

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

**Seventy-Eighth Session
May 14, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:58 a.m. on Thursday, May 14, 2015, in Room 4100 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ellison, Chairman
Assemblyman John Moore, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Shelly M. Shelton
Assemblyman Stephen H. Silberkraus
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Jordan Neubauer, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Shelley Blotter, Deputy Administrator, Division of Human Resource
Management, Department of Administration
Randy Robison, Director, State Legislative Affairs, CenturyLink

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] This is strictly a work session. We are going to take a recess [at 9:00 a.m.].

[The Committee reconvened at 9:16 a.m.]

We are going to start with Senate Bill 62 (1st Reprint).

Senate Bill 62 (1st Reprint): Revises provisions governing the employment, promotion, dismissal, demotion and suspension of state employees. (BDR 23-285)

Jered McDonald, Committee Policy Analyst:

Senate Bill 62 (1st Reprint) was sponsored by the Senate Committee on Legislative Operations and Elections on behalf of the Division of Human Resource Management and heard in this Committee on May 4, 2015. The bill requires regulations adopted by the Personnel Commission to provide that an employee who was a promotional appointee, but who failed to attain permanent status, must be restored to his or her prior position unless it is held by an employee with greater seniority, in which case the employee must be placed in a vacant position in the same class that he or she held prior to the promotion. [Continued to read from work session document ([Exhibit C](#)).]

Chairman Ellison:

Is there any discussion?

Assemblyman Wheeler:

I am a resounding no on this bill. Let us say a person gets a promotion and moves up to another position and then she cannot handle the new position; meanwhile, her current position has been taken over by someone else. She gets her old job back and the man who took over her old position, through no fault of his own, is gone. I say that managers should make better decisions instead of having a bailout for someone who cannot handle a position. As long as that provision is in the bill, I am voting no.

Chairman Ellison:

I think this bill fixes that. Is someone here from the Department of Administration?

Shelley Blotter, Deputy Administrator, Division of Human Resource Management, Department of Administration:

That is exactly what we are trying to prevent. Current law would require that the unsuccessful employee be returned back to their previous position. This bill would allow another alternative. If someone had filled the old position, then there are remedies to protect that employee as well as the returning employee. Right now, we do not have a choice; we have to return the employee who was unsuccessful during the promotional probationary period to his or her former position and that would affect the employee that had backfilled. This now provides other options.

Assemblyman Wheeler:

Section 1 says the person "must be: (a) Restored to the position from which the appointee was promoted unless the position has been filled by an employee with greater seniority." The new person coming in who does not have the seniority is kicked to the curb because the previous person who went to a higher position could not handle the new job. I cannot vote for that.

Shelley Blotter:

If we were to remove all of the new language, then that person would have to be returned to the old position and that individual who backfilled would have to be taken out of the position. This is giving some leeway to say that we can assist the other person. I understand your concerns. I think we are trying to do the right thing.

Assemblyman Wheeler:

I believe there are some unintended consequences for the person who got the new job because obviously you are just going with seniority. I am not a big fan of seniority versus merit. Again, I am voting no on this bill.

Chairman Ellison:

Is there any more discussion? [There was none.] I will entertain a motion.

ASSEMBLYWOMAN JOINER MOVED TO DO PASS
SENATE BILL 62 (1ST REPRINT).

ASSEMBLYMAN FLORES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DOOLING, MOORE, AND
WHEELER VOTED NO.)

Chairman Ellison:

Assemblywoman Dooling, Assemblywoman Shelton, Assemblyman Silberkraus, Assemblyman Stewart, and Assemblywoman Woodbury reserve their right to change their vote on the floor. I will assign the floor statement to Assemblywoman Joiner.

We are going to remove four bills from the work session: Senate Bill 238 (1st Reprint), Senate Bill 254 (2nd Reprint), Senate Bill 340 (1st Reprint), and Senate Bill 406 (1st Reprint). They are not dead today. We are just trying to get some clarification on them. Some amendments are coming, but we do not have them yet, and we need them, so please get them to us. We have some questions on these bills.

Next on the work session is Senate Bill 70 (1st Reprint).

