MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Eightieth Session
May 8, 2019

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:15 p.m. on Wednesday, May 8, 2019, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Melanie Scheible, Vice Chair
Senator James Ohrenschall
Senator Ben Kieckhefer
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Assemblyman Skip Daly, Assembly District No. 31
Assemblyman Ozzie Fumo, Assembly District No. 21
Assemblywoman Alexis Hansen, Assembly District No. 32

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Heidi Chlarson, Committee Counsel
Becky Archer, Committee Secretary

OTHERS PRESENT:

Gregory Ott, Chief Deputy Attorney General, Division of Government and Natural Resources, Office of the Attorney General
David Dazlich, Las Vegas Metro Chamber of Commerce
Vinson Guthreau, Deputy Director, Nevada Association of Counties
Jamie Rodriguez, Washoe County
Andy MacKay, Executive Director, Nevada Franchised Auto Dealers Association

John Fudenberg, Clark County
Michael Pelham, Nevada Taxpayers Association
Michelle Maese, Service Employees International Union
Faiza Ebrahim
Ellen Beauclair-Harter
Carolyn Muscari
Earl EJ Barnes
Heather Richardson
Paula Hammack, Assistant Director, Department of Family Services, Clark County
Tiffany Flowers-Holmes
Dena Schmidt, Administrator, Aging and Disability Services Division, Department of Health and Human Services
Jen Chapman, Recorders Association of Nevada
Dave Dawley, Nevada Assessors' Association
Alex Woodley, Code Enforcement Manager, Code Enforcement Division, City of Reno
Drake Ridge, Las Vegas City Employees' Association
Christy Brunner, Compliance Investigator, State Board of Massage Therapy
Sandy Anderson, Executive Director, State Board of Massage Therapy
Bianca Smith, Compliance Inspector, State Board of Massage Therapy
Deni French
Daniel Honchariw, Senior Policy Analyst, Nevada Policy Research Institute
Richard Karpel, Nevada Press Association
Dylan Shaver, City of Reno
David Cherry, City of Henderson
Mary Walker, Carson City; Douglas County
Kathy Clewett, City of Sparks
Kelly Crompton, City of Las Vegas
John Jones, Nevada District Attorneys Association
Eric Spratley, Nevada Sheriffs' and Chiefs' Association
Steve Conger, Nevada League of Cities and Municipalities

CHAIR PARKS:
We will open the hearing with Assembly Bill (A.B.) 70.

ASSEMBLY BILL 70 (2nd Reprint): Revises provisions governing the Open Meeting Law. (BDR 19-421)

GREGORY OTT (Chief Deputy Attorney General, Division of Government and Natural Resources, Office of the Attorney General):
I am reading my written testimony to present A.B. 70 (Exhibit C). The proposed amendment has been provided (Exhibit D).

SENATOR KIECKHEFER:
As defined in the second reprint of the bill, a "public body" captures working groups appointed by public bodies. The bill indicates if two members of a public body put together a working group and make a recommendation to the full public body, the work done by the working group must be completed in a public meeting. Am I reading this correctly?

MR. OTT:
That interpretation is more or less correct. Section 5, subsection 4, paragraph (d), subparagraph (2) states, "The subcommittee or working group is authorized by the public body or working group to make a recommendation to the public body for the public body to take any action."

SENATOR KIECKHEFER:
For example, two members of a county commission meet with stakeholders and later forward information to the full county commission. Based on that section, the meetings the two members conduct with the stakeholders have to be public. Is this correct?

MR. OTT:
Yes, that is the proper interpretation under Open Meeting Law decisions. In a case involving the Washoe County School District, two members of the Board interacted and discussed school safety with various members of the public. The two members were never authorized to act by the full public body, but the two members started calling themselves a subcommittee. The two members entered into discussions and deliberations outside of the public body and made a recommendation back to the public body. That situation was found to have been a subcommittee which should have been subject to the Open Meeting Law. The members were found in violation of the Open Meeting Law. This bill is an attempt to bring that existing interpretation into statute.

