

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

**Seventy-Eighth Session
March 10, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:43 a.m. on Tuesday, March 10, 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: 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 Glenn E. Trowbridge
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Lori McCleary, Committee Secretary
Aubrie Bates, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jackie Muth, Deputy Director, Department of Public Safety
Todd Pardini, Acting Deputy Chief, Compliance Enforcement Division,
Department of Motor Vehicles
James M. Wright, Director, Department of Public Safety

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] Today we have four bills for work session. We will start with Assembly Bill 53.

Assembly Bill 53: Revises provisions relating to administrative procedure.
(BDR 18-160)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 53 revises provisions relating to administrative procedure. It was sponsored on behalf of the Office of the Attorney General and heard in this Committee on February 13, 2015. Assembly Bill 53 defines the term "preponderance of the evidence" and revises the applicable standard of proof for administrative hearings. [Continued to read from work session document ([Exhibit C](#)).]

We did receive an amendment from the Office of the Attorney General ([Exhibit C](#)). [Continued to read from work session document ([Exhibit C](#)).]

Chairman Ellison:

Are there any questions from the Committee?

Assemblyman Carrillo:

When were these amendments submitted to the Nevada Electronic Legislative Information System (NELIS)?

Jered McDonald:

I do not know the exact time, but it was yesterday afternoon around 4 p.m.

Assemblyman Carrillo:

I tried to look this morning, but the work session documents were not there.

Jered McDonald:

They are not available to the public until an hour before the hearing. You may need to log in to NELIS to see the documents.

Chairman Ellison:

If you do not feel comfortable, we can reschedule the work session for A.B. 53.

[The Committee members agreed with rescheduling the work session.]

We will place A.B. 53 on the agenda for tomorrow, March 11, 2015. We will move to Assembly Bill 58.

Assembly Bill 58: Provides the powers of peace officer to all sworn personnel of the Department of Public Safety. (BDR 23-355)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 58 provides the powers of peace officer to all sworn personnel of the Department of Public Safety. It was sponsored on behalf of the Department of Public Safety and heard in this Committee on February 17, 2015. This bill expands the category of personnel of the Department of Public Safety upon whom the powers of a sworn peace officer are confirmed. There were no amendments. [Referred to work session document ([Exhibit D](#)).]

Chairman Ellison:

Is there any discussion from Committee members?

Assemblyman Moore:

My question is for the Department of Motor Vehicles (DMV) and their arrest powers or their peace officer powers. Explain to me the level of what they can and cannot do within the DMV. Can they arrest people? Can they take a person's freedom?

Jackie Muth, Deputy Director, Department of Public Safety:

We work for the Department of Public Safety (DPS). The DMV is a completely separate department. I am not comfortable answering as to what their functions are.

Assemblyman Moore:

It is in the bill that you have sponsored. If it is in your bill, I would think you should know.

Jackie Muth:

The existing language was already established in *Nevada Revised Statutes* (NRS) 289.270. The portion of the NRS we are trying to amend is only the portion related to DPS. We have no intent to modify any of the existing language in the NRS regarding the DMV.

Assemblyman Moore:

I am going to be offering an amendment on the floor to amend that language out of the bill. I have tried to reach out to the DMV on more than one occasion to get some questions answered, and they have failed to respond. Chairman Ellison, I would move that we hold this bill and not move it forward until we get some answers.

Chairman Ellison:

Is there someone here from the DMV? Please come forward.

Assemblyman Moore:

My first question to you is what level of peace officer does the DMV employ at this time, and what are their powers?

**Todd Pardini, Acting Deputy Chief, Compliance Enforcement Division,
Department of Motor Vehicles:**

By statute, the Department of Motor Vehicles, Compliance Enforcement Division requires category II peace officers. A majority of our investigators are category I.

Assemblyman Moore:

Do they have arrest powers?

Todd Pardini:

Yes.

Assemblyman Moore:

If I were purchasing a used vehicle and there were an issue with the dealer, I could go to DMV to have them investigate it and, in theory, they could arrest the car dealer?

Todd Pardini:

Correct, if there were a criminal violation.

Assemblyman Moore:

Why would we not refer that issue to the police department, the people whose job it is to do this sort of thing? Why does DMV need these powers?

Todd Pardini:

The Department of Motor Vehicles is along the same lines as the State Gaming Control Board where there are criminal functions and regulatory functions within the same division.

Assemblyman Moore:

Does that also apply to identity theft?

Todd Pardini:

Correct. Identity theft, facial recognition, and embezzlement. There are a wide variety of criminal violations that are investigated by the Compliance Enforcement Division.

Assemblyman Moore:

Are you your own police department within the DMV?

Todd Pardini:

Correct. Anything that has to do with any information or documents coming in or out of the DMV or services provided by the DMV are all investigated by my division.