Senate Bill 70 (1st Reprint): Revises provisions governing meetings of public bodies. (BDR 19-155)

Jered McDonald, Committee Policy Analyst:

Senate Bill 70 (1st Reprint) was sponsored by the Senate Committee on Government Affairs on behalf of the Attorney General and heard in this Committee on May 11, 2015. The bill provides that for the purpose of complying with certain requirements relevant to the Open Meeting Law, a working day is every day of the week except Saturday, Sunday, and legal holidays prescribed in existing law, even if an agency has a four-day workweek. [Continued to read from work session document ([Exhibit D](#)).]

Chairman Ellison:

Is there any discussion? [There was none.] I will entertain a motion.

ASSEMBLYWOMAN JOINER MOVED TO DO PASS
SENATE BILL 70 (1ST REPRINT).

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will assign the floor statement to Assemblyman Flores.

The next bill is Senate Bill 481 (1st Reprint).

**Senate Bill 481 (1st Reprint): Revises provisions relating to counties and cities.
(BDR 20-1114)**

Jered McDonald, Committee Policy Analyst:

Senate Bill 481 (1st Reprint) was sponsored by the Senate Committee on Government Affairs and heard in this Committee on May 8, 2015. The bill prohibits a county or incorporated city from creating, maintaining, or displaying in any format a comprehensive model or map of the physical location of all or a substantial portion of the facilities or critical infrastructure of a public utility, public water system, or video service provider. [Continued to read from work session document ([Exhibit E](#)).]

We received a late amendment ([Exhibit F](#)) from Mr. Randy Robison.

Chairman Ellison:

Yes, there is an amendment. Can the sponsor of the bill please come to the table and address the amendment?

Randy Robison, Director, State Legislative Affairs, CenturyLink:

I am speaking on behalf of CenturyLink, Cox Communications, Southwest Gas, and NV Energy. Since the hearing on this bill last week, we worked at length with local governments to try to address their concerns to make sure that everybody is comfortable with what we are doing and, more specifically, what we are not doing. The way we drafted this amendment was to give you a sense of what we think the bill would look like if it were processed with these changes.

I will walk through the amendment starting with section 1. We responded to some concerns from this Committee as well as the local governments. We have stricken some language to try to make it very clear about what it is we are doing. We are trying to prohibit a local government from using the information we provide them about the physical location of our facilities to create a comprehensive map of the entirety of our network. In response to some concerns that were raised in the Committee and with local governments, you will see stricken, "in any format, including, without limitation, a digital or electronic format," so that makes it clear that we are just talking about the comprehensive map of the entirety of our network of facilities. That is what we are trying to do with this bill. We are not trying to restrict the flow of information that currently happens and has happened to help public works be accomplished.

In section 1, subsection 2, we are trying to codify what existing practice is with regard to the information provided to facilitate a public work. It says, "To facilitate a public work, subsection 1 does not limit the authority of a county..." or for the purposes of the bill, a city or a regional transportation commission "from requiring a public utility, public water system, video service provider to provide information about the physical location of the facilities...." That is what we currently do. When there is a public works project and it involves a public utility facility, they contact us and we provide them the location information so that they can design it quarterly, and bill it quarterly, so we do not have any unintentional damage to the facilities. That is the way subsections 1 and 2 are meant to work together. One says the information we provide cannot be used to create a comprehensive map of the entire network of facilities, but it does not prohibit you from asking us to provide the information you need to do a public work.

Those same provisions are included in section 3 for cities. On page 2 of the amendment, you will see the same provisions included in section 4 that relate to a regional transportation commission. I want to point out that on page 2 in section 3, subsection 3, I neglected to transfer over one of the exceptions that we need. On page 1 we put in an exception under section 1, subsection 3, paragraph (c), which states, "For the purposes of this section, 'public water system' does not include a public water system that is owned or operated by a county." That same language needs to be in section 3, subsection 3, for the cities. It would say, "For the purposes of this section, 'public water system' does not include a public water system that is owned or operated by a city." We do have some municipally owned and operated water systems. I think that is the summary of the amendment. Again, we are prohibiting using the information to create a comprehensive map, but still allowing an agency to require us to provide the information to facilitate a public work.

Chairman Ellison:

Is everybody in agreement with this amendment? Are the Nevada Association of Counties (NACO) and, of course, the users of the facilities, which is the power companies and utility companies, in favor of the amendment?

