

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

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

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:41 p.m. on Wednesday, April 24, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Pat Spearman, Vice Chair
Senator Mark A. Manendo
Senator Pete Goicoechea
Senator Scott Hammond

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

J. Brian Scroggins, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry
Ronald P. Dreher, Peace Officers Research Association of Nevada; Washoe County Public Attorney's Association; Washoe School Principals' Association
Keith G. Munro, Assistant Attorney General, Office of the Attorney General
Jeffrey M. Kintop, State Archivist, Division of State Library and Archives, Department of Administration
John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Nevada Supreme Court
Chuck Callaway, Las Vegas Metropolitan Police Department

Michael Baltz, Chief Compliance Investigator, Nevada Equal Rights Commission,
Department of Employment, Training and Rehabilitation

Chair Parks:

We will open the hearing on Assembly Bill (A.B.) 13.

ASSEMBLY BILL 13 (1st Reprint): Revises provisions relating to hearings conducted by the Local Government Employee-Management Relations Board. (BDR 23-353)

J. Brian Scroggins (Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry):

This bill makes a minor change to *Nevada Revised Statutes* 288. Law requires the Local Government Employee-Management Relations Board (EMRB) to conduct a hearing within 90 days after deciding to hear a complaint. That is difficult because we are only able to schedule 90 days in advance.

With the cooperation of unions and employee groups, we amended the bill in the Assembly to require that hearings be conducted within 180 days after the decision to hear a complaint. This will give us more flexibility and allow us to schedule hearings further in advance. It is difficult to get two or three attorneys, a complainant, a respondent and witnesses together within a 90-day period.

Everyone agrees with the bill as amended and we ask that it go forward.

I have also submitted a written statement on the background of the EMRB ([Exhibit C](#)).

Chair Parks:

Had there been any discussion to change the number of days to something other than 180 days? That is one-half year.

Mr. Scroggins:

Originally, we had proposed to eliminate the time. We were looking at it from a scheduling perspective in order to schedule the cases coming before us as far in advance as possible. The employee groups and the local government employers did not want to eliminate the time. They are the ones who suggested 180 days. We currently have 90 days. This would extend it to 6 months.

The 180 days was a compromise. We wanted to eliminate the time so as a case came in, we could review and then schedule it, but they wanted to have a little more control.

Ronald P. Dreher (Peace Officers Research Association of Nevada; Washoe County Public Attorney's Association; Washoe School Principals' Association):

I have submitted a position paper on A.B. 13 ([Exhibit D](#)) urging your support. As Mr. Scroggins explained, we had a series of meetings on this bill when it was in the Assembly. The associations, including employers, were concerned that if we did not put a limit in the bill, it could go out to forever. We wanted a time limit. A proper compromise was extending this from 90 to 180 days.

Commissioner Scroggins put on the record, and he would attest to that again, that because of the concerns we had regarding scheduling hearings and other issues in the EMRB, we would do this in a regulatory meeting during the interim. That is the appropriate way to do this. If it does not work, we will come back next Session.

The City of Reno and Washoe County were neutral on the bill. They had concerns in the beginning; however, we all reached a compromise. Also included were the Las Vegas Police Protective Association, the Southern Nevada Conference of Police and Sheriffs, the Reno Police Protective Association, Clark County Firefighters and the Professional Firefighters of Nevada.

Chair Parks:

We will close the hearing on A.B. 13 and open the hearing on A.B. 16.

ASSEMBLY BILL 16 (1st Reprint): Provides for the compilation and publication of the State Administrative Manual. (BDR 18-212)

Keith G. Munro (Assistant Attorney General, Office of the Attorney General):

When we think about the enabling documents that authorize and limit state government, we think about federal and state constitutions, federal and state statutes and federal and state regulations. The process for enacting, amending and repealing a constitutional provision, a statute or a regulation is clearly established for everyone to understand. In Nevada, we have another guiding

document used by State agencies, which is commonly known as the *State Administrative Manual* (SAM).

This legislation promotes transparency in government because it clarifies the process for the adoption, compilation and publication of policies of operation for State agencies set forth in SAM.

The State Board of Examiners is a constitutional body created to judge claims against the State. It also performs other duties as provided by the Nevada Legislature. As you can see from one of the exhibits I provided, there are many statutory duties for the State Board of Examiners ([Exhibit E](#)).

Section 1, subsection 1 of the bill authorizes the State Board of Examiners to adopt policies and procedures for carrying out its duties. These procedures have been placed in SAM, which is a helpful tool. Your staff uses it all the time.