Assemblyman Moore:

Are your officers subject to the heart and lung provisions? Do they contribute to the Public Employees' Retirement System?

Todd Pardini:

Yes.

Assemblyman Moore:

Chairman Ellison, I am going to offer an amendment to remove that language.

Chairman Ellison:

Are they Peace Officer Standards and Training (POST) certified?

Todd Pardini:

Yes.

Chairman Ellison:

Do they have the same authority as regular officers?

Todd Pardini:

They have the same functions and are the same pay grade as DPS officers.

Chairman Ellison:

How long have they been doing this?

Todd Pardini:

I have been with DMV for 14 years, and it was long before I got there.

Chairman Ellison:

It is all related to DMV operations. Is that correct?

Todd Pardini:

Correct. The Department of Motor Vehicles, Operation Services and Licenses.

Chairman Ellison:

I think the problem we are having is lack of communication from DMV. We have called the director but have not received a call back. As soon as this meeting is over, I would like you to meet with Assemblyman Moore. There are a lot of questions, and the main problem is the lack of response from DMV.

Todd Pardini:

I can only apologize on behalf of my division. I have no knowledge of the lack of response from the director. I was told to be here today in case there were any questions.

Assemblywoman Neal:

The Department of Motor Vehicles did not offer an amendment, but I distinctly remember people testified that the addition of the language in section 1, subsection 1(d) was going to bring them under the heart and lung provisions. This myth needs to be put to rest. I have read the statutes. What statute will now govern section 1, subsection 1(d)?

Jackie Muth:

The officers that are incorporated under the proposed bill to include in the language under NRS Chapter 289 are already covered statutorily under the heart and lung provisions. They are specifically identified under the heart and lung section in NRS Chapter 617. The authority as peace officers is under NRS Chapter 480 for the Department of Public Safety. This bill is purely to have NRS Chapter 289 and NRS Chapter 480 be consistent on what the peace officers of DPS incorporates.

Assemblywoman Neal:

In NRS 617.135, police officer is defined. The statute lists sheriff, deputy sheriff, officer of a metropolitan police department, or city police officer; a chief, inspector, supervisor, commercial officer, or trooper of the Nevada Highway Patrol Division of the Department of Public Safety; a chief, investigator, or agent of the Investigation Division of the Department of Public Safety; a chief, supervisor, investigator, or training officer of the Training Division of the Department of Public Safety. It also lists the State Fire Marshal, game warden, bailiff, deputy marshal, and other positions. I am trying to figure out when you encapsulate sworn personnel, who may not be in the line of duty, who are we capturing in the group?

Jackie Muth:

If I understand your question correctly, you want to know exactly which staff we are trying to incorporate.

Assemblywoman Neal:

Yes. If they are sworn personnel, that means they all went through the training, but they do not all do the same thing. They are not actively performing the same job; they are merely sworn personnel. There is a difference in the activities they may have to do.

Jackie Muth:

Absolutely. The Training Division is specifically designated to train personnel, and that is indicated under NRS Chapter 480. The Office of Professional Responsibility gets their authority under NRS Chapter 480, as well, under the direction of the director of the department.

Assemblywoman Neal:

My problem with this is you have struck the language that said, "assigned in a sworn position to any division of the Department whose principal duty is to enforce one or more laws of this State, and any person promoted from such a duty to a supervisory position related to such a duty." To me, that means sworn personnel who do not have the duty to enforce one or more of the laws. Is that correct?

Jackie Muth:

No, that is not correct.

Assemblywoman Neal:

What is the reason behind the strike-out language?

Jackie Muth:

Regarding the two divisions we have talked about, the Training Division and the Office of Professional Responsibility, which is our internal affairs, their primary responsibility is not to enforce the laws of the state. That is an ancillary and secondary responsibility. The primary responsibility for the Training Division is to train our staff. The primary responsibility for the Office of Professional Responsibility is to conduct administrative investigations. They are still peace officers, and they still have law enforcement functions that they must abide by, but it is not their primary responsibility, as they are cast in other divisions at this time doing administrative functions.

Assemblywoman Neal:

Do you have any documentation for the officers and duties you just described as being under NRS 617.135? If you can identify somewhere in that chapter where they are found to be covered, I will lay this to rest.

Jackie Muth:

Under NRS Chapter 617.135, subsection 4, "A chief, supervisor, investigator or training officer of the Training Division of the Department of Public Safety." We are referring to that training division. Under NRS Chapter 617.135, subsection 5, "A chief or investigator of an office of the Department of Public Safety that conducts internal investigations of employees of the Department of Public Safety." Those are the two exact divisions we are trying to incorporate under NRS Chapter 289. They already have authority in NRS Chapter 617, and they already have authority under NRS Chapter 480. This is merely making it consistent for NRS Chapter 289. There is no additional authority or expansion of powers they do not already have under statute.

