

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

**Eightieth Session  
April 29, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:12 a.m. on Monday, April 29, 2019, 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/80th2019](http://www.leg.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chair  
Assemblyman William McCurdy II, Vice Chair  
Assemblyman Alex Assefa  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblyman Richard Carrillo  
Assemblywoman Bea Duran  
Assemblyman John Ellison  
Assemblywoman Michelle Gorelow  
Assemblyman Gregory T. Hafen II  
Assemblyman Glen Leavitt  
Assemblywoman Susie Martinez  
Assemblywoman Connie Munk  
Assemblyman Greg Smith

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Melissa Hardy (excused)

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Asher Killian, Committee Counsel  
Kirsten Oleson, Committee Secretary  
Trinity Thom, Committee Assistant

**OTHERS PRESENT:**

Vinson Guthreau, Deputy Director, Nevada Association of Counties  
Jamie Rodriguez, Government Affairs Manager, Office of the County Manager,  
Washoe County  
Mary C. Walker, representing Carson City, Douglas County, Lyon County, and  
Storey County  
Michael Pelham, Director of Government Affairs and Community Affairs, Nevada  
Taxpayers Association  
Mike Eifert, Executive Director, Nevada Telecommunications Association  
Randy Brown, representing AT&T Nevada  
Helen Foley, representing T-Mobile  
Deonne Contine, Director, Department of Administration  
Michelle L. Morgando, Senior Appeals Officer, Hearings Division, Department of  
Administration  
Kent M. Ervin, Legislative Liaison, Nevada Faculty Alliance  
Dylan Shaver, Director of Policy and Strategy, Office of the City Manager, City of  
Reno  
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities  
Kathy Clewett, Legislative Liaison, City of Sparks  
David Cherry, Government Affairs Manager, City of Henderson  
Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office  
Michael Hillerby, representing Charter Communications

**Chair Flores:**

[Committee rules and procedures were explained.] We have three items on the agenda, we will begin with Senate Bill 12 (1st Reprint).

**Senate Bill 12 (1st Reprint): Revises provisions governing telephone systems used for reporting emergencies. (BDR 20-475)**

**Vinson Guthreau, Deputy Director, Nevada Association of Counties:**

Thank you for the opportunity to present Senate Bill 12 (1st Reprint) on behalf of Nevada Association of Counties' (NACO) board of directors—which represents Nevada's 17 counties. In attendance with me is Jamie Rodriguez, who represents Washoe County. Senate Bill 12 (1st Reprint) addresses the allowed use of existing 911 fees. As a reminder for members of this Committee, in the 2017 Legislative Session the Legislature passed Senate Bill 176 of the 79th Session which mandated the use of body cameras by all law

enforcement. As part of this mandate the Legislature enabled counties to raise 911 fees up to one dollar per phone line to cover the respective costs of body cameras and continue to fund the respective 911 systems.

Currently, some of our member counties have been experiencing difficulty collecting all the fees that are due to them. There are numerous telecommunication providers and bill entities in each county. Tracking proper collection and remittance has been a time-consuming challenge for local governments. Counties are not entirely sure that they are collecting all the fees they are entitled to. To correct this situation, an audit is required of each of the lines of service and providers. However, these forensic accounting audits are expensive and, given the level of detail and breadth that is required to complete the audit, to rectify this problem NACO is requesting a small administrative change be made to the expenditure of 911 fees to allow them to be used to pay for the audits. This is a pretty straightforward bill and that was the summary of the issue we are trying to resolve.

I wanted to highlight for the Committee some of the updates that this bill is making to existing law. In section 1 of the bill, *Nevada Revised Statutes* (NRS) Chapter 244A is amended to provide for the use of 911 surcharge fees to pay for the audits. In section 1, subsection 2(a) it outlines the provisions of the auditor—including the cost of the audit cannot exceed the actual cost of performing that service. In subsection 2(b) it requires the auditors to submit their findings to the advisory committee of the county. If you look at subsection 3 of section 1, it addresses the frequency of which the audits can be performed, and there is some conforming language that allows this to apply to counties with 45,000 people or fewer. That is essentially the outline of the bill. I would like to turn over the presentation to Jamie Rodriguez to discuss Washoe County's perspective on S.B. 12 (R1).

**Jamie Rodriguez, Government Affairs Manager, Office of the County Manager,  
Washoe County:**

We found during the creation of our most recent five-year master plan—which started at the end of 2017 and was approved in early 2018—that the projection of fees that we should be collecting based on our population did not match what we were actually collecting in the Enhanced 911 (E911) surcharge. We looked at potentially running an audit, but we ran into two hurdles. The first hurdle was the cost and the second was the timing. We were somewhat in a crunch. The three entities within Washoe County really needed the surcharge to pay for the body cameras from S.B. 176 of the 79th Session so that delay of time could have had some problems for everyone's budget. Ultimately, we decided not to move forward with it. We then brought the point to NACO and found that other counties had similar findings—there was a disconnect between what our projection was and what the collection was.

I want to really quickly walk through how the five-year master plan works, how the implementation of this bill, if it were passed, would work, and the vision of it. Statute requires the creation of a five-year master plan to set the rate for the E911 surcharge. The master plan includes all entities coming together. We, at Washoe County, hire a third-party administrator who helps go through the process with the entities. Everyone comes together

and says their projected needs over the next five years and what the costs associated with those needs are over that time period. That third party then brings all that information together to determine how much money they need and what that fee needs to be set at. The idea is that this audit would be at the beginning or at the same time as the onset of the five-year master plan with the idea of determining if we are collecting properly, which may potentially impact what that fee is set at. If we find that there is money that should be collected but is not, then that would obviously have an impact. If there is an extra—any small amount—100 lines could have an impact on what that fee is set at. Currently in Washoe County the fee is set at 85 cents so depending on what the offset is, there is the ability to lower the fee for our residents. The audit being done at the same time helps to ensure that those fees are correct and the money is there to support the needs of the master plan. While S.B. 176 of the 79th Session expanded the uses to include body cameras, the fee is also there to help support dispatch and enhance 911 technologies for all of our first responders within our jurisdictions.

As pointed out, on page 2 starting on line 14, the bill states that the fees can only be used for the actual cost of the audit. One of our concerns with the audit costs was that most companies doing audits have a contingency fee where they would get a percentage of whatever they found was not being collected. Our intention is not to go back and say to the telecom provider, you did not submit X amount of dollars and we want that money now. Our plan is to be able to address that going forward. We are finding that we are not collecting properly; that needs to be addressed going forward. It would be substantially financially troubling for a jurisdiction to go after back-owed fees. That was amended in the last house. We were fully supportive of that.

Lastly, subsection 3 on page 2 of the bill states that we are able to do follow-up audits for specific providers. In the case of telecom provider A not properly remitting an amount of money, we are able to go to them and work through what the issue may be and make sure that we are collecting properly as we go forward. This would allow us to do a follow-up during that five-year period, rather than waiting an additional five years to ensure that the issue has been addressed. We believe that this projection could help ensure that we are properly issuing that fee to our residents and that it is equal amongst all of our residents and all of the users who would be using our first responders—which is really what this fee is meant to cover. We feel like this is a really great way of finding what the disconnect is.

**Assemblyman Ellison:**

Is the audit going to find out if the provider is actually paying what they are supposed to be paying? Is that what you are looking for? They are already audited by the counties.

**Jamie Rodriguez:**

Yes, the intent of this audit is to be able to audit the telecom providers who are remitting the fee. That is separate from the audit that happens for all government accounts where we audit the uses of those fees. This would be to audit the telecom providers to ensure that a fee is being assessed to all the users, then that assessment is being carried over to the county.

**Assemblyman Ellison:**

What do you think this audit is going to cost? I will give you an example. A dollar is the maximum amount instituted, but some of them are 85 cents. In some of the rural areas 25 cents is charged. What kind of impact is this going to have on all of these individuals? Have you talked to every county out there?

**Jamie Rodriguez:**

The cost will vary per county, so it is hard to say. The cost is going to be associated with the number of user lines that you have. Washoe County is going to cost more because there are more user lines and more auditing that needs to be done compared to Elko County, which has fewer users. We had some proposals of what the audit would cost for Washoe County, and I am happy to forward that to the Committee. It is permissive, so we do not have to do the audit—I think that point is really important. This allows for us to do an audit, but it does not require us to do that audit. I am happy to provide you with the estimate for Washoe County, but I want to make sure that it is clear that it would not be the cost for every single county. In smaller counties, it would cost less.

**Assemblyman Ellison:**

The surcharge is used for the body cameras and not the 911 system, is that correct?

**Jamie Rodriguez:**

The fee covers both. Again, using Washoe County as an example, the surcharge is 85 cents. Of that, two-thirds goes towards dispatch and one-third goes towards body cameras and the implementation of the body cameras for the officers.

**Assemblyman Assefa:**

Thank you for clarifying that if there are outstanding fees you are not retroactively going after those fees. I have a couple of questions. Obviously you think there is a discrepancy somewhere; that is why you are asking for an audit. Where do you think you should be in fee collection, and where are you now?

**Jamie Rodriguez:**

I brought my five-year master plan to help answer some of these questions. It is not a substantial discrepancy. We are not talking about hundreds of thousands of dollars for Washoe County. We had a substantial difference during 2013, but there were a couple of things that occurred during that time that we associate with the dip. We found a decrease in home lines and, during the recession, it took some time to catch up—a lot of people got rid of second phones. We also found that trunk lines help offset some of that—about 25 to 27 percent of the fees collected were trunk lines—but there was a huge decrease in that. I think that we had a concern that the revenue increase did not match our population.

**Assemblyman Assefa:**

I am not familiar with how audits are done or how the expenditures for audits are done. Is it usual that the expenditure for the audit is spent out of the same fees that are collected for other purposes? Is this an exemption?

**Jamie Rodriguez:**

Our feeling was that it was a natural correspondence. The fee does cover the cost of things such as the cost of the master plan. Our feeling was that it was an appropriate avenue to really determine if the fees are being properly collected and remitted, which allows us to use the funds for the cost. Again, it was a fairly small amount for the cost of the audit specific to Washoe County. As you get into smaller counties, the fee would be less. You are talking about a very small percentage of what is being collected that would be taken from the fee for the audit. It is not unusual for those types of correlations to occur. Our feeling is that it was a very natural progression to allow for that conjunction between the master plan and the audit and, therefore, the fund paying for that cost.

**Assemblyman Smith:**

Who sets the fee? You said we have 85 cents in Washoe County and other counties have different amounts.

**Jamie Rodriguez:**

There is a process. The five-year master plan is created by the E911 advisory board. Again, that is the entities coming together saying what their needs are over the next five years, then the needs are compiled. It gives you an idea of what the cost would be and what the cost needs to be set at. The advisory board then makes a recommendation of what that fee is and, on approval of the master plan, the master plan recommendation then goes to the board of county commissioners. The board of county commissioners then approves the master plan and actually sets the fee. It is a combination of both the advisory board and the board of county commissioners but, ultimately, setting the fee is done by the board of county commissioners.

**Assemblyman Smith:**

Who determines the fee split? I know you talked about two-thirds to dispatch and one-third to body cameras, but who determines that? Is it the same body?

**Jamie Rodriguez:**

The entities coming together will determine that. The one-third and two-thirds is sort of where it fell. There is not a requirement for that. We have tried to separate those accounts internally to make sure that funding is appropriately split between both dispatch and body cameras so that we do not run into a situation of an excess of fees being taken out of one pot or the other. The two-thirds and one-third split was from the entities coming together saying what their needs are over the next five years, what their costs will be, and then the independent third party who puts together the master plan will say over that period, Here is how much funding you will need and here is what the fee needs to be set at to be able to collect appropriate funds.

**Assemblyman Leavitt:**

Where is the audit getting money from the two-thirds or one-third?

**Jamie Rodriguez:**

It would come out of the fund as a whole. I say that we try to split it, but that is for internal purposes. The funds are not actually divided between two different accounts. There is a fund that the surcharge goes into, and it would come out of the general fund—not specific to either body cameras or dispatch. Obviously it would benefit both programs. There is not a taking from one pot or the other. It is a general pot where we internally stated that dispatch needed X amount of money and body cameras needed Y amount, making sure that those are set apart and the money is not funneled differently. It would come out of the general fund. There is one general fund that all fees go into.

**Assemblyman Leavitt:**

I get that it is a nominal fee to do an audit in comparison to what is collected. Is this going to affect the 911 program or the body camera program in any way? Is this going to increase the cost to the consumer, whereas the surcharge is being collected from the end user? Are any of those three things happening with this audit—even though it is a nominal fee?

**Vinson Guthreau:**

Just as an overall policy, those advisory committees monitor those expenditures. This permissive language would enable those committees to use the existing fund for an audit if they so choose. The advisory committee is responsible for the fiscal health of that fund. This does not change the amount of the surcharge in any way. This is just an administrative change of what the funds will be used for—allowing that use, if that makes sense. There is no change to that amount.

**Assemblyman Leavitt:**

You have a pot and you are taking money out to fund certain things. If you have the same pot and are trying to fund something else, is it taking away from the other programs? That is the crux of my question. Is there a cop that is going to be without a body camera because they are doing an audit to try to make sure you get more body cameras?

**Jamie Rodriguez:**

No, it is not going to impact either dispatch or body cameras. The statute allows not only the costs associated with dispatch and body cameras, but we are allowed to have a contingency fund. The statute actually caps how much we are allowed to save for an emergency need. When we are talking about the master plan audits or any of those things, it will come out of those. We are not going to take it out of money that is already budgeted for the entities—for either implementation of body cameras or dispatch. There is no impact to those programs or needs through doing an audit through the fund.

**Assemblywoman Duran:**

Is every county or city going to do an audit?

**Vinson Guthreau:**

That would be up to the local jurisdiction. First of all, this is a county bill and they would have those advisory committees set up. Again, this is enabling language that would allow

them to do this if they wish or if they felt the need. It would be up to those jurisdictions to decide to do those audits.

**Assemblywoman Duran:**

Would it be cheaper, for example, to do all the rural areas together? Are they going to do it independently because they have different monies going to their fees or surcharges?

**Jamie Rodriguez:**

It is a county, so it would not be all the jurisdictions within the county doing a separate audit. In terms of a correlation of all counties coming together to do one audit, I do not know how that would look. The audit for us was based on number of users. I do not know how we would split that up in terms of what that master bill would look like. I think that would become complicated in terms of approving an auditor amongst a multitude of counties. I do not want to say that we could not do it. I think that would probably be beyond my ability to make that statement. I do not know that it would make it easier or cleaner to do it in conjunction as a northern Nevada audit.

**Chair Flores:**

Seeing no additional questions, I would like to invite up those wishing to speak in support of Senate Bill 12 (1st Reprint).

**Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:**

We very much support S.B. 12 (R1). I was formerly the Carson City finance director for 12 years. I also sit on a committee of government finance that oversees local government finance statewide. I think the ability to have a funding source to audit is really important—in regards to local government finance. One of the things that the Committee on Local Government Finance looks at is the audit reports from the counties and the cities. An auditor will come in and look at all the revenues, but they do not go to the business. They will audit the receipts and where it is accounted for and ensure it is accounted for properly. For example, when the fees come in, they will make sure that it is going into the 911 fund and it is only being used for the purposes as stated by law. They do not go into the actual business; that is a separate audit. This provides the audit of the payers, which are telecommunication providers. A lot of times you have the larger, more established telecommunication companies, but there are also some very small ones. It is important to have accountability. I believe one of the other presenters stated that if we are able to make sure that the fees are being paid accordingly, then we would be able to get the funding that we thought we were going to get and we would not have to increase those fees further. To me, an audit is just a basic cost of business. We would appreciate your consideration.

**Michael Pelham, Director of Government Affairs and Community Affairs, Nevada Taxpayers Association:**

We are here in support of S.B. 12 (R1). Our main concern initially with the bill was to make sure that the fees charged did not exceed the cost of the audit. We believe that concern was taken care of. We appreciate Ms. Rodriguez and Mr. Guthreau working with us.



**Chair Flores:**

Is there anyone else wishing to speak in support of S.B 12 (R1)? Seeing no one, is there anyone wishing to speak in opposition?

[The following testifiers originally came up in the neutral position; however, under the direction of the Chair they have been changed to the opposition position.]

**Mike Eifert, Executive Director, Nevada Telecommunications Association:**

The Nevada Telecommunications Association (NTA) is not opposed to body cameras or audits so we rise in a neutral position on this bill. However, the NTA, by policy, is opposed to diversion of the 911 funds for any reason. In 2017 we rose in opposition to Senate Bill 176 of the 79th Session for three reasons. We felt that a public policy of diverting funds from their intended purpose is bad policy. Two, we felt that if you open the door to diverting funds then you allow the opportunity for more diversion. Three, the Federal Communications Commission (FCC) had clearly stated they were going to take punitive action against states that diverted 911 funds. We are here two years later, and we still believe it is bad policy to divert funds. We now have more people coming in with requests for funds—including this audit and Senate Bill 25 (1st Reprint) which we will hear later. The FCC has started punitive actions against states that are diverting funds. Federal grant assistance is part of the Next Generation 9-1-1 Advancement Act of 2011. The FCC has made ineligible all states that defer 911 funds from receiving grants. Commissioner Michael O'Rielly has suggested other punitive actions including interstate service prohibitions, prohibit collectors, and remittance from providers and commission advisory committee exclusions. In closing, we are not opposed to audits or body cameras. We just believe that diverting surcharges or any fund for unintended purposes is bad policy.

**Chair Flores:**

If I could just summarize your statement for the sake of clarity. If this permissive language is utilized and, in fact, an audit is conducted, then you oppose that for the purposes that you have already indicated. For the sake of clarity, you are in opposition to the bill, not necessarily because you think audits are bad, but you are concerned that the money will be utilized for other purposes other than the original intent. That is completely okay, and I do not think that is disrespectful to the bill sponsor to say that you are in opposition for that reason.

**Randy Brown, representing AT&T Nevada:**

For the sake of brevity, we would like to echo Mr. Eifert's comments.

**Helen Foley, representing T-Mobile:**

We also have concerns, but not with the programs. We believe that there should be audits. We believe that there should be body cameras. In 2017 Senator Ford passed the body camera bill [S.B. 176 of the 79th Session], but there was no funding mechanism so they looked at which fund they could use for that purpose. We utilized this one. At the time, we told him that as technology changes and we end up with next generation 5G wireless, we are going to be increasing the Public Safety Answering Points (PSAP)— the switchboards that answer the

calls. They will have to have far greater technology tomorrow than they have today to be able to see things on-site as they go, like when someone is filming some type of tragedy and they are immediately sending it to PSAP. You have to have the technology to deal with all that. It is going to take a lot more money. Our rural counties certainly do not have that money now; that is why we have the 911 program and why everyone who uses wireless pays into it. As each session comes along and you need money for other things—counties and cities need money—they start draining this pot of money, and there will not be sufficient funds to do what 911 is supposed to do. Right now the FCC is discussing this and trying to decide what to do with states that keep taking money from this fund for other purposes. We think that everything that they are trying to do is meritorious; we are just concerned that they will drain the pot.

**Chair Flores:**

Is there anyone else wishing to speak in neutral? For the sake of the record all three comments will go under opposition. Is there anybody here who wishes to speak in the neutral position? [There was no one.] Sponsors, please come up for closing remarks.

**Vinson Guthreau:**

We will address some of the concerns that were put in the neutral/opposition testimony. We worked with the telecommunication folks on the Senate side and what is before you represents an amended bill that we believe is a better bill because of their input. We are working hand in hand to try to address their concerns on the Senate side. We thought we did that. I think Jamie Rodriguez wanted to clarify some things about expenditures, oversight, and what we use those funds for.

**Jamie Rodriguez:**

I can appreciate the concerns that were brought forth by the telecom providers. I think that it is really important to understand that this is a specialized fund and statute dictates exactly what uses are permissive, which include dispatch, dispatchers, technology related to that, body cameras, and the support of the body cameras. There are no other uses that these fees can be used for. We are not able, as a county, to move money out of that fund for any other purpose. The money within that fund can only be used for those two identified purposes in the statute: dispatch and support of dispatch, and body cameras and support of those body cameras.

**Assemblyman Hafen:**

The purpose of this bill is just to do audits on the fund, correct?

**Vinson Guthreau:**

Correct.

**Chair Flores:**

[([Exhibit C](#)) was submitted but not discussed.] We are going to close out the hearing on Senate Bill 12 (R1). Next on the agenda is Senate Bill 14.

**Senate Bill 14: Provides for the removal of certain gubernatorial appointees under certain circumstances. (BDR 18-186)**

**Deonne Contine, Director, Department of Administration:**

The Department of Administration includes the Hearings Division. I am going to start with the Hearings Division. Under current law, hearing officers are full-time employees of the state and they are in the unclassified service. They hear workers' compensation appeals. They are licensed attorneys and are appointed by the Governor for two years. The statute is silent on removal of those appeal officers. Section 2, subsection 6 makes a change to subject appeals officers to removal by the Governor on 45-day notice unless the circumstance warrants immediate removal. If they are negligent in their duties, incompetent, commit misconduct, or lose their law license they are removed within 45 days, unless circumstances warrant immediate removal.

I presented a sheet in my other presentation in the Senate. On the sheet I went over some examples of that: neglect of duty, failure to show up for work, incompetence if they would otherwise be fired if they were in a similar attorney position—if they did not manage their calendar, did not get their decisions out on time, bad performance evaluations. For misconduct, it would be the most egregious situations such as sexual harassment or other violations of statute. This is an interesting position because these are full-time jobs in the classified service, but they are appointed by the Governor for a two-year term. Because the statute is silent, there is some ambiguity on whether people can be removed from those jobs during the two-year period. This is a bill to clean up that situation.

Moving to the general removal of boards and commissions that are appointed by the Governor—there are 117 boards and commissions that have some level of removal provisions; 36 of them contain specific removal language; 13 of those require notice of hearing; 1 requires written notice; 23 provide for no hearing and no notice; 80 are silent on removal. Section 1 would allow for removal upon 45 days' notice by the Governor unless circumstances warrant immediate removal—when there is no specific language addressing removal. Again, the terms are neglect of duties, incompetence, or misconduct in office. Neglect of duty is, for example, when someone moves out of state and does not resign from a board or if they do not show up for meetings. There is always a question of what happens then. Incompetence is when someone consistently demonstrates that they are not meeting the responsibilities of the board position. Misconduct is violation of statute or law. I mentioned this on the Senate side. These are really the most egregious actions that people take, and this just gives the ability for removal in those cases.

[Ms. Contine also submitted ([Exhibit D](#)), but it was not referred to.]

**Chair Flores:**

Right now do we have 80 boards and/or commissions where there is evidence of misconduct, but we have not removed them? Is that something that is true right now?

**Deonne Contine:**

I do not know if that is true. There is no egregious situation that is happening, but over time, with the inconsistency between removal for some boards and no removal from other boards, and different standards, the Office of the Governor asked to have this included in the hearings and appeals removal provision to allow that flexibility in those cases where there are truly egregious situations.

**Assemblyman Leavitt:**

Is there a policy in place that specifically states what an egregious act is or what would constitute grounds for removal? It seems a little ambiguous if there is not. I did not know that a Governor could not remove his or her own appointee. I thought that they were at will in that way. If that is not the case, is there a policy or written standard in place? If not, it seems like you are putting the cart before the horse. There has to be a written standard first before you can say you are going to allow removal for misconduct. What constitutes misconduct has to exist in writing. You stated some of what you believe is misconduct, but is it written anywhere in your policies currently?

**Deonne Contine:**

No. The terms are neglect of duty, incompetence, and misconduct. They would just have their general meaning. It is not meant to cherry-pick and remove people from boards; it is meant to address conduct like moving out of state and not resigning from a board or some other conduct that rises to the level of something more than a person not liking the other person and getting them removed. The general terms are misconduct, neglect of duty, and misconduct.

**Assemblyman Leavitt:**

That is my point. It is very subjective; what one person sees as egregious misconduct could be viewed by someone else as not misconduct. That is why I think it is important that it is laid out on the line that if you move out of town, you will be replaced; if you do something inappropriate in this manner, you are eligible for replacement under this statute. I think that not having anything written down makes it arbitrary—I know you do not make arbitrary decisions. I think that it pigeonholes us a little bit in that it can be seen as that. It can be seen as we are calling out a person for misconduct. We do not want to cherry-pick. I think if you write it down then you can reference it so the individuals cannot come back and accuse you of targeting them personally.

**Deonne Contine:**

I understand. I think that the way it is written allows the Governor to have some flexibility in certain cases where he or she can make a case that there has been some neglect of duty, misconduct, or incompetence by a board or commission member. I understand the concern, but it is just to give flexibility.

**Assemblyman Carrillo:**

Let us say that the Governor decided to remove someone for misconduct; the case would go before an appeals board, correct?

**Deonne Contine:**

No. There is no due process in the process of the boards or commissions.

**Assemblyman Carrillo:**

Is it really deemed to be a certain amount of bad conduct on the part of this individual that would cause a removal? Basically, it is the Governor saying that the individual will be removed and that is it.

**Deonne Contine:**

Yes, on 45 days' notice to the person.

**Assemblyman Carrillo:**

Could this lead to a situation where an incoming governor could remove appointees from a previous governor at will?

**Deonne Contine:**

It is the intent of the bill to have some type of conduct and not just an at-will removal. Neglect of duty, misconduct, or incompetency are the three factors. It is intended for the most egregious instances.

**Assemblyman Carrillo:**

You said in the first part that the Governor could remove at will. Is there a contradiction there? In one aspect it is like he can remove without question or for any reason, but you just told me that it has to be because of a certain conduct. I have concerns about a new governor being able to remove people at will.

**Deonne Contine:**

To clarify at will, I was answering that question in the due process context. I was answering that question in that there would be no opportunity for a hearing, but there would be notice to the board member with a reason. The reasons would have to fall under neglect of duty, misconduct, or incompetence.

**Assemblyman Assefa:**

It appears like we have an odd dynamic where these individuals are employees, but at the same time are appointees of the Governor. We also have further oddity here where you are trying to set up a standard for removal, but those standards are not well defined. I hear you say in circumstances like sexual harassment or things like that. I do not want to see the continuation of that behavior for the next 45 days after the person gets notice. You are giving the Governor leeway here, but also those things are not defined. I echo my colleague's concern in that these things are not written. My understanding is that gubernatorial appointees can be removed for a reason or no reason at all, but if we are setting up a standard for their removal, we should define it further so that way we can remove that oddity.

**Deonne Contine:**

I want to make the distinction between the appeals officers in one section of this bill and general boards and commissions. With the appeals officers, they are appointed by the Governor and they are supervised by Senior Appeals Officer Michelle Morgando, who is in southern Nevada. That is a full-time day-to-day job and they are in the unclassified service of the state. Normally an unclassified employee is at will, but because these positions are appointed by the Governor and serve a two-year term, there are some questions about whether they can be removed during that two-year term. That is one piece of it. This allows for removal in those cases where there is neglect of duty, incompetence, and misconduct—they are the same reasons why I could be fired in my unclassified position for the state.

Again, unclassified positions for the state are at will and we could be fired for essentially anything. This is to put them in the same place with unclassified employees, but still recognizing that because of an oddity in statute they are appointed by the Governor. I thought it was odd, so I went back and looked at why it was that way. There was one appeals officer when this statute was created and that one appeals officer was appointed by the Governor. As the program has gone and they have moved along—Ms. Morgando can tell me how many people are in the office—there is a large group of people. They have never changed the language for appointment by the Governor. This is really just to address the fact that they are unclassified employees that work a day-to-day job that has a separate supervisor, but have an appointment by the Governor. It is allowing some flexibility so that they can be held to the same standard as any unclassified employee.

With respect to the boards and commissions. Again, there are 176 boards and commissions that the Governor appoints; 37 of them have specific removal provisions within their chapters. There are about 80 that do not. This standard is really meant to apply when there is no other mechanism for removal. Again, that standard is misconduct, neglect of duty, or incompetence. There are two separate pieces here, and I just wanted to make that distinction.

**Assemblyman Assefa:**

Based on that clarification, if an appeals officer is removed he has no mechanism to appeal, is that correct?

**Deonne Contine:**

Correct.

**Assemblyman Assefa:**

There is no expectation of due process?

**Deonne Contine:**

That is correct. In the unclassified service of the state you do not have a due process right. You always have the right to sue if you would like to, but you do not have a hearing in the process.

**Assemblywoman Martinez:**

Would you be willing to add due process to this?

**Deonne Contine:**

With respect to the appeals officers, they are in the unclassified service of the state. Unclassified service does not have appeal rights so it would create another oddity in the system. With respect to the boards and commissions, generally there are 13 that require notice and hearings. This is the Governor's provision so I cannot say exactly what I would be willing to discuss. I would be happy to take anything back and see if there is some way to work it.

**Assemblyman Carrillo:**

Should it not be up to the board or the commission to remove the members instead of the Governor? It just seems like that is a lot of latitude for the Governor to be doing something like that where you actually have boards and commissions that already do this.

**Deonne Contine:**

I am not sure who does the removal on the provisions that allow for removal, but generally it is a gubernatorial appointment so it would be a removal by the Governor. The Governor has to remove the person because that is the appointing authority.

**Assemblyman Carrillo:**

Is there any reason for this? Obviously, any bill that we bring forward is because something happened. You said that there is nothing that took place that would make you say that we need to give the Governor more power to remove people at will.

**Deonne Contine:**

I do not know that there is nothing. I was not told. There is a change in administration, and I do not know what has specifically gone on.

**Assemblyman Carrillo:**

I am assuming that because this was filed on November 15 or 16. This was done before the new Governor took office, correct?

**Deonne Contine:**

I think the genesis of this was initially the Hearings Division—which had problems in the past. I do not want to talk about personnel matters. I think that the Office of the Governor had indicated to the Hearings Division that the language could be useful for situations that they have faced.

**Assemblyman Carrillo:**

Have you or another division examined the bylaws of these boards for their procedures?

**Deonne Contine:**

I do not understand.

**Assemblyman Carrillo:**

They have their bylaws. Have you gone through their bylaws to see what their abilities are so that they do not need to have another piece of legislation that allows the Governor to do something? They already have that in their bylaws, correct?

**Deonne Contine:**

The boards and commissions are set up by statute, so the provisions that address removal are provided in the statute. Thirty-seven chapters contain those specific provisions regarding removal. This would apply to the approximately 80 that do not have specific statutory provisions.

**Assemblyman Carrillo:**

I am asking this because I know people who serve on these boards and commissions and they have to sign a code of ethics. I am trying to understand the reason for this.

**Chair Flores:**

I think it would be helpful for the Committee if, after the hearing, you go back and inquire within those 80 specific boards and commissions and see if they have some specific examples. That would help demonstrate that this is a real problem. Send that to all the members.

**Assemblyman Leavitt:**

This is a follow-up to what you just said. So the 80 boards and commissions currently have no removal process whatsoever if there is misconduct or incompetence?

**Deonne Contine:**

That is correct. Generally a board or commission term would be two, three, or four years. If there are actions that are taken in those intervening periods, there is no ability for removal until the term is up for reappointment.

**Assemblyman Leavitt:**

It seems like you are trying to get these employees as close to at-will employment without calling them at will. There is no specific written policy in the case where you are an employee and someone could say I do not like your shirt today, so you are removed. You cannot do this with these specific employees. That is why we are all a little uncomfortable with the fact that there is nothing written saying that when you sign onto this committee you are not allowed to do this. Specifying incompetence or similar phrases is very broad. It is left open for interpretation, which is why we are feeling a little uncomfortable. These are not at-will employees and they cannot be removed for any reason; they have to be removed for a very specific reason. Those specific reasons are undefined. That is where the complication gets in here.

**Deonne Contine:**

I want to talk about those two situations. With respect to the hearings and appeals positions, those are employees in the unclassified service in the state. With respect to the boards and



commissions, by way of example, if I am appointed as the director of the Department of Administration, I serve at the pleasure of the Governor. In my capacity I serve as a member of the Public Employees' Benefits Program (PEBP). In that board appointment, I serve at the pleasure of the Governor. I would have to lose my job to lose that position. We are trying to create something in between "at the pleasure of the Governor" and "no ability to remove"; that is what this bill does. It says in certain cases, under certain criteria, and with notice to the person—unless it is so bad that they need to go immediately—the Governor has the ability to do that in between the periods of appointment. If the Governor cannot remove someone for neglect of duty, incompetence, or misconduct, then the outcome is that the person would be removed at the time that they are eligible for reappointment.

**Chair Flores:**

We are going to have legal speak and provide clarity.

**Asher Killian, Committee Counsel:**

Just for the Committee's information, there is a bit of complication in the way that the *Nevada State Constitution* treats the members of boards and commissions, hearing officers, and other state officials that are appointed by the Governor. Section 2 of Article 7 of the *Nevada State Constitution* provides that the Governor and other state and judicial officers can only be removed by impeachment, but Section 4 of Article 7 allows for civil officers of the state to be removed, as provided by law. If you notice, in the bill we are deeming the hearing officers and the members of boards and commissions to be civil officers—as opposed to state officers. That is to allow for them to be removed by law, rather than by impeachment. To answer some of the Committee's questions about what the current process would be for some of these people, it is constitutionally a little bit unclear. There is Supreme Court precedent from this state that says that impeachment applies whether the person was elected or appointed. Previous precedent found that the commissioner of the Division of Financial Institutions of the Department of Business and Industry can only be removed by impeachment. This bill, by declaring these people to be civil officers, allows for them to be removed as provided by law rather than solely by impeachment.

**Assemblyman Ellison:**

I think Mr. Killian just answered most of my question. I follow along with what my colleague from Assembly District No. 23 [Assemblyman Leavitt] said. Could you give me an example of what committees you are looking at? Could you give specific examples of those who are not covered in statute? I always thought that the Governor could walk in and fire anyone at any point in time for any reason he wants. Are you talking about officers like the State Contractors' Board? Where are these individuals?

**Deonne Contine:**

I know that the Contractors' Board is one of the boards that has a specific statutory provision related to removal that would control in that case. Some others are general boards and commissions including real estate boards, the Chiropractic Physicians' Board of Nevada, or any board that has appointees by the Governor that does not have a removal provision—it is essentially licensing and regulatory boards.

**Chair Flores:**

I would like to invite those wishing to speak in support of Senate Bill 14 to come forward. I see someone in Las Vegas. Were you here to help with the presentation or to speak in support?

**Michelle L. Morgando, Senior Appeals Officer, Hearings Division, Department of Administration:**

I believe Ms. Contine answered the questions. I was here to answer any that she would like to defer to appeals. [Ms. Morgando also submitted ([Exhibit E](#)).]

**Chair Flores:**

Is there anyone wishing to speak in support of S.B. 14? Seeing no one, is there anyone wishing to speak in opposition to S.B. 14?

**Kent M. Ervin, Legislative Liaison, Nevada Faculty Alliance:**

I am testifying on behalf of the Nevada Faculty Alliance—the statewide association of Nevada System of Higher Education faculty. Nevada Faculty Alliance has interests on various public boards that may be affected by S.B. 14—which could include the Board of Regents if both S.B. 14 and Senate Bill 354 are enacted. For full disclosure, I am personally an appointed member for the Committee on Deferred Compensation for State Employees, but I am not representing them; they have taken no position.

We completely agree with the concept that it should be possible and is necessary to remove appointed board members for misconduct. However, we are opposed to section 1 of S.B. 14 in its current form. First, we are concerned that the definitions for removal—which include misconduct in office, incompetence, or neglect of duty—are not further defined. For example, does incompetence mean not understanding an issue brought before a board? What is the standard for neglect of duty? Moving out of state seems clear, missing a meeting or two because of scheduling is less clear. Secondly, S.B. 14 has no due process hearing or opportunity for appeal. The broad removal language with no due process could allow a future governor—we are not talking about the current or the previous governor—to remove and replace board members on a pretext. Two of the three examples in the bill's digest allow for removal in a board's statute to require a hearing, but S.B. 14 does not have any hearings.

There are good policy reasons to have boards and commissions with some independence, both to be free to give good advice to their agencies and to serve as fiduciaries for program participants. Having fixed multiple-year and staggered terms that stretch over more than one gubernatorial term advances those policy goals. We would not want all board members to serve at the will of the Executive Branch and change at each election cycle. That does not mean there are certain cases where at-will appointments are fully valid—it could be put in law for those cases.

In most cases, a board member asked to resign by a governor likely would, but if passed, S.B. 14 should be amended to allow for the possibility that a future governor might attempt to misuse such a broad provision. We recommend amending section 1 to include a hearing

or appeal—perhaps to the Legislature or Legislative Commission. At least amend it to say that a board member that is removed for cause should be notified of the charges and given a time period to refute the charges. If a board member feels unfairly removed for cause, they should have a chance to rectify the damage to their reputation. Checks and balances are a hallmark of good governmental policy. That is what we support.

**Assemblywoman Bilbray-Axelrod:**

You mentioned the amendment—I believe you said to the Legislature or Legislative Committee—is that correct?

**Kent Ervin:**

Legislative Commission.

**Assemblywoman Bilbray-Axelrod:**

Would your amendment spell out exactly what that would look like? Usually commissions are in place, but how would they be called?

**Kent Ervin:**

We have not developed an amendment. We would be happy to work with the Committee or the sponsor to work out some due process language. I just threw out one possibility. We think that the minimum ought to be a time period where the board member could write back to the Governor and say the charges are completely false. They should be given at least that little bit of due process. We think some type of hearing or appeal without going to the courts would be appropriate.

**Chair Flores:**

Is there anyone else wishing to speak in opposition? Seeing no one, is there anyone wishing to speak in the neutral position? Seeing no one, we are going to close out the hearing on Senate Bill 14. Next I would like to open up the hearing on Senate Bill 25 (1st Reprint).

**Senate Bill 25 (1st Reprint): Revises provisions governing the administration of the surcharge imposed on telephone users. (BDR 20-442)**

**Dylan Shaver, Director of Policy and Strategy, Office of the City Manager, City of Reno:**

I am here representing the City of Reno, the Biggest Little City in the World, named after Major General Jesse Reno—the hero of Fox's Gap during the Civil War. You have this second bill which clarifies the uses of Enhanced 911 (E911) fees passed in Senate Bill 176 of the 79th Session. I would like to thank Mr. Guthreau and Ms. Rodriguez from the counties for doing most of my work for me. I can skip some of the background and focus on what our bill does.

Before I do that I would like to take you back to the year 1991. In the year 1991, Michael Jordan led the Chicago Bulls basketball team to their first championship. It was the first season of *The Fresh Prince of Bel Air*. The City of Reno had 141,000 residents at the time.

Serving those 141,000 residents were somewhere in the arena of 320 police officers. Fast-forwarding to today, the Chicago Bulls have not won a national championship in more than two decades. The star of *The Fresh Prince of Bel Air*, Will Smith, has been nominated for not one, but two Academy Awards. The City of Reno has nearly 250,000 residents. Unfortunately, because of the way we fund local government and the structural problems with the property tax in this state, we still have just about 329 officers that serve those more than 100,000 new residents. Why is that important?

When S.B. 176 of the 79th Session passed, as previously discussed, there was a funding mechanism put in place to help pay for those body cameras. I cannot comment on the use of that source to pay for things except to say that it was a decision that this Legislature made. If this Legislature wanted to find some other way to finance those, we could be supportive of that. That is the pool of money that we have to use today.

We supported S.B. 176 of the 79th Session. We had police officers testify. We thought that it was great public policy. During the presentation on May 11, 2017, in your Committee, Mr. Chairman, the sponsor of the bill, then-Senator now-Attorney General Aaron Ford, said and I quote: "The county will be able to ascertain how much of a surcharge, if any, they want to impose on cell phones for 911 funding. That can be used for hardware, like the camera itself; software, like backup data; personnel associated with instituting all of this . . . ." That was in 2017.

The bodycams came into practice in 2018. Our jurisdiction went to apply for funding for two particular things. One, to train our officers in how to use these body cameras. Two, to make sure that we have a program that allows us to distribute this footage and redact the faces of innocent bystanders from the camera footage. Unfortunately, at the time, our district attorney for Washoe County opined with a six-page legal opinion saying the law was not clear enough on those points. We needed to get clarity in the law or abandon our pursuit. We chose to come to the Legislature to seek that clarity. We believe you already voted on this and you already believed that this was going to be part of the package with the uses for that body camera funding. We certainly believed that at the time we supported it, so we do not view this as changing much.

There are a couple things to point out. First and foremost, the bill itself allows for exactly those uses. If you look at section 1 [subsection 3, paragraph (b), subparagraphs (2) and (3)] it says, "Paying costs for personnel and training associated with maintaining, updating and operating the equipment, hardware . . ." and "Paying costs for personnel and training associated with the maintenance, retention, and redaction of audio and video events recorded . . . ." We worked with the county and the house of origin—the Senate—to add a new section in there to ensure that a jurisdiction, whether it is ours or some other jurisdiction, that is inappropriately awarded funds, those funds must be returned and paid back to the fund itself. We wanted to make sure that there was an opportunity for the fund to be made whole in case there was anything that was inappropriate that happened. That is more than fair.

So why the comparison between now and 1991? In a resource-starved environment like that, where we are using the same size police force as we were using several decades ago to do those things, we have one sworn and two civilian police staff dedicated just to the redaction and distribution of this footage, as well as training. Those are resources that we believe should be on the street. The best way to put them on the street is to take every penny we have in our police department and put it towards keeping our people safe. To your questions on a previous measure, we have to keep in mind these are things that we can apply funds that we may be awarded. Nothing in this bill requires those funds to be awarded to us. That 911 board still has to make responsible use of its own budget. The City of Reno administers the dispatch center. Of course, we do not want to rob dispatch to pay for training, but that is one pot of money that they sit on and they have to be good stewards of that money—just like our city council and county commissioner do. It is possible that we could put in an application for these things and be denied, but without this language, we do not have the option to pursue it. That is what we would like to do. I believe this is a fairly straightforward measure.

**Chair Flores:**

We have some questions.

**Assemblyman Leavitt:**

It seems like this bill is doing what we were afraid the other bill was doing: taking resources away from those funds currently dedicated, and dedicating them to something else. Can you give me some clarity if that would happen? If you are pulling from the pot of money dedicated either to 911 or body cameras and dedicating these funds to personnel dedicated to training or redacting information which seems to be more money than an auditor, would that translate to fewer body cameras and less 911 support in the future? I get that this is permissive and there is just a potential for that, but if the potential exists then that would weigh on the decision.

**Dylan Shaver:**

I would like to provide two points of clarity. First and foremost, we believe there was an intent for these things to be covered in the first place. Second, as I mentioned, we are required to provide the dispatch services and we are required to have all of our officers wear the body cameras. That board, when setting its own budget, has to address those needs before they do anything else. We do not believe that we are necessarily depleting funds from more important uses. We are just allowing, to the extent that funding is available, for these other uses to be considered.

**Assemblyman Leavitt:**

In your estimation, it would not cause for an increase in that surcharge currently being collected by the telecommunications company to increase the funding source so that you have the ability to increase what you would like to accomplish? Previously they said that there is an administrative pot and the audit would come out of the administrative pot—for lack of a better word. It was my understanding that the end user—being people like me—would not have to pay more of a surcharge to accomplish your goal. If it is a situation where all the officers have to have body cameras, 911 has to be managed at a certain level, and all

the money is there, you say we are only going to do this if there is funding available. Well, if there is no funding available, then are you going to come back and say you need more money?

**Dylan Shaver:**

As a local government representative, I would never take off the table my opportunity to return to you and ask for more money; however, under the current bill we do not believe that would be required or necessary. There was a five-year plan written out for the way that we would administer 911 and the way we would collect these funds which considered some of these things. We think that it would all fit within that plan.

**Assemblywoman Bilbray-Axelrod:**

I am concerned that the language is possibly overly broad about what aspects are able to be paid for. I understand the intent, and I was there when we passed this two years ago—I was in this Committee. With the inclusion of personnel and training associated with the maintenance and redaction, we are talking about information technologies (IT). That gives me a little concern. Could you address that?

**Dylan Shaver:**

I was surprised to learn when I came to this city that a lot of what we do in terms of dispatch already lies within our IT department. I believe it was Ms. Foley who spoke earlier about next generation 911 and Public Safety Answering Points (PSAP). Our IT department is taking the lead in finding out what that is going to be in our next generation service. That is something already being done, not just within the confines of S.B. 176 of the 79th Session, but within the confines of our general 911 administration. Section 1, subsection 3, paragraph (b), subparagraph (3), talks about training for the maintenance, retention, and redaction of audio events. Currently we are actually using IT resources to store the footage and to make sure that it is maintained in a publically accessible manner. While this does broaden that a little bit, it does not broaden it that much.

**Chair Flores:**

I had an opportunity to quickly reach out to our Attorney General, Aaron Ford, and he has clarified that it was, in fact, his intent for his bill in 2017 to do exactly what is being proposed. Members, if it means anything to you, we have voted on this once. It was his intent that this would be something that we could be doing now with that funding.

**Assemblyman Carrillo:**

My question has to do with large-scale tragic events like what happened on October 1, 2017. I believe there were thousands of hours of body camera footage that had to be redacted. When you have a municipality where that happens—this is for my own understanding of the money that comes to them—do they go back and ask for more money? They say, obviously we did not know this would happen and now we have an unexpected cost. How would that work?

**Dylan Shaver:**

Fortunately, tragedies like that are very rare. In my short time in this city we have not had to respond to one. I have had conversations with folks from our southern Nevada jurisdictions where they have actually not implemented the 911 fee—that is my understanding. The body-worn cameras were instituted during a collective bargaining agreement—I do not want to speak on behalf of those jurisdictions. I will say how we could handle it prospectively. Funds like this are not meant to be emergency relief funds. Ms. Rodriguez testified to her own bill that, like any good government fund, there is a little bit in there just in case. I would hate to speculate how we would handle something so gruesome or grotesque. Within our own city we do maintain a certain operating balance that we could return to. I presume nothing would stop a jurisdiction from going in and requesting additional funding, but it would be left open to the budgeting process for the local 911 advisory board to decide how to dole it out.

**Chair Flores:**

Members, are there any additional questions? Seeing none, those wishing to speak in support of this bill, please come forward.

**Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:**

Back in 2017 we worked with Senator Ford and supported S.B. 176 of the 79th Session. The only reason why rural counties supported it was because Senator Ford not only had the body camera policy we supported, but also had a funding source. It was only because of the funding source that we were able to come in and support the bill. When we had the recession, our counties eliminated about 25-35 percent of our positions. We have not recovered from that. If S.B. 176 of the 79th Session was passed without the ability to fund the personnel, training, equipment, and everything else involved then we would be cutting our police force in order to pay for the implementation of S.B. 176 of the 79th Session. It was only through working with Senator Ford and his ensuring that all costs associated with the body cameras—including personnel costs—would be allowable to be used by the surcharge. We support this bill; we think it is a clarification of what the original intent was.

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

We are in support of S.B. 25 (R1). As has been testified earlier, we think that this was the intent of the bill from 2017—to allow for the training and redaction of these body cameras. To take you back a little bit to 2015 when the body camera legislation was first introduced, local governments were put in the position where we had to oppose the bill because there was no funding source. Over the 2015 and 2017 interims local governments worked with Senator Ford and came up with using the 911 surcharge to fund those services. We thought that these provisions were included in the bill. Obviously, we came to find out that they were not. We are in support of S.B. 25 (R1).

**Kathy Clewett, Legislative Liaison, City of Sparks:**

I am here in support of S.B. 25 (R1). We agree with the City of Reno that the intent of last session's bill was to pay for the hardware as well as help pay for personnel to help run the

new programs. Everyone is aware that machines can only do so much. At some point a human has to step in to scrub the videos so that they are available for public consumption. As an example, we regularly go through and try to scrub children's faces from any of the videos because they really should not be set out there for public consumption. That gets done at our police department site. Another wrinkle is—if a video is to be used in a trial—the video is sent to our city attorney's office where the staff has to review it and make sure it conforms to Marsy's Law before it is sent to the defense attorney. All along the way, human beings have to have a hand in getting the video out the door to the person or persons that are requesting it. We very much appreciate this bill and we hope you support this so that we can continue to do what we should be doing—which includes giving our staff training on how to do it correctly and get it out to who is asking for it.

**David Cherry, Government Affairs Manager, City of Henderson:**

While there is not currently a surcharge being collected in Clark County, we are optimistic that the choice may be made by the members of our county commission to go ahead and implement it. We believe that this bill would, at that time, give us more flexibility of how those dollars can be used. It should be noted that the City of Henderson has one of the police departments in the state that does utilize both body-worn cameras as well as vehicular cameras which we had in place before we had the body-worn cameras. For us, we are glad that the bill recognizes both the idea of money being made available for the body-worn cameras as well as for the vehicular cameras because those both collect important video and audio that can be used in cases where crimes are committed. There is other evidence that is collected that can be used in the prosecution of those crimes.

**Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office:**

I am happy to be at the table today in support of S.B. 25 (R1). I want to thank all the stakeholders for getting together and addressing some of our concerns. This amendment addresses the ability to have cities and counties who—not misappropriate funds—are submitting for something that may not be covered under the E911 tax. It will hold those people liable and make that fund whole again. I totally appreciate the intent of that. I think that it is important to note that during my day job—when the session is not going on—I am the research and development lieutenant, and the body-worn cameras fall under my division. My three personnel are trivially tasked with having to redact videos and making sure all the video requirements are met before they are disseminated. It takes quite a bit of time. For about 10 minutes of footage, it can take anywhere from 10-20 minutes of redaction. Some of those more comprehensive videos that the committee alluded to earlier—specifically Assemblyman Carrillo regarding the October 1 shooting—those take hours, if not days, months, or years for something of that magnitude. There were several hundred cameras that were used during that event. For those larger events, obviously, we have to pull our resources together.

We are looking at a new age of digital evidence. These are things that we are using today that did not exist five or ten years ago. With the advent of in-vehicle cameras and body-worn cameras, we are looking at new positions that are truly specific in their needs. Currently, in northern Nevada we decided to purchase the Axon video system. There is a multiday



conference going on in Scottsdale, Arizona, as we speak and three of my people are down there now learning the newest technologies—as far as video redaction software and meeting with network representatives—so that we can be more efficient in our process because it does take specialized training. Not just anyone can do this training. Just like a records personnel submitting a records request, they have to be specifically trained to do so. With that, I am in support of S.B. 25 (R1).

**Assemblyman Leavitt:**

How are those positions held by those who do the redaction and/or the training on the body cameras currently funded?

**Corey Solferino:**

When we came online with the body-worn cameras as a result of S.B. 176 of the 79th Session it was borne by my department because my department does all the technology pieces. Ultimately, we would like to transfer that to the Records Division, as every day it is becoming a heavier lift. It takes away from their additional duties. It is just another technology on that. It is specialized in that field. My guys are the ones that are pulling data for statistical information and crime analysis. When they are not doing that, they are doing the body camera stuff. It is more specific to an individualized person. With that, sir, it is just an ancillary duty that the Washoe County Sheriff's Office has budgeted out of one of our positions for tech services.

**Chair Flores:**

Is there anyone else wishing to speak in support? Seeing no one, is there anyone wishing to speak in opposition?

**Helen Foley, representing T-Mobile:**

I strongly support body cameras. T-Mobile certainly does too. We believe that these funds should come from police departments' general budgets. Next session, I will be anxious to see what else they want to fund out of the 911 fund. Now that we have opened the door, it will happen each and every session. I believe that they should really figure out—through their county commissions—how to pay for these things and not be using funds that are only supposed to be for 911.

**Mike Eifert, Executive Director, Nevada Telecommunications Association:**

I wanted to be on record that my members asked that I appear in the neutral position, but given the clarification that the chair provided earlier, we are opposed to diversion. I am appearing in opposition. We are not opposed, however, to body cameras. We understand their use and their need in society. I believe that Ms. Foley mentioned that there are better funding sources. We also think that the state is doing itself a disfavor by diverting the funds. The Federal Communications Commission (FCC) has been very clear about this. We have had discussions about next generation 911; well, it has to be funded. The FCC has funds and grants for that, but Nevada is not eligible to receive any of those funds. That is millions of dollars that our residents are not going to benefit from. As I mentioned before and I will mention again for the record, there are other punitive actions that the FCC has pointed out

that they can take. They are certainly discussing this on the Hill [Capitol Hill, Washington, D.C.]. The Nevada Telecommunications Association is opposed to diverting funds for any purpose other than what the 911 surcharge was originally intended for.

**Michael Hillerby, representing Charter Communications:**

Based on the Chair's earlier guidance, we are appearing in opposition. Like our colleagues up here, we have no quarrel with body cameras, with the training and support necessary to maintain those and make them useful for the public and public safety. They may, in fact, be good public policy. What is not good public policy is diverting 911 funds—you have heard that from other speakers, so I will not be repetitive. I would refer the Committee to the testimony submitted by the Nevada Chapter of the Association of Public-Safety Communications Officials in opposition of Senate Bill 25. It is in NELIS as an exhibit for the Senate hearing held for that bill on February 20, 2019—it does an excellent job of summarizing the issues. It talks about the pitfalls of diversions and the potential of federal funding as we look to expand next generation 911.

**Randy Brown, representing AT&T:**

I will echo the comments of my colleagues. I would like to add one additional item. Cellular Telecommunications and Internet Association (CTIA) is the wireless association in which AT&T, T-Mobile, Verizon, Sprint, and others are members. They do not have someone on the ground in Nevada, but CTIA has prepared a letter in opposition that we would like to submit on their behalf to the Committee for your consideration in relation to both Senate Bill 25 (1st Reprint) ([Exhibit F](#)), as well as Senate Bill 12 (1st Reprint).

**Assemblyman Ellison:**

When they did the body cameras, the body camera money was supposed to be for 911 and the body cameras, but apparently it was not. Is that correct? The body camera money was supposed to go strictly into the cameras or if you use it for 911. At that point in time you could not apply for federal grants, is that correct?

**Randy Brown:**

My understanding is that the law that passed in 2017 allows for an increase in the 911 surcharge up to, and including, one dollar per line per month. In that, there was a provision that said that you could use all or part of that fund for body cameras. It is used for both.

**Assemblyman Ellison:**

I was just brought a book that said that we could not apply for federal grants because we took the dollar surcharge.

**Randy Brown:**

Assemblyman Ellison, you are correct. The FCC released a report where it named six states and one territory guilty of diverting 911 funds for items other than 911—Nevada was among those listed. Therefore, Nevada is not eligible, as Mr. Eifert mentioned, for federal grants related to 911.

**Assemblyman Assefa:**

In 2017, what did we do? Did we institute a new \$1 fee or did we divert money? I think the whole thing is mixed up here. If it is a new \$1 fee put in place to support body cameras and the maintenance of them, then it is not a diversion. The original money is going to where it is intended to be.

**Randy Brown:**

There was an existing surcharge in place prior to last session. That surcharge was capped at 25 cents per line per month. It was strictly for 911 operations. The measure in 2017 did two things. It allowed for the increase of that surcharge from 25 cents up to \$1 per line per month. It also added a component that allowed that surcharge to be used to fund body cameras. It did two separate items.

**Assemblyman Assefa:**

So we increased by 75 cents, but the original 25 cents is going to where it is supposed to be going, is that correct?

**Randy Brown:**

I think that is a question for the counties that are spending that money. We have no control over where those funds are spent.

**Assemblyman Assefa:**

Right. I am saying that the federal agents could not use that as a justification for not giving us the appropriate money we are entitled to. We are essentially instituting a new fee. We are not diverting the original 25 cents that was supposed to be going to the 911 fund.

**Randy Brown:**

I think that the FCC is looking at it differently. The FCC is looking at it as if you increased the fee; you did not implement a new fee. You increased the existing 911 fee and are, therefore, diverting 911 funds away from 911.

**Assemblyman Smith:**

Do you know which, or if any, counties are currently at the maximum \$1 fee?

**Randy Brown:**

I know that there are some that are at the maximum fee, but I cannot remember specifically. I would be happy to get that information to you after this meeting. I can tell you that Washoe County is at 85 cents per line per month. I can also tell you that, as was mentioned earlier, Clark County does not have a 911 surcharge fee on their telephone bills. They fund the operations of their PSAP using a property tax component. I would be happy to get you the surcharges by county.

**Assemblyman Smith:**

I am just curious to see whether it is large county versus small county. I would assume that small counties would have to have the maximum dollar, but I do not know that.

**Chair Flores:**

Is there anyone else wishing to speak in opposition to S.B. 25? Is there anyone wishing to speak in the neutral position?

**Jamie Rodriguez, Government Affairs Manager, Office of the County Manager, Washoe County:**

We are here in neutral. I wanted to give our perspective in terms of how we got here. It is true that during the last master plan cities had begun presenting budgeting for personnel related to body cameras. A question had been raised whether or not the legislation really did allow for that. The specific language was the purchase of the material and support thereof. Our district attorney's opinion truly was that personnel was not explicitly stated within the legislation and, therefore, not a permissive use. We truly try to be good stewards of those funds. When it specifically states what it is going to be used for then we are only going to use it for those purposes specifically stated within the statute. Our district attorney advised that it was not a permissive use. Our board of county commissioners created a policy document that went back to the advisory board stating our district attorney's opinion was that it was not an allowable use; therefore, the master plan moved forward without those expenditures included in the plan. We understand that it may have been the intent of the legislation. We are fine with saying that it was the intent, but it was not stated in the bill. We took the position that it was not permissive.

As also stated by the presenter, there was an amendment in the originating house that came from a discussion with us and the sponsor. I appreciate their help on that. The amendment is on page 4, subsection 4 starting on line 8. This would apply to all entities, which is really important. This is not just to the cities, it is for the county and, overall, is a regional fund that would apply to all of us. You could have something as simple as their coming to us and saying that we want to send two people to this training conference and that money gets allocated to them for that training. A multitude of circumstances could occur so that people cannot travel, including weather that cancels flights or health issues. That money was not used for its original purpose so this simply allows for the money to come back into the fund. It ensures that it is really only used for those specific purposes. That is really the intent of the amendment. I want to thank the sponsor for working with us to get that included in the reprint in front of you.

I think there were one or two things that I would like to touch on based on some of the questions from the Committee and some of the testimony given. As I previously stated, two-thirds of our funding actually goes towards dispatch. I think it is also really important to note that it actually doubled what dispatch had previously received from when we were receiving the 25-cents cap. While this is an eligible funding source, it is never guaranteed that it will fund all costs associated with dispatch. In our work with Senator Ford—which again we did support S.B. 176 of the 79th Session—it was never a guarantee that it would cover all costs associated with either dispatch or body cameras. That increase allowed us to double the funding that went to dispatch. To Assemblyman Carrillo's question regarding October 1, there is some emergency funding that we are allowed to collect—whether that would really cover all costs if we had a similar circumstance occur in Washoe County is

unknown. It is not a guarantee to any of us entities who implement the surcharge. It is meant to be a tool to help us get there, but it is never a guarantee.

**Chair Flores:**

Is there anyone else wishing to speak in the neutral position? Seeing no one, are there any closing remarks?

**Dylan Shaver:**

I hope the Committee can find cause to process this bill. We would appreciate your support. There have been a lot of questions about the supplanting of funds: would there be enough money for dispatch and would there be enough for the cameras themselves? We are very sensitive to those. I believe that Ms. Rodriguez makes a clear point; no part of the fee funds our entire dispatch operation, our entire 911, nor our body camera operation. We have to devote extra resources to those things, but this bill opens up a venue for when the resources are available to actually stop us from redirecting resources from places where they should be. Since we have had to implement body cameras, we have had to pull officers off the street to manage and operate the program. To us, that is the highest, best use of our municipal dollar. We want to make sure that we can continue to provide residents with the police force that they expect and deserve with those funds.

**Chair Flores:**

With that, we are going to close out the hearing on Senate Bill 25 (R1) and invite anyone up for public comment. Seeing no one, this meeting is adjourned [at 11:04 a.m.].

RESPECTFULLY SUBMITTED:

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Kirsten Oleson  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chair

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is opposition testimony, dated April 29, 2019, submitted by Lisa V. McCabe, Director, State Legislative Affairs, Cellular Telecommunications and Internet Association (CTIA), regarding Senate Bill 12 (1st Reprint).

[Exhibit D](#) is a comparison outline, dated April 29, 2019, submitted by Deonne Contine, Director, Department of Administration, regarding Senate Bill 14.

[Exhibit E](#) is a brief synopsis dated April 29, 2019, submitted by Michelle L. Morgando, Senior Appeals Officer, Hearings Division, Department of Administration, regarding Senate Bill 14.

[Exhibit F](#) is opposition testimony, dated April 29, 2019, submitted by Lisa V. McCabe, Director, State Legislative Affairs, Cellular Telecommunications and Internet Association (CTIA), regarding Senate Bill 25 (1st Reprint).