After doing research on Legislative Audits (LA) by the Legislative Counsel Bureau (LCB), Audit Division, I discovered LA12-18, an audit on the Division of State Lands, references the failure to comply with SAM; LA12-05 on the Division of Child and Family Services references the failure to comply with SAM; and the LCB Audit Division references the need to comply with SAM in LA10-27 on Contracts with Consultants.

While many people use SAM, no authority exists for it under State law. Section 1, subsection 1 of A.B. 16 creates the manual as a matter of law. Section 1, subsection 2 places the duty to maintain the manual and provides the procedures for adopting, amending or repealing the provisions.

This invokes transparency because it requires a 30-day public notice of any policy or procedure for adoption, amendment or repeal and allows the public to proceed. The Open Meeting Law requires only 3-day notices. This is a straightforward piece of legislation, and I have submitted a letter on behalf of the Attorney General supporting A.B. 16 ([Exhibit F](#)).

Chair Parks:

We will close the hearing on A.B. 16 and open the hearing on A.B. 45.

ASSEMBLY BILL 45 (1st Reprint): Revises various provisions relating to the Department of Administration. (BDR 33-306)

Jeffrey M. Kintop (State Archivist, Division of State Library and Archives, Department of Administration):

The Nevada State Library and Archives oversees comprehensive and cost-effective programs for the creation, use, maintenance, retention, preservation and disposition of records of the Executive Branch of government.

We have three distinct programs: the State Archives, where we preserve the historical records of state government; Records Management; and a microfilming operation called Imaging and Preservation Services. Each program provides technical assistance to the Nevada Supreme Court, the Legislative Counsel Bureau, tribal and local governments and the Nevada System of Higher Education.

The purpose of A.B. 45 is to update old statutory language and clarify certain responsibilities of the State Library. Section 1 of A.B. 45 removes the requirement that the description of the State Seal, other seals and expired official bonds approved by the Governor be kept in the State Library. Originally, the description of the State Seal was in the statute book prior to *Nevada Revised Statutes* (NRS), and it had to be maintained in the Secretary of State's Office. The division of archives was created in that office. Therefore, the language kept evolving. Now the description and picture of the State Seal is in the NRS.

All of the other expired seals and bonds are transferred to the State Library because of a records retention scheduling process. There is no longer a need for it to be specified in NRS.

Section 2 expands inspection authority of the Administrator of the State Library to inspect confidential and privileged information in order to fulfill legal requirements of NRS 378.255 and NRS 378.280.

We schedule records. We keep records. We are the agency responsible for disaster recovery of records. Our program of microfilming and imaging is provided to State agencies. Therefore, we are clarifying that we can look at confidential information. It was confusing to State agencies that wanted to use our services but thought they could not because State Library could not look at confidential information.

Clark County and the Las Vegas Metropolitan Police Department had concerns about accessing certain information referring to national security and ongoing investigations. We met and developed the amendment and the revised language in the bill. We are limited by federal statute. We can only look at things regarding the recovery of records, the scheduling of records, and microfilming and imaging records.

We have always been able to provide microfilming to State and local government agencies, which includes digital imaging services. That was left out all these years. We have been imaging State and local government records since approximately 1997. It was time to get that language in the statute. The Nevada Supreme Court wants to be sure that we can provide that service for the court system. The court system has been added in section 2, subsection 5.

Since 1997, the Secretary of State's Office follows a retention schedule created for that Office. The language in NRS 378.260 does not have to be included anymore. We do not have to have a separate agreement to keep the Secretary of State's records. Section 10 of A.B. 45 eliminates that language.

In addition, section 10 repeals the Repository for Records Concerning Programs, Activities and Events Related to the Participation of Citizens in the Development of Public Policy and the Improvement of the Operation of Government. There does not have to be a separate repository for those permanent records. The State Library is the repository. The records come to us through the scheduling process.

The last part of section 10 eliminates language dating from 1951 which covers charges for copying records, items and microfilm in the State Library collection. This is duplicative because other statutes deal with the cost of reproducing records.

I urge your support and I have submitted my written statement on A.B. 45 ([Exhibit G](#)).

John R. McCormick (Rural Courts Coordinator, Administrative Office of the Courts, Nevada Supreme Court):

We support A.B. 45, particularly section 2 that allows the State Library to image court records.

Senator Spearman:

We processed a Senate bill regarding county recorders and how they were catching up on imaging. Does what you do relate to what they are doing? They testified that the task was daunting because of the time it took and the equipment they use.

