library and Archives work together to make sure that we have complete documentation for government, not only to ensure that we, ourselves, are as efficient as possible, but also to ensure that our constituents can hold us responsible.

**Vice Chairwoman Neal:**

I appreciate that. We will shift to testimony in support. Is there anyone with testimony in support of S.B. 20 (R1)? Seeing none, is anyone signed in as

neutral for S.B. 20 (R1)? Seeing none, is there anyone signed in as opposition to S.B. 20 (R1)? [There was no one.] Would you like to offer any closing comments on S.B. 20 (R1)?

**Daphne DeLeon:**

No, Madam Vice Chair. I would just like to thank all the Committee members for their questions. It was very lively; livelier than I thought. In addition, I want to assure Assemblyman Healey that we will follow up to work with you for some amended language. Thank you.

**Vice Chairwoman Neal:**

Thank you. We will close the hearing on S.B. 20 (R1), and open the hearing on Senate Bill 39.

**Senate Bill 39:** Revises provisions governing the Nevada Commission on Homeland Security. (BDR 19-342)

**Christopher B. Smith, Chief Emergency Management Homeland Security Advisor, Division of Emergency Management and Homeland Security, Department of Public Safety:**

Today, I just want to speak briefly about Senate Bill 39. This bill helps the Commission on Homeland Security, and the committees that work underneath that to protect the state, to get our work done and still maintain compliance with the Open Meeting Law. As we all know, last week was pretty difficult across our nation, with several major events that occurred, specifically in Boston, in Texas, and in the Midwest. Our committees, as Homeland Security, help us plan, receive briefs, prepare, and respond to some of these acts. The ability for us to, from time to time, have closed meetings will help our leaders who are on these committees do their job to help protect our state. I will be glad to answer any questions at this time. I do not want to belabor the point. We are asking for some clarification in this current law.

**Assemblywoman Bustamante Adams:**

We have new members on the Committee, and some freshmen who have never served before, so if you could just back up and give a little history about the Commission, I think that would be really helpful.

**Christopher Smith:**

Absolutely. The Commission on Homeland Security is comprised of members who are appointed by the Governor to represent state, federal, and local partners that meet quarterly to develop priorities for state and federal homeland security expenditures, developing capabilities for our state and local areas, and tribal entities as well. As I said, the Commission is comprised

specifically of Federal Bureau of Investigation (FBI), Department of Homeland Security, as well as state representatives including myself, Chris Ipsen, who is a member of Enterprise Technology Services, and several local partners. There are roughly 25 individuals who serve on this body. I will list the committees that work underneath the Commission, including the finance committee, which helps to identify the funding streams, the critical infrastructure committee, and we are developing an information sharing committee. The mission of the Commission is to certainly support the needs of local jurisdictions, and the state, to protect our citizens from all threats; not just acts of terrorism, but natural hazards as well.

**Assemblyman Livermore:**

My question goes to the creation of committees and the potential of the Open Meeting Law, and violations of the Open Meeting Law. Reading the Senate minutes, there were questions asked by Senator Spearman regarding protocol. She knew that does not define that. Can you describe to me what protocol would be used to determine whether this is a closed public meeting or an open public meeting?

**Christopher Smith:**

In the past five years, we have closed a portion of one meeting. The protocol which we acted upon was, we agendaized all items, as well as the closed meeting element, and then the body took a vote and subsequently closed that specific element of the meeting. I would expect that is how we would proceed with our committees as well. The majority vote of the members of the Committee would act to close that. However, it would still be agendaized on the meeting agenda.

**Assemblyman Livermore:**

Would the Deputy Attorney General be the deciding factor of whether the meeting is open or closed?

**Christopher Smith:**

No, sir. The majority vote of the members of the Committee is the deciding factor.

**Assemblyman Livermore:**

I find that troubling, sir. I would think that the Attorney General, who is in charge of protecting and enforcing the Open Meeting Law, would be a prime person who would give advice to the Committee about what meetings should or should not be open. What I think I am hearing is that a motion made by someone to close a meeting, which does not carry the weight of an assistant

attorney general, would produce the dialogue, and from that point the decision would be made with no question of the deputy attorney general.

**Christopher Smith:**

I understand your question now. When we develop agenda items and agendas for the meetings that we conduct, all of those are run through our deputy attorney general. When we closed the last time, our deputy attorney general then took a look at that agenda and said, "Why are we closing this meeting?" We explained to her the rationale for why we needed to close the meeting. She accepted that, gave us the parameters, and we pressed forward with that process.