Assemblywoman Neal:

In NRS 289.270, subsection 1(d) states, "The personnel of the Department of Public Safety assigned in a sworn position to any division of the Department whose principal duty is to enforce one or more laws of this State...." That does not encompass your group?

Jackie Muth:

We wanted to clarify it because existing language states for any sworn member whose primary responsibility is to enforce one or more laws of the state. This is not their primary responsibility with their particular assignments at this time. It is a secondary responsibility.

Assemblywoman Neal:

I still have questions, but I will let someone else ask their questions.

Assemblyman Moore:

Are any of you sworn peace officers?

Jackie Muth:

Yes, all three of us are sworn category I trained peace officers.

Assemblyman Moore:

Is your primary function to enforce the laws? I am trying to determine why you need those powers.

Jackie Muth:

We already have those powers. We are merely trying to mirror the authority we have under NRS Chapter 480 in NRS Chapter 289.

Assemblyman Moore:

Technically, you could take my freedom?

Jackie Muth:

Correct.

Assemblyman Moore:

Section 1, subsection 1(e) of this bill also has members of the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety as sworn peace officers. I am wondering why they would need that power.

Jackie Muth:

As we stated when we introduced this bill, we are only amending the verbiage for the Department of Public Safety. Section 1, subsection 1(e) is existing language I am not looking to amend.

Chairman Ellison:

Both departments are POST-certified peace officers. Is that correct?

Jackie Muth:

That is correct. We are all category I peace officers in DPS. We have no category III officers. This is merely so we are able to transfer people from division to division based on the assignment necessary. I believe the director of DPS has just arrived to provide some additional information.

James M. Wright, Director, Department of Public Safety:

I would like to bring this back to simple terms of what we are trying to do. It is because of a concern about the Office of Professional Responsibility and the

Training Division and their principal duties. My fear is any of these officers getting involved in an incident where a shooting occurs. If that should happen, I want them covered as peace officers. I do not want someone to read this statute, find inconsistencies, and determine that officer is not covered as a peace officer. We are basically trying to bring the statutes together so they are one and the same.

Chairman Ellison:

Is there any difference in benefits between the two departments?

James Wright:

Keep in mind, the Department of Motor Vehicles and the Department of Public Safety were separated in 2001. The divisions we are talking about, the investigators and the administrators, are already category I peace officers and already covered under the heart and lung provisions.

Assemblyman Stewart:

As an example, you have a trooper patrolling in Elko and doing a great job, and the department believes he could be a trainer for other troopers. He now has a job as a trainer. You want to protect him. He will still be covered, even though he is not actively enforcing the law. Is that correct?

Jackie Muth:

That is a perfect example, and that would be correct.

Assemblywoman Spiegel:

I had in my notes that the reason this language was struck was because it excluded some officers, such as those assigned to training divisions and internal investigations. The main reason for this language is so those folks could be included. Is that correct?

Jackie Muth:

That is correct.

Assemblyman Silberkraus:

To further clarify that point, one of the main purposes behind this bill is if there were a large-scale event where extra officers were needed, this would allow the department the ability to take those training officers out of the classroom and put them back into the field without any extra procedures. Is that correct?

Jackie Muth:

Yes, that is correct. When I introduced this bill in February, I detailed a few of those types of events, such as the inauguration of the Governor, the National Championship Air Races, and the IHOP incident of 2011. Those are examples of when we have to use the full force of our officers.

Assemblyman Trowbridge:

I appreciate your clarification of the matter. I think we somehow headed down the wrong path because subsequent sections of this bill address the Department of Motor Vehicles. I think this Committee is trying to be very protective of the status of category I peace officers. We do not want confusion with the DMV folks who deal with emission control or title disputes. Cops are cops, and they need to be protected. There are support personnel who are sworn, including the notaries who work in the DMV. We are certainly not talking about expanding category I peace officers to encompass everyone. We are dealing with a temporary assignment of a peace officer, those officers with special powers, that it not be diluted by having others who do not have that level of training be involved in the benefits that are so rightly deserved. That is the confusion we were involved in. I apologize for that.

Chairman Ellison:

I think this Committee has gotten the clarification it needs. I would like to get DMV to meet with Assemblyman Moore. Is there any further discussion? [There was none.] I will entertain a motion.

ASSEMBLYWOMAN WOODBURY MOVED TO DO PASS
ASSEMBLY BILL 58.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

Assemblywoman Neal:

I would like to reserve my right to change my vote on the floor.

Assemblywoman Joiner:

I would like to reserve my right to change my vote on the floor.

Assemblyman Moore:

I would like to reserve my right to change my vote on the floor.