Chair Parks:

Part of the county recorder's function is to record a wide variety of documents. Sometimes those documents have sensitive information that must be redacted by some method.

Mr. Kintop:

We work with the counties. The counties scan their own records. Sometimes they have to keep duplicate sets because the original sets have all the information and the publicly disclosable sets have to be redacted. At one point, the recorders thought they would put all of these online. However, they discovered they could not do that anymore because of the sensitive information. That made things harder for county recorders.

The Carson City Recorder's Office keeps redacted sets. Sometimes Carson comes to us because we can program the images and create the redactions on the documents. The Carson Recorder can also scan documents on the spot and create redacted copies. Those copies are sent to us electronically. We put them on microfilm in order to have a backup of those records.

Senator Goicoechea:

An issue was transporting records 250 miles to have them digitally microfilmed here and then returned. With this law change, the recorders have the ability to do that.

Senator Spearman:

It is not necessarily transferring the records. I am thinking about the protocols that allow you to do such voluminous work. Is it possible to share that information or technology with the county recorders? I am looking for ways to get the benefit of what we are spending in one area to multiple areas.

Mr. Kintop:

Our program provides services to local governments at cost. If they do not have local vendors, like most of the rural communities, they can bring records to us

and we can provide services for what it costs to produce them. We have turned boxes of records from Elko County into microfilm and images so the Elko Recorder no longer has to keep the original records.

We can use the file transfer protocol on the images and then send them by computer to be put on microfilm.

Chuck Callaway (Las Vegas Metropolitan Police Department):

We are neutral on A.B. 45. I normally do not testify neutral, but we had some concerns raised by Mr. Kintop about confidential informant information, such as gang files, narcotics files, open sensitive investigations and U.S. Department of Homeland Security information.

As drafted, the bill gave the State Library or its representative the ability to request those types of records. As amended, the bill addresses those concerns. We appreciate Mr. Kintop and the Attorney General's Office taking the time to work with us on the language.

Mr. Kintop assured me that it is not the State Library's desire to look at confidential files. The State Library is changing the language in the law to help the division do its job. We respect that, but I want the record to reflect that it was not the intent.

Senator Spearman:

Does law enforcement use levels of confidentiality that could be considered a blanket refusal for some information? Military organizations use information only, secret, top secret and then black box.

Mr. Callaway:

That is correct. In our Homeland Security Division, we deal with sensitive information and sometimes information is shared. We have a safe room in our fusion center at the Las Vegas Metropolitan Police Department (LVMPD). Cell phones cannot be brought into that room and secret or top secret information is often shared on Homeland Security issues. In some cases, even the Sheriff does not have the proper clearance to be given that information. It has to be someone with the proper clearance, designated from our agency.

We often have files on confidential informants. People come to the LVMPD through our intelligence section from organized crime, gangs or outlaw

motorcycle gangs. These people provide information, and it is essential that their identities are kept secret. If it were to be known that they are informants, their lives would be at risk. Therefore, the level of security for that information runs the gamut. Sometimes, the information or identity of victims of sexual assault or juvenile victims is kept confidential to protect them.

Senator Spearman:

You were able to resolve this with the State Library. Is there anything we need to do at this level in order not to revisit this in the future when legislation comes up regarding information pertaining to your operations?

Mr. Callaway:

Sections within NRS outline confidential information and what can be released through public information requests. On the federal side, Title 28, USC, section 534 outlines federal law regarding what information can be disseminated. The language in A.B. 45 falls under that purview; therefore, we are okay. At this point, there is no need to clarify it.

Chair Parks:

We will close the hearing on A.B. 45 and open the hearing on A.B. 57.

ASSEMBLY BILL 57: Revises provision governing the biennial report of the activities of the Nevada Equal Rights Commission. (BDR 18-373)

Michael Baltz (Chief Compliance Investigator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation):

I have submitted written testimony explaining A.B. 57 ([Exhibit H](#)).

Senate Committee on Government Affairs
April 24, 2013
Page 10

Chair Parks:

We will close the hearing on A.B. 57.

Having no further business to come before the Senate Committee on Government Affairs, we are adjourned at 2:22 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
A.B. 13	C	1	J. Brian Scroggins	Background of EMRB
A.B. 13	D	2	Ronald P. Dreher	Position Paper
A.B. 16	E	2	Keith G. Munro	State Board of Examiner's Statutory Duties
A.B. 16	F	2	Keith G. Munro	Letter from the Attorney General
A.B. 45	G	2	Jeffrey M. Kintop	Written Testimony
A.B. 57	H	1	Michael Baltz	Written Testimony