**Assemblyman Stewart:**

Over five years, you have only had a portion of one meeting that was closed. I find that incredible. It seems to me that a lot of your issues would be secret due to the nature of your business. That is amazing to me. Could you respond to that? You have had meetings for five years, and you make everything open and available to criminal elements and terrorists.

**Christopher Smith:**

Assemblyman Stewart, I do appreciate your inquiry there. I have been part of the Division for almost two years. During that time, we did close one of our meetings. We do the best we can to maintain compliance with the Open Meeting Law and not have to close the meetings. A considerable amount of the information we discuss at these Commission meetings is very high level and not necessarily detailed, nor does it provide any vulnerability to our state or local jurisdictions. However, the committees that support the Commission are a bit more in the weeds. That is where we have had the issue of not being able to discuss the elements that we needed to discuss at the committee level. The Commission itself is certainly able to conduct business, for the most part. However, I would expect, from time to time, especially in light of all that happened last week, that we would see more security briefings as described in the law, and we can do that with a closed meeting.

**Assemblyman Stewart:**

Therefore, the general purpose of this bill is to allow those committees to legally meet in a more secure manner. Is that correct?

**Christopher Smith:**

Absolutely, sir.

**Assemblyman Healey:**

Is there legislative presence on the Homeland Security Committee?

**Christopher Smith:**

Yes, sir. There are two members that represent the Legislature.

**Vice Chairwoman Neal:**

Are there any additional questions? [There were none.] I have a couple. It is going to start off with a statement because you are trying to include NRS 239C.170 to apply to all of your committees, the committee on finance, and any other committee deemed necessary by the chair to assist in carrying out the duties of the Commission. That is very broad. Then you are testifying in a way to me that is cryptic. What kinds of areas under Homeland Security, when you have created a committee for finance, what kinds of issues do they cover that need to have a legal carve-out where portions of it need to be closed? What subject matters?

**Christopher Smith:**

I do not have a rationale for why finance would specifically be closed. The finance committee has always run an open forum, with never even an attempt to ask for a reason to close their meetings.

**Vice Chairwoman Neal:**

Can you name at least three committees that have been created to assist the Homeland Security Committee under NRS 239C.170?

**Christopher Smith:**

Three committees would be the Critical Infrastructure Committee, the Finance Committee, and those are the two that meet most often.

**Vice Chairwoman Neal:**

How many committees are there total that have been created to assist?

**Selby H. Marks, Homeland Security Administrator, Division of Emergency Management, Department of Public Safety:**

Currently, there are four committees. There is a bylaws committee, a finance committee, a critical infrastructure committee. I am sorry. There are three committees.

**Vice Chairwoman Neal:**

All right, then let us go through them. Regarding the bylaws committee, in the past five years, under the provision of this bill, which is NRS 239C.140, when have you needed to close the meeting for bylaws?

**Christopher Smith:**

We have never had a request to close a meeting for bylaws, and we do not anticipate one.

**Vice Chairwoman Neal:**

Okay. For finance, you said there were none. You said there were no circumstances where you have needed to close.

**Christopher Smith:**

That is correct.

**Vice Chairwoman Neal:**

For infrastructure, when have you needed to use the provision of the law to close sections of the meeting?

**Christopher Smith:**

We have not closed any meetings of infrastructure because we were advised by our deputy attorney general that the provisions of the Commission did not extend to the committees. Therefore, we were not able to close those meetings, and subsequently, we were not able to conduct the business that we needed to conduct for that meeting.

**Vice Chairwoman Neal:**

Okay. All right. So, let us just get to the meat. What did you want to close that you could not?

**Christopher Smith:**

Discussions of vulnerabilities and state infrastructure.

**Vice Chairwoman Neal:**

The safety of them?

**Christopher Smith:**

Vulnerabilities.

**Vice Chairwoman Neal:**

Vulnerabilities?

**Christopher Smith:**

Yes.

**Vice Chairwoman Neal:**

Okay. Backtracking to finance, what did you want to close, but you could not?

**Christopher Smith:**

We have not wanted to close any financial meetings.

**Vice Chairwoman Neal:**

Okay. For bylaws, same question.

**Christopher Smith:**

We have not wanted to close any meetings for bylaws.