Assemblywoman Shelton:

I would like to reserve my right to change my vote on the floor.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will ask Assemblywoman Woodbury to take the floor statement.

We will move to Senate Bill 115.

**Senate Bill 115: Revises provisions relating to certain town advisory boards.
(BDR 21-241)**

Jered McDonald, Committee Policy Analyst:

Senate Bill 115 revises provisions relating to certain town advisory boards. The bill was sponsored by Senator Hardy and heard in this Committee on March 5, 2015. Senate Bill 115 requires that the members of the town advisory board in the unincorporated towns of a county whose population is 700,000 or more and that are located 25 miles or more from an incorporated city whose population is 500,000 or more to be elected. If there are any seats left vacant after the election, then the board of county commissioners shall make appointments to fill those seats. There are no amendments on this bill. [Referred to work session document ([Exhibit E](#)).]

Chairman Ellison:

Is there any discussion from Committee members?

Assemblywoman Spiegel:

We had a discussion during the hearing about what the filing fee should be and whether there should be a filing fee. The answer given at the time was that we could decide. I was somewhat expecting there to be an amendment addressing that issue.

Chairman Ellison:

Mr. McDonald, do you remember anything about an amendment?

Jered McDonald:

No, sir. I do recall some discussion about a filing fee, but I do not recall any exact figures. I am sure Assemblywoman Spiegel is free to propose a fee, if she would like.

Chairman Ellison:

I think the issue was they would be charged a filing fee, and they would have to do all the paperwork, just as anyone else would.

Assemblywoman Spiegel:

In that case, I would like to reserve my right to change my vote on the floor. I will get clarification from Senator Hardy.

Assemblyman Carrillo:

I will be voting no on this bill, primarily because of being on an appointed board myself. The primary purpose of having these boards is for advising. When it is an elected position, I believe it is being put into a different category. I have spoken to many boards, and I do not think anyone has ever said there were issues about being appointed. I know there was an incident where someone was removed from a board, which may have caused some heartache, but I do not think one board should be voted into a position when all the other boards are appointed. I do not see the logic in that. There is no consistency. I do not understand the premise. Do they feel they do not have a voice? As a past member of an advisory board, I felt the board had a voice. Ultimately, the county commission receives information from the advisory board and vets how they will make their decision. I am trying to justify why these particular boards need to be elected. I will be voting no.

Chairman Ellison:

I agree. My first position was with a planning commission. I think the problem is the distance between Clark County and some of these towns. There was no communication between the elected body and the appointed body.

Assemblyman Carrillo:

I will be voting yes to get the bill out of the Committee, but perhaps I can have some conversations with Senator Hardy. I would like to reserve my right to change my vote on the floor.

Assemblyman Stewart:

I appreciate Assemblyman Carrillo's concerns, but I think this gives the people in outlying areas a voice in their government. If you are ready to take a motion, I am prepared to move to do pass S.B. 115.

ASSEMBLYMAN STEWART MOVED TO DO PASS
SENATE BILL 115.

ASSEMBLYWOMAN WOODBURY SECONDED THE MOTION.

Assemblyman Trowbridge:

I would like to reserve my right to change my vote on the floor for the reasons that have been stated.

Assemblywoman Joiner:

I would like to reserve my right to change my vote on the floor.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will ask Assemblyman Stewart to take the floor statement.

We will move to Assembly Bill 163.

Assembly Bill 163: Provides for the creation of rangeland fire protection associations. (BDR 42-43)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 163 provides for the creation of rangeland fire protection associations. The bill was sponsored by Assemblyman Hansen and heard in this Committee on February 20, 2015. Assembly Bill 163 authorizes fire protection districts, the State Forester Firewarden, and a board of county commissioners to enter into agreements with rangeland fire protection associations (RFPA) to conduct initial fire response activities. [Continued reading from work session document ([Exhibit F](#)).]

We did receive an amendment to A.B. 163 from the State Department of Conservation and Natural Resources ([Exhibit F](#)). [Continued to read from work session document ([Exhibit F](#)).]

Chairman Ellison:

We have had a lot of discussion about this bill, mostly about the insurance. Are there any questions from the Committee?

Assemblyman Carrillo:

I want to thank you, Chairman Ellison, for getting people together and having these meetings because, for me, it answered a lot of questions. Many people felt they were not getting a fair chance at the table. That says a lot about how you are running this Committee. I would like to give you kudos for that. I will be voting yes on this bill.

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN CARRILLO MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 163.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will ask Assemblyman Carrillo to take the floor statement. I will close the work session at this time. Is there anyone here for public comment? [There was no one.] The meeting is adjourned [at 9:24 a.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 10, 2015

Time of Meeting: 8:43 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 53	C	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 58	D	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 115	E	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 163	F	Jered McDonald, Committee Policy Analyst	Work session document