

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

**Seventy-Ninth Session
February 10, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:31 a.m. on Friday, February 10, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblywoman Daniele Monroe-Moreno (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Lori McCleary, Committee Secretary
Carol Myers, Committee Secretary
Isabel Youngs, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of
Employment, Training and Rehabilitation

Chairman Flores:

[Roll was called. Committee rules and protocol were explained.]

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:

The Nevada League of Cities and Municipalities (League) was incorporated in 1959 as the Nevada Municipal Association. The name was changed to Nevada League of Cities and Municipalities in 1997, and the bylaws were changed to allow towns, general improvement districts (GIDs), and other quasi-municipal organizations to join the League. The membership is open to all incorporated cities, unincorporated towns, special and general improvement districts, and other municipalities [page 2, ([Exhibit C](#))].

The League has 25 members, governed by a board of directors consisting of an elective official from each member entity. The League represents all of Nevada and recognizes there are different types of members. A few years ago, the board created three caucuses: a "large cities" caucus consisting of the big five cities, Las Vegas, North Las Vegas, Henderson, Sparks, and Reno; a "small cities" caucus; and a caucus of towns and GIDs. Additionally, the League created a council of mayors and chairs [page 3, ([Exhibit C](#))]. This page is a list of some of our current members; it does not include all the cities in Nevada or the five GIDs [page 4, ([Exhibit C](#))].

Our president this year is Mayor Geno Martini of Sparks [page 5, ([Exhibit C](#))]. He would have attended today but is recovering from some health concerns, and Sparks is having some flooding issues. Our other officers include Natalie Yanish from the Kingsbury General Improvement District, Gerri Schroder from the City of Henderson, and our past president, Mayor Mike Giles of Lovelock [page 6, ([Exhibit C](#))].

The League has three at-large members on our executive committee: David Bobzien from Reno, Geno Withelder from Mesquite, and Linda Slater from Gardnerville. These three members serve as the chairs of their respective caucuses [page 7, ([Exhibit C](#))].

Mayor Crowell of Carson City is this year's chair of the council of mayors and chairs [page 8, ([Exhibit C](#))]. Our members provide services such as public safety; parks and swimming pools; recreational programs; senior services; water; stormwater drainage and sewer utilities; planning, zoning and code enforcement; economic and urban development; cultural affairs; and community services [page 9, ([Exhibit C](#))].

Our members are the first-line providers of government services to over 1.7 million Nevadans: these are our shared constituents. The League provides services to its members such as advocacy with the Nevada Legislature, Congress, and state and federal agencies. The League has board of directors meetings and an annual conference. This year's conference will be in Mesquite. The League encourages all Committee members to attend. The League is a member of the National League of Cities, and some of our members serve on steering committees and advisory committees for this organization.

The League offers group insurance and deferred compensation plans. The League partners with the University of Nevada Cooperative Extension to offer their Certified Public Official Program, which is usually done in conjunction with our annual conference [page 10, ([Exhibit C](#))]. The League serves on various state boards and commissions; these include the Committee on Local Government Finance and the Nevada Rural Housing Authority. Volunteers Day is March 1, and the League is hosting several events in conjunction with the Nevada Volunteers, The Governor's Commission on Service [page 11, [Exhibit C](#)].

The League has three members from Nevada that serve on the board of directors of the National League of Cities: Councilman Ricki Barlow from the City of Las Vegas, Councilwoman Gerri Schroder from the City of Henderson, and me. The League has members on three of the National League of Cities committees, including the Community and Economic Development Committee chaired by Councilwoman Schroder, from the City of Henderson. Also, the League is involved in the Western Municipal Association and WaterNow Alliance [page 12, ([Exhibit C](#))].

This legislative session the League has submitted four bills for consideration. Assembly Bill 8 seeks to expand the authority to place delinquent bills for sewage on the property tax bill for collection to other municipal utilities. Senate Bill 5 seeks to allocate a percentage of the annual private bond cap authority to the Nevada Rural Housing Authority to ensure that the programs that provide housing assistance are sustainable. Senate Bill 24 is intended to grant incorporated cities more authority to deal with vacant and abandoned buildings and land. Lastly, Senate Bill 63 seeks to ensure towns with the responsibility for the maintenance of roads receive funds generated from the existing taxes on motor vehicle fuels [page 13, ([Exhibit C](#))].