**Vice Chairwoman Neal:**

Okay. So, we are really only dealing with one committee: infrastructure.

**Christopher Smith:**

Currently, one committee, but we want to anticipate, because in our business we are always looking for potential threats, and blossoming current events. Therefore, we expect, as a major threat in the United States currently, and around the world, a cyber-threat. Therefore, there may be a desire at some point to have a cyber-committee.

**Vice Chairwoman Neal:**

Okay. Are there any additional committees, outside of cyber, who are going to be created prospectively? Give us the future. Because we create laws, right? And you are telling us today that the law applies to the future. So, if we are going to discuss policy, let us understand the full scope of the policy that we are possibly going to be implementing.

**Christopher Smith:**

Looking forward, I can see, potentially, three that we might have to use this exemption on: Critical Infrastructure, Information Sharing, and potentially, Cyber Security.

**Assemblywoman Bustamante Adams:**

On your website, it says that the two legislative representatives that we have are former Senator John Lee, and Assemblyman William Horne. Has former Senator John Lee been replaced? Also, what is the process? I know that our current assemblyman will also be termed out this session.

**Christopher Smith:**

I believe the process is, since that is in law, the Speaker appoints those two individuals to our committees.

**Assemblywoman Bustamante Adams:**

Has former Senator Lee been replaced?



**Christopher Smith:**

To my knowledge, not as of yet.

**Assemblyman Healey:**

In the volatility of what you do, I would imagine emergencies such as the Boston situation potentially could happen in our state somewhere, let us hope not, but the potential is there. You had mentioned that in the past and that one section of the meeting that you closed that had been agendized, and so forth. However, as these emergencies pop up, how would you handle a major situation in the state? Obviously, those meetings cannot be open. How does that happen with the Open Meeting Law? I am just curious.

**Christopher Smith:**

With the Commission, we would be providing the Commission information on a brief of potentiality, let us say, for the Boston incident. We would back-brief on what had transpired, what resources were used, and how the responders conducted their business. We would provide some detail to the Commission on future actions of what the Commission may have to do policy-wise, acting on certain capability gaps that we may have found during said event. So, we would not necessarily have to pull a meeting together within three days of the event. We might schedule that out to be in compliance with the Open Meeting Law, and then brief what we have to brief on that, and close that particular element of the meeting, if we had to. A lot of what we see now in Boston is all open source, and there may not be any need to close the meeting at all. However, we would certainly collaborate with our state and federal partners, who would be providing that brief, to ensure that we were not exposing vulnerabilities there.

**Assemblywoman Swank:**

I have a question about the closing of meetings. I know it is determined by the Committee as a majority vote. However, I am wondering, is there any kind of oversight? Is there any kind of check on when meetings get closed?

**Christopher Smith:**

I am not aware of any oversight of when we close meetings. We maintain records of the meetings, including minutes and recordings of even the closed elements of the meetings, and we secure those. However, after that point, I am not aware of any reporting that we have to do to any other body that states that we did close the meeting.

**Selby Marks:**

We do an annual report for the Commission. In that yearly report, we are supposed to announce the closed meetings, and why we closed the meetings.

That report is provided annually to the Director of the Legislative Counsel Bureau (LCB). We do report on it in that way.

**Assemblyman Daly:**

On page 2, section 1, subsection 2, paragraph (c), where it says, "if the Commission or Committee determines, upon a majority vote of the members . . ." after listening to some of this, and knowing what the makeup of the Committee is, who is determining who is appointed to the subcommittees? I can understand some reasons as to why to have some of this stuff done. However, I think the determination on whether or not a subcommittee meeting is going to be closed should not be left to the subcommittee. It should be made by the Committee if you think there is a sensitive subject matter in there. Otherwise, you have appointed five other people that do not know who the hell they are, or how that determination gets made, and various things. Not very stretched out. I think the higher body has got to make the determination. If the subcommittee is going to have some elements that need to, I do not know how that will work structurally. I think you could fix this whole thing just by saying, "We are going to bring in our subcommittee to the whole Committee." That would be closed and you could have whatever discussion you wanted, and you would not have to change anything. But, the decision to have it be closed should be left to the one that has the public officials and the ones who are most responsible making that choice. That was just an observation.