Randy Robison:

Yes. We have agreement from the utilities as well as NACO, Clark County, City of Henderson, and other local governments. They are here today if you would like them to speak on their own behalf.

Chairman Ellison:

Are there any questions from the Committee?

Assemblywoman Neal:

My question is about how all of the provisions work together. When it says, "...shall not create, maintain or display a comprehensive model or map...", it makes it seem like they can have the information, but only for a limited period of time. They cannot keep it. Mechanically, how does that work? Let us say that I am the city and I am requesting the specific information. Are you going to tell me how long I can hold on to it or for what specific projects I can use it for? Maybe I could use it for six months and then I must release the information back to you. How does that work?

Randy Robison:

You are on target, although it does not necessarily relate to the amount of time they have the information. We are trying to prohibit a specific use of it. In current practice, some entities take the information and they either return it or they get rid of it by destroying it. It is not related to the time that they have it; it is what they can do with it. Currently, it is generally provided on a project-by-project basis. The phrase, "shall not create, maintain or display" in conjunction with "of all or a substantial portion," what we are trying to say is that because we give this information on a project-by-project basis, you cannot then take all of those individual projects and amalgamate them together to create a comprehensive map of the entire facility. It is not so much related to the time they have the information as it is to what they do with the information.

Assemblywoman Neal:

In terms of "create," for example, planning wants to do some kind of imaging, a three-dimensional map. The point is the process of creating the image to get a visual so they can figure out how they want to do something. How does the word "create" work with the need? Is that prevented or are they able to create it as long as you know the scope and the limitation and it is not displayed to anybody? The amendment has a lot of "or" statements.

Randy Robison:

Let me take one step back, and then I will answer your question. The reason the bill is here is currently in southern Nevada there is an effort underway led by the Regional Transportation Commission of Southern Nevada to address the information management on public works projects under a study called "Know Your Assets." One of the solutions proposed is to create a three-dimensional electronic map and library of the physical location of our facilities. That raised tremendous concerns for us, and that is what we are trying to prohibit.

In section 1, subsection 2, we tried to codify what is already occurring on public works projects, which it is specifically saying in this instance that they cannot create a three-dimensional comprehensive map of our facilities. Whatever they are doing now to facilitate public works projects, which involves mapping information and some digital creations of the maps, we are not trying to prevent that. It is just the specific potential use of a three-dimensional comprehensive map of our entire facilities.

Assemblywoman Neal:

You want them to still do the paper overlay with a little bit of digital, is that what I am hearing?

Randy Robison:

They currently do some digital mapping. That is why we eliminated "a digital or electronic format." Currently, in the information we provide them on a project-by-project basis, sometimes they use a digital format, and sometimes we use a digital format to provide that information. In section 1, subsection 1, we are just saying that they cannot digitize the entire map or create the entire map.

Chairman Ellison:

Are there any more questions?

Assemblyman Stewart:

Are you ready to entertain a motion?

Chairman Ellison:

Yes, sir.

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS
SENATE BILL 481 (1ST REPRINT).

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

Assemblyman Flores:

At this point, I am going to vote no and reserve my right to change my vote on the floor. I just need to dissect this a little bit more. I understand the concern, but in my mind, government entities and businesses already have an obligation to protect data, and I am just trying to wrestle with the idea that it is safe with us, but it is not safe with them. I just want to make sure that is true. Once I come to terms with that, I may switch my vote on the floor. I am not there yet so I am voting no.

Chairman Ellison:

THE MOTION PASSED. (ASSEMBLYMAN FLORES VOTED NO.)

Assemblyman Carrillo, Assemblyman Flores, Assemblywoman Neal, and Assemblywoman Spiegel would all like to reserve their right to change their votes on the floor. I will assign the floor statement to Assemblyman Stewart. We have four bills on work session for tomorrow. Is anybody here for public comment? Seeing none, we are adjourned [at 9:41 a.m.].

RESPECTFULLY SUBMITTED:

Jordan Neubauer
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Government Affairs

Date: May 14, 2015

Time of Meeting: 8:58 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 62 (R1)	C	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 70 (R1)	D	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 481 (R1)	E	Jered McDonald / Committee Policy Analyst	Work Session Document
S.B. 481 (R1)	F	Randy Robison / CenturyLink	Amendment