The League supports the efforts to amend the secondary calculation used to determine the number of parcel abatements on ad valorem revenue. The League plans on being actively involved in the discussion and policymaking regarding recreational marijuana; the League is always opposed to unfunded mandates [page 14, ([Exhibit C](#))].

Our federal priorities this year are the enactment of the marketplace fairness legislation, also known as e-fairness legislation, which would close the loophole on the collection of sales tax for remote purchases or catalog sales. The League will focus on maintaining the taxable status of municipal bonds and work for access to the federal banking system for state-legal marijuana businesses. The marijuana businesses are mostly cash transactions which have some public safety concerns. I saw a report that stated marijuana business would be a \$21 billion business across the country in three years. The League wishes to maintain the Community Development Block Grant program funding [page 15, ([Exhibit C](#))].

The League has a couple of events scheduled at the Legislature this session. Mayors Day is February 28, and mayors from all over the state are invited to attend a breakfast in Room 3100 in the Legislative Building. If any of the Committee members are available, please stop by and have breakfast with the mayors. The League is cosponsoring a local government day with the Nevada Association of Counties on April 27, to be held at the Governor's Mansion [page 16, ([Exhibit C](#))].

Mr. Chairman, that concludes my presentation, and I welcome any questions.

Assemblyman Ellison:

Will [A.B. 8](#) allow the counties' other utility companies, besides sewer, to place delinquent charges on the property tax bill or is that open law?

Wes Henderson:

The current law allows a city to put delinquent sewer charges on the property tax bill. The League is seeking to expand that provision to other municipal utilities such as water and storm water drainage. The bill needs to be amended to include that language. *Nevada Revised Statutes* (NRS) 244.36605 allows counties to put the three utilities—sewer, water, and stormwater drainage—on the tax roll bill. [Assembly Bill 8](#) marries the statutes and is enabling legislation.

Assemblyman Ellison:

[Senate Bill 63](#) ensures that towns with responsibility for maintenance of roads receive revenue from existing taxes on motor fuels. Can you give me an example? Is that because Fernley had that problem?

Wes Henderson:

Fernley is a city, and they automatically get fuel tax revenue. If a town board forms under NRS Chapter 269, sections 016 through 019, they have control of their budget. They are entitled to receive these funds now. This bill seeks to ensure that other towns with advisory boards that have maintenance responsibilities for their streets get a share of the fuel tax revenues. Some towns, like Gardnerville, are using ad valorem revenue. I cannot speak to Jackpot because they are not a League member.

Assemblyman Daly:

Could you provide an overview of the governance differences between charter cities, general law cities, and towns?

Wes Henderson:

Nevada has a complicated system of city and town governments. There are two types of cities in the state: charter cities and general law cities. General law cities and charter cities are governed under NRS Chapter 266 and NRS Chapter 268. Charter cities have additional authority not contained in those chapters that are granted by the Legislature. There are several bills this session dealing with individual city charters.

There are three or four types of towns as I mentioned in the discussion of fuel tax. There are towns that have full-blown governing boards which are elected and control their budget. These towns are close to a city without being a city. These towns are created under NRS Chapter 269, sections 016 through 019. Additionally, there are towns that have an advisory board. The advisory board can be elected or appointed by the county commission.

The advisory boards have operational responsibility for the towns and report to the county commission for budget approval. There are towns that do not have a town board, and their county commission sits as the governing body. They will have their advisory board meetings in conjunction with the county commission meetings. They recess as the county commission and then begin the town board meeting to take care of specific town issues. That is the way it is set up in the statute.

Assemblyman Brooks:

Is there another type of community that does not fit into those designations? I am thinking of Pahrump as an example.

Wes Henderson:

Pahrump is a great example. Until a few years ago, Pahrump was a town that was governed by a full-blown town board. An advisory question placed on the ballot in 2010 or 2012 by the county commission asked to dissolve the town board. That passed by 200 votes, and two years later the town board was dissolved. Currently, the Nye County Board of Commissioners sits for Pahrump's town board.

Assemblyman Brooks:

Are you aware of any other communities in Nevada like that?

Wes Henderson:

Yes, there are several other towns where the county commission sits on the town board. There are GIDs which are a quasi-organization independent from the county commission and created to provide services in an unincorporated part of the county. A list of services that can be provided by these districts is outlined in NRS Chapter 318.

Assemblywoman Neal:

Has the League seen any changes in growth challenges in the past few years within the various cities and counties?

Wes Henderson:

Different cities and towns have different challenges: some are based on their governing structure, and some are based on the economy and resources. One of the challenges is the decrease in ad valorem revenue. The great thing about my job is traveling around the state and visiting these different communities. I would like to report that I see construction growth in these communities. That does not mean there are not any challenges because new construction also brings additional demands for government services, but that is a nice problem to have.

Assemblywoman Neal:

When I first started to serve, there was a point in time when cities around the state were increasing fees to pay for services. Have the cities pulled back some of those fees? Have you seen a trend there?

Wes Henderson:

I do not have that answer today, but the individual cities will present on their day-to-day operations. They will be able to answer your questions.

Assemblywoman Neal:

The Dillon's Rule limits the authority of local government and was adopted in 2015. Are there any issues around the rule, specifically the fuel tax issue? Is that an area of local concern since towns or cities may want funds that the county has?

Wes Henderson:

The fuel tax issue is not because of the limited functional home rule; it was a relaxation of Dillon's Rule. Limited home rule dealt with the functions of local government and did not include the authority to generate new fees or taxes.

The League submitted its report to the Legislative Counsel Bureau and published it electronically. Our members have reported that no ordinances were enacted relying solely on the relaxation authority in Assembly Bill 493 of the 78th Session. Some cities enacted a couple of ordinances using their expanded authority, but they are still relying on existing statute. Nothing has been based solely on A.B. 493 of the 78th Session.

Chairman Flores:

Seeing no further questions from the Committee, we will move down to Las Vegas for the next presentation.

Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation:

I have with me Lila Vizcarra, Chief Compliance Investigator and Outreach Specialist and Don Soderberg, Director of the Department of Employment, Training and Rehabilitation (DETR).

The first page in our presentation is our name and mission statement [page 1, ([Exhibit D](#))]. The Nevada Equal Rights Commission (NERC) is a member of the DETR agency. The Nevada Equal Rights Commission is the state's equal opportunity program in partnership with the U.S. Equal Employment Opportunity Commission (EEOC). We investigate and resolve complaints of discrimination in the workplace, public accommodations, and public housing. We provide information and outreach to business employers, employees, community groups, and human resource professionals throughout the state [page 3, ([Exhibit D](#))].

Additionally, NERC provides training for employers and human resource professionals. The federal and state laws that govern NERC are discussed in our training. These are the big laws that have been promulgated by the federal government and through the courts that give us our jurisdiction.

Title VII of the Civil Rights Act of 1964 is the primary law that affects people in the work environment. It covers, protects, and establishes protective categories of race, color, religion, national origin, and sex. Color has nothing to do with race but is literally the color of a person's skin. Some people may encounter discrimination based on having lighter or darker skin within the same racial category in employment, in public places, and in housing.

Additional federal laws that govern NERC are the Age Discrimination in Employment Act of 1967 (ADEA), the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008 (ADAAA), the Genetic Information Nondiscrimination Act of 2008 (GINA), and the Equal Pay Act of 1963 [page 4, ([Exhibit D](#))].

Nevada Revised Statutes (NRS) Chapter 613 and NRS Chapter 233 are the state laws that mirror the federal laws [page 5, ([Exhibit D](#))].

Federal and state laws acknowledge the following groups as protected categories: race, color, national origin, religion, sex—which includes pregnancy and sexual harassment in the workplace, disability, age, genetic information, sexual orientation, and gender identity or expression [page 6, ([Exhibit D](#))]. Are there any questions about these protected categories?

The clerical staff at NERC is trained to identify whether NERC can take the complaint. I will use myself as an example. I call NERC and say, "I feel like I am being discriminated against on the basis of race. I am African American." The first thing our clerical staff will ask is, "Does your employer have 15 or more employees?" That is an EEOC threshold that NERC adheres to.

If I am employed by a company that has two other employees, NERC cannot process the complaint. However, in the past, the EEOC has aggregated offices of an employer within the state to meet the 15 or more employees eligibility requirement. Additionally, NERC will take a complaint from employment or temporary agencies and labor organizations [page 7, ([Exhibit D](#))].

Next, the clerical staff will ask, "When did this happen to you?" The discrimination must be reported within 300 days from the date of harm. That is the statute of limitations. The business must be located in Nevada, and there must be an employer/employee relationship; independent contractors are not covered. If the charging party can show the contracting title was a mask by the employer to avoid liability under Title VII or Nevada law, NERC will take the complaint [page 8, ([Exhibit D](#))].

Another NERC area of jurisdiction is public accommodation. There is no protection for age or genetic information covered by state law under NRS Chapter 651. For context on genetic information, GINA was introduced in 2008. This comes up in employment and is tied to the ADA. As an example, I am up for a promotion, but the rumor mill has made it known that I have breast cancer and I am receiving chemotherapy. I am qualified for the promotion, but my employer might be resistant to promoting me because they do not know if I will get sick again or they may not want to pay the insurance premiums. That has been identified as genetic information discrimination in employment, but GINA does not apply to public places [page 9, ([Exhibit D](#))].

The Nevada Equal Rights Commission has focused on schools as a place of public accommodation. We receive many complaints concerning bathroom issues. Kids are denied the use of the bathroom of the gender they identify with and are told to use a separate bathroom, or they are not able to use the bathroom at all. Places of public accommodation do not include private clubs such as a private golf course where a membership fee is paid. Those are not public places for purposes of the statute, and they can have requirements that may violate the protected categories [page 10, ([Exhibit D](#))].

Types of public accommodation discrimination are a refusal to serve or refusal to grant entry. An example is someone who has a disability aided by a service animal and is denied access to a restaurant because the manager says no pets are allowed [page 11, ([Exhibit D](#))]. There are exemptions for discrimination in public places. The protected categories that were presented earlier—race, color, national origin, religion, gender identity, gender expression, or sex—were identified through the law because these areas have seen some sort of animus through history. An example exemption is when a nightclub offers discount drinks to women, but men have to pay the full price. The nightclub is using differential pricing based on sex to drive their revenue. This is in the Nevada statutes and is not discriminatory [page 12, ([Exhibit D](#))]. With public accommodation discrimination, a person has a year to file a complaint. The business or the entity must be located and licensed in Nevada, and the harm must have occurred in Nevada [page 13, ([Exhibit D](#))].

Our final area of jurisdiction is state housing. The governing statutes are NRS Chapter 118 and NRS Chapter 233. There is no protection for age or genetic information. There is an added protection for single parents [page 14, ([Exhibit D](#))]. What is housing discrimination? It is a refusal to sell or rent to a protected category. As an example, I am African American, and I want to move to the community of Anthem. I am having a hard time qualifying for a mortgage, even though I make great money, and I get the feeling from the homeowners' association (HOA) that I am not welcome.

Another example is unequal treatment. I have a disability that qualifies under the ADA, and I want to put a ramp in the front of my house so I can use my front door. The HOA's covenants, conditions, and restrictions (CC&Rs) forbids ramps. The HOA would be violating state law and must make an accommodation to allow me to build a ramp. However, I am responsible for the cost of the ramp. If a person has made modifications to a rental, they are responsible for restoring it back to its original condition [page 15, ([Exhibit D](#))]. With housing discrimination, a person has a year to file a complaint [page 16, ([Exhibit D](#))].

The Nevada Equal Rights Commission does not receive many housing complaints. Most people will contact the U.S. Department of Housing and Urban Development (HUD) in San Francisco. The majority of NERC's complaints are unemployment, and that is most likely due to NERC partnering with the EEOC. The EEOC encourages people in Nevada to file with us.

Our last discussion is the NERC complaint process. For example, I am Kara Jenkins; I call NERC because I feel I have been discriminated against. The NERC clerical staff asks the filtering questions. Does your employer have 15 or more employees? Was this within 300 days of the incident? If I meet the criteria, I am scheduled to meet with an investigator.

The Nevada Equal Rights Commission has 17 full-time staff statewide; NERC is a tiny, mighty agency with 12 busy investigators. It may take a while to get an interview scheduled with an investigator. The interview is referred to as an "intake interview." The intake interview reveals more of what occurred. The investigator is trained at the EEOC level. The investigator identifies if there is enough evidence, prima facie, "on its face," that there is sufficient evidence to prove the case and will frame a charge.

When the charge is filed, it is assigned a NERC number and an EEOC number to prevent dual filing. At this point, NERC notifies the respondent which, in my example, is the employer but it could be another type of entity such as an apartment owner. The respondent is informed that a complaint has been filed and to submit a provider position statement. At this point, there has been no formal investigation, and NERC invites both parties to an informal settlement meeting (ISM). Most of these are waived by the employer.

The charge then goes to an investigator where it is assigned to an investigation. There are two possible outcomes: there is discrimination or there is no discrimination. It is a probable cause investigation. After an investigation is conducted and the investigators are able to get

enough witness statements, evidence, work records, or pay stubs, a determination is made based on the elements of proof.

If there is no probable cause for example, it turns out the reason I was no longer eligible to work there was I was late most of the time—NERC will dismiss the claim. The Nevada Equal Rights Commission will write a detailed letter as to why the claim did not rise to the level of cause, send the letter to the charging party, and close the case. The charging party has the right to appeal to the Administrator within 15 days. The Administrator performs due diligence to see if anything was missed or in error. That is not usually the case. At this point, the case is closed, and the claimant can go to federal court if desired.

If there is just cause, the process reverts back to the ISM, which EEOC refers to as a conciliation. Both parties are brought in, and the Administrator with the help of the deputy attorney general works toward a settlement. The Nevada Equal Rights Commission's 2016 fiscal year settlement numbers were over \$1 million, a figure close to NERC's operating budget. The Nevada Equal Rights Commission is very successful in conciliation. The conciliation is private, and the amount of the settlement is confidential between both parties. Both parties are afforded the right to move on.

If a settlement is not agreed upon, an alternative is to turn the claim over to the EEOC. The Nevada Equal Rights Commission informs the EEOC that a settlement was not agreed upon and the reasons. The EEOC takes the case and does one of three things: opens their own investigation; holds their own conciliation; or provides the charging party the right to sue. With that right, the charging party can file in federal court and sue for employment discrimination under Title VII. The Nevada Equal Rights Commission receives credit for running the investigation, the file will be subpoenaed for federal court, and the charging party may have to wait two to three years for a hearing. That is the process [page 17, ([Exhibit D](#))].

Assemblywoman Bilbray-Axelrod:

Have you seen an increase in discrimination concerning personal hosts renting their homes?

Kara Jenkins:

Not in light of the times, not right now. The majority of our complaints are employment. The Nevada Equal Rights Commission does not see many complaints regarding housing or public accommodation.

Assemblyman Kramer:

What happens if there is no probable cause? Can you provide an example?

Kara Jenkins:

If there is no probable cause, that means that despite NERC's best efforts, there was insufficient evidence. It does not mean it did not happen, only that there was not enough evidence from the time of the investigation. The complaint is closed and dismissed. The charging party may appeal within 15 days of the dismissal. The charging party might

provide more evidence, and the Administrator will reopen the case and reevaluate the dismissal.

If no discrimination was found, the case is closed and the charging party can take their complaint to court on their own. If it is an employment case, the charging party can ask the EEOC for a substantial weight review. In the three years I have worked as the administrator for NERC, there has never been a substantial weight review from the EEOC.

Assemblyman McCurdy II:

What is the investigator to complaint ratio?

Kara Jenkins:

Last year NERC had over 1,000 complaints: 700 were looked into, and 690 were settled. Of the cases that were looked into, the charging party might remove themselves from the investigation and settle with their employer, or the complaint is weeded out during the intake interview. An example of that is finding out that the incident happened five years ago and the jurisdiction for employment discrimination is within 300 days of harm.

The Nevada Equal Rights Commission has 12 investigators. One has an abbreviated caseload, and one of the investigators is a mediator. That leaves us with 11.5 full-time investigators to work on 1,000 cases a year.

Assemblyman McCurdy II:

How long does it typically take to follow up on a complaint?

Kara Jenkins:

Currently, the time frame to meet with an investigator is four to six weeks for the initial intake interview. If someone contacted our office today, he or she would meet with an investigator mid-March or later.

Assemblyman Ellison:

What happens if someone moves into a one-bedroom apartment complex that does not permit animals and then moves in five cats, saying the animals are for emotional support? If the animals cause damage, the court does not permit the apartment owner to sue. Can you address that issue?

Kara Jenkins:

An emotional support animal is permitted in housing, but only service animals are permitted in public accommodation. The Nevada Equal Rights Commission is neutral and would need to investigate to find out if the animals are truly emotional support animals. As far as property rights and possessory rights of a lessee versus a landlord, the lessee would probably have to take care of any damages to the property because they do not fully own it. That might be an issue in the leasing contract and not necessarily equal rights.

Assemblyman Ellison:

I would like to know if the emotional support animals are limited.

Kara Jenkins:

I will look into the matter a little more and get back to your office on what NERC's position would be. The Nevada Equal Rights Commission would look at those on a case-by-case basis, but questions like that do come up.

Assemblywoman Neal:

On how many of the 700 complaints did NERC use its injunctive relief power or the final order of the Commission for judicial review?

Kara Jenkins:

None.

Assemblywoman Neal:

The public policy statement was broadened in 2005, and since I have held office, I have received many calls concerning NERC and discrimination. The calls were from individuals concerned that they could not find the type of relief or engagement they needed. Does NERC have any bill draft requests (BDRs) to strengthen its powers? Does NERC have the statutory authority to submit a BDR?

Kara Jenkins:

The Nevada Equal Rights Commission has a BDR with the Office of the Governor, but I do not feel comfortable speaking on it. It concerns permitting NERC more authority in the housing discrimination complaints.

As to the concerns from the public, we have heard the complaint of not finding relief or proper engagement over the years. The discrimination cases in the protected categories are very personal and go to the heart of who a person is. Their race, color, or where they were born precludes them from buying a house, getting a promotion, or a job.

The people filing are a patient group, and we realize they are upset because their protected category is not being honored. The Nevada Equal Rights Commission cannot get them more settlement money. Last year NERC settled \$1.6 million for Nevada constituents, and in the past three years, NERC has given \$1 million back to Nevada at no cost, no attorney fees, and with a substantial effort by NERC staff. The staff works very hard, but there are always people who will complain.

However, from my vantage point, NERC is doing a lot of good for many people who otherwise could not afford legal counsel. A charging party may not have the funds to take their case to federal court or the time to wait two to three years to get on the federal docket; they want to move on.

The Nevada Equal Rights Commission has received compliments and complaints. I think it is the nature of our business, but we are always open to any suggestions on how to help people. I believe NERC's success is due to our mediation or conciliation efforts.

The employment sector appreciates being able to settle privately. A company may have a good reputation but hired a manager who is sexually harassing people. Unfortunately, the company erred by hiring that person, but it is not necessary to go to court and publicize it. The Nevada Equal Rights Commission includes in its settlement agreement a nondisparagement clause and neutral job references so the charging party can move on and find other employment in Nevada.

Assemblywoman Neal:

The background for asking the question is because I received documentation from an attorney who worked for a state agency. She had contacted NERC with an EEOC complaint but did not find relief. She moved on and found another position, but I found it interesting and felt there were some glitches in the process.

In the biennial report that NERC submits, is there any kind of conversation between NERC and the Nevada Commission on Minority Affairs in the Department of Business and Industry? Senator Denis and I are working together during our terms to strengthen this commission. Their goal is to lift up issues of parity and disparity that happen within the state and submit a report to the Governor. Are there any plans to align with this commission?

Kara Jenkins:

There has not been a conversation with that commission. The Nevada Equal Rights Commission will take note of that and extend ourselves to the commission as a future partner.

Assemblywoman Neal:

Has NERC looked into any kind of employment data? My office has been collecting data since 2011 on African-American unemployment. This category has remained in double digits pre- and post-recession, while other categories are now in single digits. There is a series of questions on why this category has remained around 13 percent and sometimes 15 percent. Assemblyman Thompson and I have been working on this for the last year and a half and have met with DETR. Has NERC had any complaints or looked into the data when a person states they cannot get a job? Is there a historical trend that might be occurring within the state?

Kara Jenkins:

This subject comes up a lot. Our data is shared with our parent agency, DETR, and we specifically look at trends. Our executives receive weekly emails from our public information officer. The Nevada Equal Rights Commission tracks the frequency and types of complaints that are filed. Race and retaliation are the top two.

The Nevada Equal Rights Commission receives most of our complaints from the African-American community, but we also receive complaints from the Hispanic, Latino, and Caucasian communities. The complaints are allegations, and NERC has to be careful of how the data is recorded because the allegations are not substantiated until probable cause is found. Even with a probable cause finding, race is one of the most complained about and aggrieved areas of employment discrimination.

Chairman Flores:

I understand that your office is overwhelmed. I am curious to know if NERC works with the State Bar of Nevada linking up with a pro bono project. Maybe a few attorneys could come by every month or even once a year and work with NERC.

Kara Jenkins:

The Nevada Equal Rights Commission refers people to the State Bar of Nevada to find an attorney and also to legal aid for assistance. We are careful about referring people to certain advocacy legal organizations because NERC is a neutral agency by statute. We do not promote, hook up, set up, or give the appearance that certain employment attorneys are preferred over another. If a charging party is unsuccessful in federal court, we do not want them saying NERC recommended the attorney.

The Nevada Equal Rights Commission did have a settlement that went to conciliation with an offer, but the charging party wanted to go to court to make a statement. A person cannot go to court without going through NERC's administrative process and exhausting all administrative remedies. The charging party was an African-American woman with short hair on a trip with her same-sex partner. They pulled into a rest stop, and she went to use the ladies' room. A mother and her young daughter were also in the restroom, and the daughter thought the woman was a man. The mother and her daughter went to the clerk at the rest stop and said there was a man in the female bathroom. The clerk called the sheriff's office. The sheriff came, banged on the door, and asked the woman to leave the restroom.

It was very emotionally damaging to this charging party. As it turned out, the sheriff's department said, "We are sorry, but you look like a man." She filed a complaint with NERC, it was investigated, and probable cause was found. The public accommodation entity was invited to a conciliation, but there was no settlement because she did not want the matter kept quiet.

The Nevada Equal Rights Commission could not refer an attorney, but we did provide resources for lesbian, gay, bisexual, transgender, and queer (LGBTQ) attorneys and attorneys who specialize in helping out the LGBTQ community to get representation because they can identify with that particular community's needs. It is not in the spirit of NERC to say, "Hit the door." Our lobby has resources for all kinds of agencies. Lila Vizcarra and I have gone door to door up north handing out packets to centers in order to inform people about NERC.

The Nevada Equal Rights Commission will not recommend a particular attorney or partner with law organizations even as prestigious as the State Bar of Nevada because of our neutrality. The Nevada Equal Rights Commission cannot appear to favor one entity over another or one attorney over another, but resources are provided. As far as NERC partnering with other legal organizations, the long-winded answer, no. The Nevada Equal Rights Commission is neutral.

Chairman Flores:

The Nevada Equal Rights Commission has a whole host of individuals filing complaints, and they are sometimes waiting up to four weeks to have a sit-down with an investigator. Attorneys are obligated through the State Bar of Nevada requirements to fulfill X amount of pro bono hours; they understand probable cause and employment law. Is there an opportunity for the State Bar of Nevada to provide pro bono hours and play the role of the investigator?

Kara Jenkins:

The question was, could we partner with the State Bar of Nevada or could the State Bar of Nevada provide attorneys to speed up the process? The answer is perhaps the attorney could establish an attorney-client relationship with the charging party and provide moral support until NERC can set up the interview. It is a matter of waiting until the next available investigator can be assigned the case.

The case must follow the administrative law process before the charging party can receive the right to sue in state or federal court. It is a good idea, but I do not know how it would play out practically. We are taking notes, and it does sound like something we could think about implementing.

Chairman Flores:

There are certain areas in Nevada that have a volunteer fire department. The firefighters are categorized as unincorporated nonprofits. They fall under the umbrella of the fire department that supervises, trains, and ensures they have operating funds.

I am suggesting an option of having a similar model on the investigative side of NERC. I believe an attorney can sit down and help with the process and will work for free. There is a traditional route through legal aid, and legal aid does amazing work, but there are other agencies and other offices that could link up with the State Bar of Nevada and take advantage of the attorney's requirement to perform pro bono work. I would like agencies to take advantage of the attorney's service requirements.

I am interested in NERC and federal funding. Does your office have an individual that applies for federal funding? How much does NERC receive in comparison to other offices in other states? Where does Nevada fall on the scale? Are more resources needed?

Kara Jenkins:

The Nevada Equal Rights Commission has a partnership with the EEOC and receives \$700 per case closed during a fiscal year. The last two years, NERC has worked very hard and received upward modifications to our original grants in order to get more cases closed and sustain our budget. Currently, the State General Fund provides two-thirds of our budget, and the other third is funded through the EEOC grant to close cases.

The local EEOC and NERC work cases together, and we train together. The NERC refers cases to the EEOC, and they refer cases to us if they have a heavy caseload. In fact, the local EEOC has the same full-time equivalent staff as NERC. The EEOC's field office for southern Nevada is located in Los Angeles with an extension office in Las Vegas. The Nevada Equal Rights Commission has a solid relationship with the EEOC and relies heavily on them.

The Nevada Equal Rights Commission partners with the local EEOC a lot, and because we do a good job, we see modifications in our funding. Last year, we received new desks with the modification money. Our federal money is through the EEOC, and it is based on how many cases are closed in a fiscal year.