**Christopher Smith:**

I appreciate your comment. You are correct; we could bring subcommittee work into the Commission and that would allow us to close the meeting. However, it would prolong the functions of the Commission meetings themselves, and put the Commission in a place where they may not be as productive. The subcommittee is doing the work they have to do, and their specificity work would be somewhat burdensome. Also, I would like to add that, in the event that the parent Commission has to grant the approval first, that would certainly, working in the future, be if we knew the world was going to be stable and we did not have to have specific meetings for specific events, then that would be okay. We did want some flexibility for the subcommittee chair, who is appointed by the chair of the Commission, as well as the members of the body who are appointed by the chair of the Commission, who is the Governor. That is how we operate right now.

**Assemblyman Daly:**

I appreciate that. I was just throwing out some ideas on that. I can see where, for instance in your infrastructure subcommittee, you may want to focus even more on, "We are just going to be talking about McCarran Airport, or Reno-Tahoe Airport." So you are going to want to bring in the directors of those airports, and some other people who have expertise in those areas. You really would not need Assemblyman Horne there, because he really does not know that much about airports, other than flying in and out. Maybe he does; I do not know. I can understand how you get to that, and I can see opportunities for future subcommittees. I think Vice Chairwoman Neal hit on some important points. I do not think you need to include the finance committee, other than that is just the structure of the way the statute is written. You have the cyber-threats, and special events, and you have a variety of other issues that you have to try to deal with.

**Vice Chairwoman Neal:**

I have one final question before we open it up for support. You said the reports go to the Legislative Commission, right? So, we have found that sometimes the reports are read, and sometimes they are not. Have they been read? Have you gotten any feedback? How many reports have you submitted? I guess it would be a total of what, five? How long have you been in existence?

**Christopher Smith:**

The Commission has been in existence for seven years.

**Vice Chairwoman Neal:**

So you have seven reports?

**Selby Marks:**

There are six reports. We did not report in 2012 because of some changes that were taking place within the Division.

**Vice Chairwoman Neal:**

Did you get any feedback? Were you questioned on your report at all?

**Selby Marks:**

No, Madam Vice Chair, we were not.

**Assemblyman Elliot Anderson:**

Assemblyman Daly really made me think about something that I had not considered about who appoints those subcommittees. I would think it would be the chair, which is the Executive Branch always. Correct? So, I guess that would make me more comfortable with this, and I am generally pretty

comfortable. It does seem like an honest clarification to me, and I am not just using that as a buzzword. However, if we could maybe, as Assemblyman Daly suggested, get approval from the full Commission, so then that way the Legislative Branch is involved in making those decisions to close those meetings as is in the statute now because our members sit on the body and would be able to do that. That, I think, would give me some comfort level with the way that I think about it. I think it would provide more of that oversight that has been talked about today. Would you be open to that sort of change to allow the full Commission to grant that authority?

**Christopher Smith:**

Thank you for that question. Yes, I would be open to that, with an exception that in the event of an emergency of some sort, that we have an emergency ability to conduct a closed meeting without the prior consent of the full Commission, if time is of the essence.

**Assemblyman Livermore:**

Also during the Senate hearing that you had on February 18, someone asked about the Freedom of Information Act, and you were going to do some research. Has that been done?

**Christopher Smith:**

Yes, sir, the research was done. The Freedom of Information Act is a federal requirement, and that does not apply to our State Homeland Security Commission, or subsequent committees.

**Assemblyman Daly:**

We have a state equivalent for requesting information. If you were doing a state document, you would not do a federal procedure, but there is a state equivalent to request information.

**Vice Chairwoman Neal:**

We will shift into support. Is there anyone signed in to support S.B. 39? [There was no one.] We will shift to neutral. Is anyone signed in as neutral? [There was no one.] Is there anyone signed in as opposition? [There was no one.] Would you like to offer any final comments on this bill?

**Christopher Smith:**

Thank you very much for the opportunity to speak in front of you today. We will be glad to answer any follow-up questions that you may have. We are here to assist. Thank you.

**Vice Chairwoman Neal:**

Thank you for your testimony. We are going to close the hearing on S.B. 39, and we will open it up for any public comment from Las Vegas or Carson City. Seeing none, we will adjourn this meeting of Assembly Government Affairs [at 9:30 a.m.].

RESPECTFULLY SUBMITTED:

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John Budden  
Committee Secretary

APPROVED BY:

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Assemblywoman Dina Neal, Vice Chairwoman

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 24, 2013

**Time of Meeting:** 8:35 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster