

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

**Eightieth Session
June 2, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 3:37 p.m. on Sunday, June 2, 2019, 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/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
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senate District No. 7
Senator Moises (Mo) Denis, Senate District No. 2

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Connie Jo Smith, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Michael Brown, Director, Department of Business and Industry
Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry
Carter Bundy, Political Action Representative, American Federation of State, County and Municipal Employees, AFL-CIO
Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers; and Member, Nevada Law Enforcement Coalition
Victor Salcido, representing Nevada Highway Patrol Association
Brian Shepherd, representing Service Employees International Union, Local 1107
Drake Ridge, representing Las Vegas City Employees Association
Kelly Crompton, representing City of Las Vegas
Don Jacobson, Information Technology Business Partner, City of Las Vegas
Brittany Walker, representing Holland and Hart LLP, Las Vegas, Nevada
Danny Thompson, representing Tahoe Reno Industrial Center
Warren B. Hardy II, representing Nevada League of Cities and Municipalities
David Cherry, Government Affairs Manager, City of Henderson
Dagny Stapleton, Executive Director, Nevada Association of Counties; and representing Recorders Association of Nevada

Chair Flores:

[Roll was taken. Committee rules and protocol were explained.] We have two items on the agenda. We will open the hearing on Senate Bill 135 (2nd Reprint).

**Senate Bill 135 (R2): Provides for collective bargaining by state employees.
(BDR 23-650)**

Senator David R. Parks, Senate District No. 7:

This bill will authorize collective bargaining for classified state employees. With that, I would like to make one or two brief comments. This bill would allow the state's 22,000 Executive Branch employees, including classified employees at the Nevada System of Higher Education, to collectively bargain and form a union based on their general occupational category. It sets general ground rules for a union to be organized through an election, prohibits strikes, and sets what topics can be covered in collective bargaining negotiations, including pay and benefits. I think we all know that when employees have a say in their workplace, we all benefit, we all gain. Public service employees in 34 other states have seen great success with collective bargaining, as have their respective

communities. With that, I would like to turn the discussion over to Mr. Michael Brown, who is the director of the Department of Business and Industry, and who will be involved with the creation of the various bargaining units.

Michael Brown, Director, Department of Business and Industry:

I am pleased to be here on behalf of Governor Steve Sisolak to present our views on Senate Bill 135 (2nd Reprint) as it was amended and came out from the Senate. Assisting me in the south on the technical matters is Bruce Snyder, the commissioner of the Local Government Employee-Management Relations Board of the Department of Business and Industry. Chair Flores, if it would please you and the Committee, I would like to invite him to the table.

In the Governor's State of the State address on January 16, he proposed we empower state workers to bargain collectively in the years ahead. We commend Senator Parks, representatives of organized labor, and other stakeholders for their diligent work on S.B. 135 (R2). We believe we can achieve the vision set out by Governor Sisolak in his State of the State address with the legislation that is before you. As the Governor said the other day at the signing of the prevailing wage legislation, Nevada is a union state, a place where workers can access the middle class and have an opportunity to provide for their family. Since 1969, local government employees have enjoyed the right to bargain collectively here in Nevada. Collective bargaining at the local level has been provided for orderly and efficient government for 50 years.

The oversight of local government collective bargaining rests with the Department of Business and Industry in the Employee-Management Relations Board (EMRB), an independent board that is operated without fanfare but with great efficiency in the successful administration of 231 contracts covering 85,000 employees in 183 Nevada local governments. As the bill has come to you from the Senate, what this will do will align the extension of collective bargaining to cover 22,000 classified state employees with the proven system we have for local government. This will be efficient and cost-effective for all, and it is envisioned the extension will result in 11 new contracts.

Some of the key components in the bill, as it was changed in the Senate, rest in sections 24, 26, and 27, as this aligns it with existing practices in local government. In lieu of bargaining for the vague terms of wages, hours, and terms and conditions of employment, it establishes a laundry list of mandatory subjects of bargaining. This is the list that has been used by local governments in Nevada since 1973. In section 26, it revises the list of prohibited practices or unfair labor practices to align with the list that we have used with local government employers and employer organizations.

In section 27, the bill removes procedural details about the filing of complaints and allows us to more efficiently use the resources of the EMRB. I would note, as the version has come out of the Senate, it does not allow for the bargaining of health insurance and related insurance as that function is handled by law by the Public Employee Benefits Program.

Section 24 includes the new management rights clause similar to that found for local governments currently in the *Nevada Revised Statutes*. Section 29 clarifies the description of the bargaining unit for supervisors, and the supervisors in Nevada state government will be in a single, horizontal bargaining unit.

To fulfill the administration's commitment to transparency, the bill includes a requirement to post tentative collective bargaining agreements on the World Wide Web and to hold a public hearing under the auspices of the State Board of Examiners. Section 52 simply makes technical corrections in job classifications to align with the anticipated bargaining units. This will provide needed certainty for labor organizations and eliminate costly hearings and provide for efficient certifications of elections. [Section 52 was deleted by Senate Amendment No. 260.]

Sections 25.5 and 26 provide that, notwithstanding the provisions of the collective bargaining agreement, the Governor may include in the proposed executive budget any amount deemed appropriate for salaries and wages and, in doing so, is not to be construed as a failure to bargain in good faith. Section 49.5 allows the Governor to submit budget bills related to the funding of collective bargaining agreements after the February deadline outlined in our statutes. This provision is simply necessary as proposed agreements may not be finalized by the February deadline as the Legislature convenes, especially if parties reach an impasse and must go to arbitration. The administration believes that this legislation will strike the creative balance to provide for the efficient management of state government and provide for the men and women who faithfully serve Nevada. Their skills, their knowledge, their experience, and their devotion have been invaluable to our state, and we are grateful for their service. That concludes my testimony. I can answer any questions and be assisted by Mr. Bruce Snyder in the south.

Chair Flores:

Committee members, are there any questions?

Assemblyman Hafen:

In previous discussions on collective bargaining for local agencies, we were discussing the arbitrations. I know a lot of the local agencies had concerns with arbitrations. Are there going to be similar concerns with this, including the arbitration or mediation process?

Senator Parks:

I would have to say that I do not know if there will be these problems. There will have to be a fairly lengthy transition process, and that will take a fair amount of time to put everything into effect. During that time, I am assuming there will be no major challenges until the bargaining contracts are developed.

Michael Brown:

This is one of the reasons we were trying to harmonize it with our existing system for local government where we have 50 years of experience. That is administered in the south by Mr. Bruce Snyder with his part-time board and a staff of two. I will ask Mr. Snyder if he wants to add anything to that.

Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry:

The bill says that if they reach an impasse, they must appoint an arbitrator and must complete the arbitration process by March 15. We hope that is what will happen and that they will have an arbitrator picked in a sufficient amount of time so that the arbitrator would be available in early March to meet, should the need arise. If the arbitration does finish by March 15 and the arbitrator renders a decision, that would still give the Governor ample time to use his authority to submit a salary bill to the Legislature to incorporate the product of that arbitration into the legislative process.

Assemblywoman Duran:

You are going to utilize mediation first before going through the arbitration process because it may settle it at that level before you move up, correct?

Bruce Snyder:

Yes, the mediation process would come before the arbitration. The mediation is a precursor to the arbitration.

Assemblyman Ellison:

For clarification, how many employees would this affect?

Michael Brown:

I believe 22,000 classified state employees in the Executive Branch.

Assemblyman Ellison:

How many nonunion employees are in the state of Nevada?

Michael Brown:

If I understand your question, who would not be in the union?

Assemblyman Ellison:

Right.

Michael Brown:

I think I have seen a number of 25,000 total with 22,000 probably covered under one of the 11 contracts.

Assemblyman Ellison:

I would like to know that because we are trying to get apples to oranges. Being in the mining industry, there were a lot of them who were nonunion and some were union. We are talking about school districts, education, and such, so I am trying to get a number of how many employees are nonunion in the state of Nevada. Would you happen to know that number?

Bruce Snyder:

I do not know how many employees total, but records we receive from the Public Employees Retirement System (PERS) shows that there would be 22,000 classified employees; 22,006 or some number like that. That is our best estimate right now as to how many would be covered by the bill. How many would not be covered by the bill? I really do not know that.

Assemblyman Ellison:

Where would I find that number?

Bruce Snyder:

I will endeavor to run that number down this afternoon. I probably need to consult with the Administrative Services Division of the Department of Administration.

Chair Flores:

Committee members, are there any additional questions? [There were none.] I would like to invite those wishing to speak in support of S.B. 135 (R2) to come forward.

Carter Bundy, Political Action Representative, American Federation of State, County and Municipal Employees, AFL-CIO:

We stand in support of the bill.

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers; and Member, Nevada Law Enforcement Coalition:

Ditto.

Victor Salcido, representing Nevada Highway Patrol Association:

We want to express our full support as well.

Brian Shepherd, representing Service Employees International Union, Local 1107:

Ditto.

Drake Ridge, representing Las Vegas City Employees Association:

Ditto.

Chair Flores:

Is there anybody in Carson City or in Las Vegas wishing to speak in support? [There was no one.] Is there anyone wishing to speak in opposition to S.B. 135 (R2)? [There was no one.] Is there anyone wishing to speak in the neutral position for S.B. 135 (R2)? [There was no one.] Senator, do you wish to make closing remarks? [There were none.] We will close the hearing on S.B. 135 (R2) because it will likely be going to another committee. I would like to entertain a motion to do pass Senate Bill 135 (2nd Reprint).

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO DO PASS
SENATE BILL 135 (2ND REPRINT).

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

Committee members, is there any discussion on the motion?

Assemblyman Leavitt:

I want to go on the record that I am a Public Employees' Retirement System of Nevada employee and recipient, but this bill does not affect me directly, so I will be voting.

Chair Flores:

Members, are there any additional comments? [There were none.]

THE MOTION PASSED. [ASSEMBLYMEN ELLISON, HAFEN, HARDY,
AND LEAVITT VOTED NO.]

Assemblywoman Martinez will take the floor statement for S.B. 135 (R2). Next on the agenda we have Senate Bill 388 (1st Reprint). If I could have the presenters please come forward. We will open the hearing on S.B. 388 (R1).

Senate Bill 388 (R1): Revises provisions relating to public records. (BDR 19-827)

Senator Moises (Mo) Denis, Senate District No. 2:

I want you to think first of a future where cars can talk to each other, where when you are sitting at a stoplight, your car is talking to the stoplight. As you are approaching intersections, it would be able to communicate. A lot of different things are going on where different devices are talking to each other—that future is already here. During the interim, I had the opportunity to drive in an Audi automobile that was able to do some of that in Las Vegas where some testing is being done. We could see what was going on with the lights even before we got to them. The car was also autonomous, so it was driving itself and we were driving on the Las Vegas Strip. That is part of what is called the smart cities initiative. A lot of data is being produced by all these different things going on. When it comes to public records, balancing transparency with the privacy of individuals is a continuing challenge. This is especially true in the digital age when personal information is

being constantly gathered and stored. While the idea of public access to government records is pivotal to the way our democracy works, we also have a responsibility to protect citizens from unwarranted and unintended consequences that may arise when personal information is collected by a governmental entity.

If you drive a certain way every day and those sensors are seeing where you are going, somebody could ask for a public record to find out where your car has been to see how often you are home or what types of stores you go to or places you go to. In sum, Senate Bill 388 (1st Reprint) would allow a governmental entity to make certain records confidential if they contain personally identifiable information that could create negative consequences for the individual involved.

More specifically, section 1, subsection 1 provides that a record or a portion of a record is confidential if it meets two requirements:

1. It contains personally identifiable information collected by a governmental entity as part of the electronic collection of information from the general public.
2. The governmental entity determines that the disclosure of the personally identifiable information could potentially create negative consequences for the person to whom the information pertains.

Section 1, subsection 2 requires that each governmental entity maintain a list of records and portions of records determined to be confidential under provisions of the bill. This list must not reveal any personally identifiable information. Subsection 3 provides an exception to the confidentiality provisions in subsection 1. Specifically, if someone makes a request to inspect or copy a record or a portion of a record that has been deemed confidential under the provisions of this bill, and if a requester demonstrates a compelling operational, administrative, legal, or educational justification that outweighs the risk of potential negative consequences, the governmental entity must grant that request. Determination of whether the justification outweighs the risk would be made by the governmental entity.

Section 1, subsection 4 requires governmental entities to prepare an annual report providing a detailed description of each record or portion of a record determined to be confidential pursuant to this bill, along with an explanation of the reasons for that determination. Again, the report itself must not include any personally identifiable information. It will be transmitted to the appropriate standing committees during the legislative session and to the Legislative Commission during the interim.

That is the extent of S.B. 388 (R1), which I believe will ultimately help protect Nevada citizens. I am happy to answer questions. We have some other folks here; you will probably want to hear from them first.

Kelly Crompton, representing City of Las Vegas:

The language of the bill aims to strike a balance between transparent government and protecting an individual's data, particularly from those seeking to commercialize that information. The City of Las Vegas feels this new bill will strengthen protections to maintain the confidentiality of data attributable to a person to prevent misuse. With me today, I have Don Jacobson, who is in our information technology (IT) department, who can talk to you about some of the technology that the City of Las Vegas has piloted and is using in the downtown Las Vegas area as part of the smart cities technology that we are utilizing. I also have Brittany Walker with me. She helped draft the language that models off of some federal legislation as well. I will turn this over to Don Jacobson in southern Nevada.

Don Jacobson, Information Technology Business Partner, City of Las Vegas:

Part of my role with the City of Las Vegas is working with the IT director in our innovation district, which has been established by our city council as an area where we can experiment with technologies that many people would use under the term "smart city." All that "smart" means is that you are able to make decisions, and you are able to make decisions quickly. In order to make those decisions, such as whether or not you should proceed through a light signal because it is green or it is red, they need to be made in real time. The data that is collected and is generated to make those decisions is kept at the location. It is not like we send all the information for all the traffic signals back to a central database. The decision is made there and then transmitted back to the signal and transmitted to the vehicle with the connected vehicle technology, as the Senator mentioned earlier.

Almost all of these decisions to run a Smart City are made in real time, and they are made with what is known as aggregated data. In other words, for us, in the example Senator Denis mentioned about the time to green with Audi automobiles, we do not need to know the vehicle identification number, the license plate number, or who is driving the automobile. All we need to know is the position of the automobile, the speed of the automobile in relation to the traffic signal, which is red and is about to turn green, so that an algorithm can quickly calculate that the light is going to turn green in ten seconds. It is very important to note that in this example that was given, you can multiply that by tens of millions of times with hundreds of millions of devices that are now connected to the Internet. It is what is called the Internet of Things (IoT). My refrigerator is connected to the Internet. Your telephone is connected to the Internet, as are cars, and so forth. By being connected to the Internet, that data is able to be understood, transmitted, analyzed, and aggregated in real time, or near real time, in order to make all the decisions—the millions of decisions—that need to be made to ensure that, for example, traffic flows safely, it flows freely, and that pedestrians, cyclists, and vehicles are all operating harmoniously and safely in the environment.

The traffic example is just one example. There are also millions of air quality sensors, environmental sensors, and video sensors. The term is video analytics, where video is taken but there is software that is analyzing that video; for example, a count of vehicles, a count of

pedestrians, a count of cyclists, the direction they are going, the speed they are going, how they are interacting with one another, to analyze that and make decisions such as whether or not a signal timing should be changed or if there are trends that could be spotted to help us with urban planning and design.

With all that data that is now being generated via the Internet of Things, it is very important to ensure the privacy of the individuals who are walking as a pedestrian or driving a vehicle or just generally going about their day, that their data is protected. As I mentioned, we do not need data about the individual, we are using aggregated data to make our decisions which pretty much protects the anonymity of the individual. That being said, if there is any personally identifying information that is collected, such as a unique identifier on your phone, that is data that we would want to treat as confidential. If there was a public records request, the city would not be compelled to release that information for somebody to either use for a commercial purpose, such as to push notifications or advertising, or if somebody just wants to know how an individual goes about their day because maybe they had some nefarious purpose in mind.

Kelly Crompton:

Chair Flores, may I also address the amendment?

Chair Flores:

Please.

Kelly Crompton:

I am actually going to have Brittany Walker do that.

Brittany Walker, representing Holland and Hart LLP, Las Vegas, Nevada:

When the bill was heard on the Senate side, the Nevada Association of County Clerks and Election Officials approached us. They were concerned that this would apply to everyday governmental record collection, rather than just smart city initiatives. We introduced an amendment to make clear that general county recorder and clerk record collection would not be included. We submitted that amendment to the committee and it was voted on, along with another amendment that added the words "personally identifiable information collected by automated means over the Internet or other digital network" in section 1, subsection 1.

When we spoke with the Legislative Counsel Bureau (LCB) when the amendment language came out, it did not include the express exemption. We spoke with LCB and that is because they clarified that the added language "collected by automated means over the Internet or other digital network" made clear that this would not apply to local government record collection on a traditional basis.

The clerks still had concerns and, as a result, we proposed to add the amendment before you today ([Exhibit C](#)), which would declare the legislative intent of S.B. 388 (R1) and clarify that this act is not intended to impact data collection collected by a government entity in providing governmental services that are not really related to smart city initiatives.

Chair Flores:

We think there may be an issue with the amendment as now indicated in that we are not sure that it does anything new, but we will get our LCB Legal Division to clarify.

Asher Killian, Committee Counsel:

The testimony about the LCB's position on the bill is pretty much correct. We feel that the addition of the language referring to the automated collection of information over the Internet or digital network already includes the change that was suggested in the other body. The amendment being suggested would not substantially change the bill as it currently exists. Unless there is some new information, we do not see how this information would change the bill as it exists today.

Chair Flores:

There was also a suggestion of a second amendment. Is that correct?

Kelly Crompton:

Yes, Danny Thompson will explain the amendment. It is a friendly amendment.

Danny Thompson, representing Tahoe Reno Industrial Center:

There is a situation within the Tahoe Reno Industrial Center. The Mustang Ranch is one of the businesses that are owned by Mr. Lance Gilman. We have a situation, and the amendment I am talking about ([Exhibit D](#)) is a one-pager that is on the Nevada Electronic Legislative Information System—you all have it—where the sex workers in a county, and these are legal brothels, fill out an application that includes all of their personal information, their social security number, their passport number if they have one, scars, tattoos, and literally their addresses for the past three years. An individual has gone to these counties and asked for those records of all the women who worked there for the past ten years.

We had a situation last month where an individual got the address of one of these workers, followed her home, knocked all her front teeth out, beat her up, and put sugar in her gas tank. It is a common occurrence for these women to be stalked, and because there is no prohibition specifically for these workers' protection, there is some question whether or not the county has to give that information up. We are literally talking about, for the past ten years, thousands and thousands of women whose lives are in danger if you do not find a way to protect them—that is what this amendment would do. It would allow the county to not release those records. I will tell you there is a precedent in that. The Gaming Control Board Regulation 5.107 mandates that all gaming card applicants' certificates and information are confidential. This would be the same type of work card situation.

Chair Flores:

I appreciate the collaboration between all of you in trying to make this work, but I know there is hesitation on behalf of our legal staff in that we do not believe it is germane to the bill. I do not believe we could do that, but I will have our Legal Division provide perspective.

Asher Killian, Committee Counsel:

I had the opportunity to consult with the Legislative Counsel on this proposed amendment. Unfortunately, as it stands today, the bill is a very narrow bill concerning only automated collection of information over the Internet and the confidentiality of that kind of information. The material in this proposed amendment goes pretty far astray of the current status of the bill, so the Legislative Counsel did not believe it would be a germane amendment to the bill at this time.

Chair Flores:

I wanted to let the Committee members know that while I believe the intent was solid and makes sense, unfortunately, I do not know that we can do that. With that in mind, I wanted to make sure that we frame the questions around what the bill is and what it is not with any questions you may have.

Assemblyman Carrillo:

Has this been done someplace else right now? Are there any municipalities that have this same discretion to ensure that the privacy stays?

Brittany Walker:

I do not believe this is being done in any other states. This was modeled off of federal legislation. Senator Catherine Cortez Masto has introduced a bill ([Exhibit E](#)) that would require the Federal Trade Commission to impose similar requirements on businesses to protect citizen privacy. So it is a little bit different, but because it was along the same lines, and we thought the language was appropriate in modeling federal legislation so that there is some uniformity, we chose to model that, but I do not believe there are any other states doing anything like this.

Assemblyman Carrillo:

Would any of this be considered an opt-in versus if you have an Audi that you are driving around and you do not want to be part of that, is that the discretion of the individual vehicle owner or whatever information will be floating around?

Kelly Crompton:

I am going to see if Don Jacobson, who is down south, has an answer to that question.

Don Jacobson:

As I mentioned, the type of data we are using is aggregated data, so we would not be able to identify the individual Audi that is talking to our infrastructure. That data we are using is data to make the decision in real time. Information about the vehicle itself and the person who is registered to drive that vehicle is not data we are collecting at this time.

Kelly Crompton:

My understanding is this type of technology within a car is kind of like an OnStar system or a Sirius XM. I think you can opt in and out of the features that the car offers.

Don Jacobson:

You are correct in that statement. All of the current generation of automobiles have on-board computer information which can be downloaded. But most often that information is sent out over the airwaves, not necessarily for the city's use, but they just emanate from the vehicle itself. For example, traction control. If the vehicle is losing traction because of a wet spot or sand or something on the road, for the most part, the vehicle owner does not know that the data is being generated, and that the data is available to pluck right out of the airwaves, not only by the city but anyone else.

Assemblyman Carrillo:

The information is not going to be kept forever. It is constantly renewing itself, just like you have another car that came by here. Now it has new information so it will adjust to whatever it needs to do, but it is not going to be in a big collection data vault that will go on forever. It will throw out all the old information and be gathering new information and it is constantly moving. I guess that is what I am looking at.

Don Jacobson:

Correct. This information is information that is really analyzed, and the decisions are made in real time. We are talking about a massive amount of data from the millions of vehicles that are driving around the roads in every city in the world, so it would not be useful to maintain that data over the long term.

Assemblywoman Bilbray-Axelrod:

I am happy to hear that we are on the forefront of this. My question is in section 1, subsection 4, paragraphs (a) and (b) dealing with coming back to us and giving us that information that has been collected. I think that is an important aspect. I was wondering what you are expecting to see from that. Are you expecting to see that more information than we thought was collected or not enough? Is that the scope of that?

Senator Denis:

The purpose of this is for transparency because some people could say, Oh, you are just saying that all this stuff is confidential just because you do not want to share it. So what we are asking is if you are going to say something is confidential, then you need to tell us that you are doing it—not necessarily the specifics of that data, but to say that this is how many times we have done this to keep an eye on what kinds of things the city or local government is trying to make confidential.

Assemblyman Hafen:

I am confused. In the testimony and in reviewing the bill, we have had a lot of conversation about vehicles and how we are not collecting personal information from these particular vehicles. The bill itself is to protect the personal information but we are not collecting that data, so I am confused. I also do not see anything in here about it being just limited to

vehicles. I believe the gentleman from Las Vegas mentioned collecting data from cell phones. I am just trying to understand—exactly what kind of data are we actually collecting and not collecting? If we are not collecting personal information, we do not need to keep it confidential, do we?

Kelly Crompton:

What we are trying to protect is if you are just collecting the data from an Audi car, you would have to dig in really, really far into the metadata to find that identifiable record that would identify you as the vehicle owner. But when you take this data and you take cell phone data and you start to put all those puzzle pieces together, someone much smarter than I could take all of that data and put it together and, at some point, could probably identify you. This is the route I take every day when I go home from work. I have my cell phone, I have my vehicle that is talking to it, maybe I have my laptop in there or some other smart technology device—that is what we are trying to protect. We are trying to get ahead of the game. Smart technology is coming fast and we want to make sure that as these devices are created, we can help protect identifiable information. It is not just automobiles.

Assemblyman Hafen:

If I understand correctly, you are collecting cell phone data, vehicle data, laptop data, and these are all being put together. I thought we said that the data would go in and leave immediately, so we do not actually keep any of the data from the vehicles specifically. I am just trying to understand the process—I like the idea of it going in and then it is deleted and not kept. I do not think we should be keeping people's personal information.

Kelly Crompton:

What Mr. Jacobson was referring to was that we do not keep that data long-term. For instance, in the City of Las Vegas, we have sensors on Main Street, near Fremont Street. We are collecting data, and within a given 24-hour period, we notice that there are a lot of people stopping—a lot of these Audi cars are stopping at that intersection. Clearly, we have an issue. We might have a pothole in that area. We may have a lot of traffic because people are crossing to the Fremont Street Experience. We want to take the data that we are utilizing, send the Public Works Department out there to see what the issue is in that intersection and fix that problem. So we are collecting that data and then a week later, we are getting rid of some of that information.

Don Jacobson:

Let me add to that. We are not collecting any data from the phones—that was one example cited. Every phone has a unique ID on the phone and, while you pass through an area if you opt in, for example, you connect to our Wi-Fi, we would have that unique ID for that phone, but we would not retain that information once you have left the area. Once you are no longer on our Wi-Fi, then we would not maintain that data so if somebody were making a public records request to say they want to know all the phones that pass through a certain area during a specific period of time, that data would not be available for us to even attempt to withhold.

Assemblyman Ellison:

I am also confused. Every day we are being hacked in our computer system—every day. Any kind of data that is out there—even if it is for a short term—can be hacked. I do not see a problem with autos and potholes and stuff like that. But I think collecting personal information is a total violation of privacy, and that is where I am getting confused. I could see and understand where you want to see where vehicles are or how many cell phones are being used in a car or whatever. I think when you start collecting personal information, that is when you are in violation of personal privacy rights that can be hacked. You see that every day in our system. Am I wrong by asking this question? Could you answer that?

Senator Denis:

If you have a device such as a cell phone, the phone has an ID. A phone has to have a unique ID so that you can tell the different things that are going on. As far as personal information, if you are walking past an area, it is not going to go into your phone and pull out all your personal information. What it is doing is getting that unique identifier so it knows you walked by a certain thing. It does not know you specifically, but it knows your phone with a unique identifier. That information, while it is not stored long-term, is stored long enough to be able to use it to define patterns and those kinds of things.

The issue is that now you have that data, it could be aggregated with another piece of data that shows a different thing going on—something else that might have your name in it. Also, you could take these pieces and start to aggregate them to put them together to come up with some personally identifiable information—that is what we are trying to protect. Somebody could come in and say, I want this data, and I want this data, and I want this data. While there is no specific data in there that they could figure it out, if they put the three together, they can run these computer programs that allow them to come up with that personally identifiable information. That is the purpose of the bill: to try to prohibit someone from coming in and getting that data so that they can come up with that personally identifiable information.

Assemblyman Leavitt:

This is a good bill. I think we fail to understand that we are moving into a different technology in the future. When everything communicates with each other, it could save lives. If my car can connect with the car next to me and the person with the cell phone who is crossing the street—who may be crossing the street in the dark—and my car can communicate with that cell phone and ping off of that and stop my car, then that is a good thing to me.

My question is when we are talking about confidentiality, there could be a point in time where that information could be useful to law enforcement. Say somebody robs a bank and they want to identify if that person had a cell phone in their pocket and they were driving an Audi as a getaway car. Is that information subpoenaable? Can we get that information through a court order?

Brittany Walker:

I think the answer to that is addressed in the bill. In section 1, subsection 3, it allows any person to get these records if there is "a compelling operational, administrative, legal or educational justification for inspecting . . . the record . . . [that] outweighs the risk of potential negative consequences." In addition to that, in this bill it is discretionary in general. If the governmental entity wants to turn that information over to law enforcement, they would be able to. But if they do say no, the law enforcement agency could demonstrate a compelling reason and, at that point, if it is denied, you would file a lawsuit or that would be the mechanism for enforcing it.

Chair Flores:

Committee members, are there any additional questions? [There were none.] I would like to invite those wishing to speak in support of S.B. 388 (R1) to please come forward.

Warren B. Hardy II, representing Nevada League of Cities and Municipalities:

I just want to put our organization on record that we are in support.

David Cherry, Government Affairs Manager, City of Henderson:

We are in support of S.B. 388 (R1). Henderson is part of southern Nevada's move to embrace smart city technology to improve the lives of our residents, improve public safety, and increase efficiency to produce valuable cost savings. In the digital age, we have an obligation to protect sensitive information that is being collected by electronic means, including data being gathered by our smart city infrastructure. This is no different than the obligation to protect customers that private sector entities are legally required to keep confidential by federal and state law. This is thoughtful legislation that is modeled after federal law and strikes a careful balance between the need to protect the public and maintain the public's right to know. Technology has made our lives better in so many ways, but it also creates new responsibilities to keep personally identifiable information out of the hands of those who may use it in ways that put an individual's privacy at risk and, in some cases, could even put their personal safety at risk. For these reasons, the City of Henderson supports S.B. 388 (R1).

Chair Flores:

Is there anybody else wishing to speak in support of S.B. 388 (R1)? [There was no one.] Is there anyone wishing to speak in opposition to S.B. 388 (R1)?

**Dagny Stapleton, Executive Director, Nevada Association of Counties; and representing
Recorders Association of Nevada:**

Today I am here representing the Recorders Association of Nevada. I apologize because I signed in neutral, and we are not opposed to this bill or the concept. However, we were very supportive of the amendment and LCB Legal Division indicated that perhaps the amendment would not work for this bill, so without the amendment the county recorders

have a significant concern. The City of Las Vegas and the bill sponsor have been great to work with. I know a couple of different amendments have been proposed to address the concern of the county recorders and those were all accepted. From my understanding, it was a matter of getting the right language in the bill.

Let me articulate quickly: the concern of the county recorders is that in section 1, subsection 1, it says that the bill makes confidential personally identifiable information collected by automated means over digital networks. County recorders do that. County recorders are responsible for some critical functions keeping public documents related to property records and things like that. The way they read this, they believe this would include them. We know it was not the intent of the sponsors to do that, so we hope it is possible to find some language or clarification or perhaps on the record that this language does not include them. The way it is written, it checks all the boxes and this is part of what they do. They have different digital networks—online networks that do collect information that is public information in an automated way. They do not want to fall under the language in this bill. I would be happy to answer any questions.

Chair Flores:

Committee members, are there any questions? [There were none.] If you could please articulate exactly what you just stated in an email and send that to me and title it "Proposed Amendment" and explain your concern once more. Please send it to all the Committee members just so they have it. I would like to review that further before we do anything else.

Is there anybody else wishing to speak in opposition? [There was no one.] Is there anybody wishing to speak in the neutral position for S.B. 388 (R1)? [There was no one.] If I could have either Senator Denis and/or whoever wishes to come up and have closing remarks.

Senator Denis:

I believe we can address the one issue, at least as far as the amendment, and why we think that maybe it is not necessary, and then I will give my final comments.

Brittany Walker:

In section 1 it allows the government entity to deem the record confidential if the governmental entity determines that this disclosure could potentially create negative consequences. I believe the bill is permissive, and I believe that should address the county recorders' concerns.

Senator Denis:

As was mentioned before, we are moving into an exciting time as we go into the future. Some wonderful things can really happen as far as was mentioned before, whether it is safety or other things, but at the same time, we need to protect people's information and data, and we think this will be a good first step to be able to go towards that. I appreciate your time and your support.

Chair Flores:

With that, we will close the hearing on S.B. 388 (R1) and invite those wishing to speak in public comment to please come forward. [There was no one.]

Committee members, we are going to recess and may come back today in a couple of hours, as we have picked up an additional bill. I will make sure you get an email as soon as possible to clarify whether or not we are doing that and/or potentially meeting tomorrow morning. I will try to get that squared away so that our staff can know what we are doing and all of you have ample time to do whatever it is you need to do. I encourage you to review Senate Bill 287 (1st Reprint). In our last floor session we captured that bill and it is on our side, so I would like for you to look through it, but before we have that hearing, I would like to have an opportunity to speak with stakeholders.

We are in recess for now [at 4:38 p.m.]. [Chair Flores adjourned the meeting on the floor of the Assembly at 9:15 p.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed conceptual amendment to Senate Bill 388 (1st Reprint) submitted by Kelly Crompton, City of Las Vegas.

[Exhibit D](#) is an email sent to the Assembly Committee on Government Affairs, dated June 2, 2019, from Danny L. Thompson, representing the Tahoe Reno Industrial Center with a proposed amendment for Senate Bill 388 (1st Reprint).

[Exhibit E](#) is a copy of a document titled "Cortez Masto Introduces Data Privacy Act," dated February 28, 2019, submitted by Brittany Walker, Holland and Hart LLP, Las Vegas, Nevada.