Chairman Flores:

Is there someone in the NERC office who knows the current funding streams, and are they actively seeking other streams?

Kara Jenkins:

Yes, I am the one responsible for the funding streams. I do not feel comfortable speaking about it because we are waiting for the Governor to review our BDR. The NERC would like to explore other funding streams through other federal entities.

Assemblyman McCurdy II:

What is NERC's annual budget? How many cases need to be closed to keep the door open?

Kara Jenkins:

The annual budget of NERC is \$1.6 million. We must close at least 660 cases to keep the doors open. That has been submitted to the Legislature and is public record. The NERC receives money from the General Fund as well to keep our doors open and sustain our staff.

Our staff is trained at the federal level because we work on joint investigations with the local EEOC office. The investigators are very skilled and typically promote within two years, going to the federal government or to the county. This will delay a case because a position must first be filled and then the new investigator must get up to speed. We always have recruitments for investigators. Our challenge is training them to the level the EEOC is comfortable with. I am very proud NERC has not had any substantial weight reviews on any of the cases we have closed.

Assemblyman McCurdy II:

Is there anything in the statute that prohibits NERC from partnering with the State Bar of Nevada that the Chairman was speaking to?

Kara Jenkins:

There is no specific or explicit language in the NRS that states NERC cannot partner. The Nevada Equal Rights Commission is a neutral agency and part of the Executive Branch that enforces the laws that are Title VII, Nevada law. The Nevada Equal Rights Commission and DETR have a high benchmark of appearing neutral. We do outreach and training on the employment side. The employment sector feels they get a fair shake from NERC. They can proactively ask questions such as, "How do we handle the transgender individual that is now transitioning to our office without violating Title VII?" There is nothing expressly in the law prohibiting NERC from partnering with the State Bar of Nevada.

Assemblyman McCurdy II:

Your target number per year is 660. Is there an incentive to get above that number through partnerships?

Kara Jenkins:

Yes. One of the ways NERC reduces costs is in salary savings. It is a passion of mine and Director Soderberg to look at areas where money can be saved. The NERC underfills positions with students from the housing authority. Young students who have the potential to attend college will intern at NERC as a clerical trainee. This shaves money off the budget because the position the intern is filling is at the administrative assistant 2 salary level.

The Nevada Equal Rights Commission is looking at hiring people through Manpower or Nevada JobConnect. We can pay them at the clerical trainee level, saving money for the agency. We have partnered with HOPE for Prisoners, and I have completed two interviews with people from that program. We are very proud of this effort, and we express it in our brochures and literature. Overcoming bias and hiring people with felony convictions is very important.

Kevin E. Hooks, the chief executive officer of the Las Vegas Urban League, is the chair of NERC's Equal Rights Commission Board and is a big proponent of helping people with felony convictions. Together we look for ways to save money, cut costs, or partner with other entities. I am a little sensitive because of the necessary appearance of neutrality. However, NERC is very creative on how to save money and how we can serve the public.

During the wait time for an investigator, NERC provides the charging party with brochures, literature, and informs them to call us anytime. The EEOC is preparing to go electronic. The charging party will file their claim on the EEOC website and will not talk to an investigator until their scheduled meeting. That is not NERC's style. We know people need to talk to someone and they need a voice.

Assemblyman McCurdy II:

It is good that you are giving opportunities to the youth. My opinion is NERC might gain a lot more from individuals with a specialized skill, like the State Bar of Nevada attorneys, to decrease a charging party's wait time.

Chairman Flores:

It may have seemed like some of the questions were probing, but our Committee is actively investigating how we can help NERC. We realize NERC is on the front lines of some very exhausting and difficult conversations, and we want to ensure we provide and offer any resources available. This is our obligation to NERC, and we will be reaching out to you.

Is there anyone in Carson City here for public comment? [There was no one.] Is there anyone in Las Vegas here for public comment? [There was no one.] This meeting is adjourned [at 9:55 a.m.].

RESPECTFULLY SUBMITTED:

Carol Myers
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled, "Presentation to the Assembly Committee on Government Affairs," dated February 10, 2017, presented by Wes Henderson, Executive Director, Nevada League of Cities and Municipalities.

[Exhibit D](#) is a copy of a PowerPoint presentation titled, "Nevada Equal Rights Commission," presented by Kara Jenkins, Administrator, Nevada Equal Rights Commission, Department of Employment, Training and Rehabilitation.