SENATOR KIECKHEFER:
Does the full public body need to direct the creation of a subcommittee? If two members want to meet with the public to solve a problem, the members

are prohibited from making a recommendation back to the full committee because if they make a recommendation, it would mean—after the fact—that the members were violating the Open Meeting Law.

MR. OTT:
The example in the case I just spoke about was not authorized by the Board. Two members acting independently made a recommendation. That is how the violation occurred. The language in the bill states, "the subcommittee or working group is authorized by the public body or working group to make a recommendation to the public body." This language will clarify that a subcommittee or working group needs authorization from the public body.

SENATOR KIECKHEFER:
The language does not indicate that a working group needs authorization from the public body. The language indicates the subcommittee or working group is authorized by the public body or working group to make a recommendation. It is "or" language. The working group could authorize itself to make a recommendation to the public body and then everything the working group has done in the past is suddenly a violation of the Open Meeting Law.

MR. OTT:
That is the correct interpretation under the case I referenced earlier. It is an area where public bodies are often concerned. I advise public bodies to create working groups within the confines of the Open Meeting Law.

SENATOR KIECKHEFER:
"Can one member of … it has to be more than one member?"

MR. OTT:
The subcommittee or working group must consist of at least two persons.

SENATOR KIECKHEFER:
The amendment adds standards regarding complaints filed in bad faith or by a person whose interests are not significantly affected. Are the standards already in statute for other violations? Can you expand on that section of the amendment, Exhibit D?

Mr. Ott:
Sometimes, public bodies allege people file complaints against them in bad faith. The Open Meeting Law does not have a standard that the Attorney General could reference to say what bad faith is or to decline to investigate on that basis. This bill's amendment attempts to put a standard in place. The three requirements to qualify as "bad faith" are listed in section 10, subsection 3, paragraph (a) of the amendment. Bad faith includes multiple complaints; complaints without merit and a past pattern of filing documents or taking action to harass or annoy the public body, its members or staff. The language was taken from the vexatious litigant standard in the *Nevada Revised Statutes* (NRS) 155. Assembly Bill 70 is consistent with the policies a court uses to stop someone from filing a bad faith complaint. This bill allows the Attorney General to decline to investigate bad faith complaints as well.

At the same time, if a public body alleges a person is harassing and repeatedly filing complaints against the public body, the Attorney General could decide that although the complainant is aggressive, if any of the prior complaints were found meritorious in the past year and the public body was in violation, the public body needs to clean up its act before identifying someone as a vexatious litigant or someone of bad faith. This is the balance we are striking in that section.

The amended version of section 10, subsection 3, paragraph (b) refers to how the Attorney General can determine someone does not have a legitimate interest in what the board is doing. This section has four requirements.

First, the board whom the complaint is filed against is not a Statewide entity. If the board is a Statewide entity, then arguably anyone within the State has the ability to file a complaint against it.

Second, the complainant does not reside within the jurisdiction of that public body. For example, if a person complaining about the Clark County Board of Commissioners lives within Clark County, he or she has a standing to file a complaint against Clark County.

Third, the complainant does not have standing to oppose the decision in a court of law. This language uses existing caselaw regarding standing in legal matters. For example, a business owner whose business is going to be adversely

impacted by a decision the public body is going to take would have an injury to address.

Fourth, the complaint is not from an entity with a purpose in promoting or protecting good or open governance, such as the American Civil Liberties Union or a member of the press. These type of entities are still able to file Open Meeting Law complaints. The Attorney General is obligated to investigate those.

SENATOR KIECKHEFER:
I do not fully understand the last requirement. Would a newspaper or a press organization have the right to challenge in court any action of a public body based on an Open Meeting Law violation, regardless of whether they are otherwise affected?

MR. OTT:
"So, this provision does not change the standing to sue in court. This is only changing the standard … ."

SENATOR KIECKHEFER:
I understand, but is being a newspaper or a press organization the trigger as to whether the Attorney General would choose to investigate an Open Meeting Law complaint?

MR. OTT:
That is correct. I will clarify—the standard for being able to challenge an action in court is a person must have an interest which was affected by the decision. In the example you gave, the newspaper would most likely not have standing to proceed in court unless it had an interest which was impacted by the public body's decision. However, the newspaper would have the ability to have its Open Meeting Law complaint investigated under section 10, subsection 3, paragraph (b), subparagraph (4) because it would be an entity with a Nevada presence and a mission or purpose that includes protecting and promoting open and good governance.

SENATOR KIECKHEFER:
But there is an "and" not an "or" after subparagraph (3). Would all four criteria need to be met for a determination to be made that a person's interests are not significantly affected?

MR. OTT:
Yes. The Attorney General would have to find all four of the criteria in order to decline to investigate.

SENATOR SCHEIBLE:
Going back to section 5, subsection 4, paragraph (d), subparagraph (2) regarding subcommittees making recommendations, is there an accepted definition of "recommendation" in statute? Could routine recommendations such as changing meeting times be subject to possible litigation? Is that considered a recommendation per the statute?

MR. OTT:
That question is not addressed in NRS. The commonsense interpretation is if the subcommittee or working group is making a recommendation regarding something within the jurisdiction or control of that public body, that would be considered a recommendation. It is not meant to encompass people who are factfinding and bringing information. However, the public has an interest and should have transparency into those deliberations once a subcommittee or working group engages in the deliberative process and starts weighing what is in the best interest or what decisions should be made by the public body.

SENATOR SCHEIBLE:
That is a great delineation.

CHAIR PARKS:
On the top of page 8, section 6.5, subsection 7, paragraph (c) mentions, "A meeting held to recognize or award positive achievements." Could you provide the genesis as to why recognitions are not subject to notice requirements?

MR. OTT:
The Nevada System of Higher Education (NSHE), a participant on the Nevada Attorney General's Open Meeting Law Task Force, made this suggestion. When NSHE confers tenure on a professor, it considers the discussion to be of the character, competence or professional competency of the professor. The NSHE may bestow tenure on a number of individuals in one meeting. The NSHE gets a waiver to bestow tenure upon each of those individuals prior to the meeting. The process causes a lot of work that is not beneficial because most people want tenure and are happy the Board is considering their tenure.

Once that issue was raised, other members of the Task Force indicated they also issue awards to recognize people's job performance or years of service and the like. Some agencies get waivers for those types of situations and some do not. It was brought to the Task Force members' attention that NSHE gets waivers for these types of situations and that once an agency commends someone for their professional performance, that activity could run afoul of the Open Meeting Law. The exception in the bill is small but meant to allow agencies to save some time and energy not chasing down waivers when awarding someone.

DAVID DAZLICH (Las Vegas Metro Chamber of Commerce):
Good and open governance are specific policy objectives which are part of our organizational platform. Assembly Bill 70 does a good job balancing openness and accessibility while still protecting the ability of these organizations to do their work. We support this bill.

VINSON GUTHREAU (Deputy Director, Nevada Association of Counties):
We represent all 17 counties in Nevada. We thank the sponsor. The Nevada Association of Counties was a member of the Nevada Attorney General's Open Meeting Law Task Force and worked extensively with the sponsor on crafting A.B. 70 and the amendments—including the amendment discussed today. We support this legislation as amended because it brings modernization to the Open Meeting Law.

JAMIE RODRIGUEZ (Washoe County):
We support A.B. 70. Washoe County also had a member on the Nevada Attorney General's Open Meeting Law Task Force which brought forth this legislation. This bill helps with clarifications, modernization and updates to the Open Meeting Law.

ANDY MACKAY (Executive Director, Nevada Franchised Auto Dealers Association):
I echo the comments made by my colleague from the Las Vegas Metro Chamber of Commerce. An open government leads to a responsive government. We support A.B. 70. Additionally, as someone who served on a public body for years, I applaud the Legislature for continuing to look at the Open Meeting Law and make changes where needed.

JOHN FUDENBERG (Clark County):
Clark County supports A.B. 70.

MICHAEL PELHAM (Nevada Taxpayers Association):
The Nevada Taxpayers Association opposes A.B. 70. The escalation of fines in section 12, subsection 4, paragraphs (a), (b) and (c) are unnecessary given that a $500 fine is already in place for Open Meeting Law violations. These escalating fines will cause good Nevadans to second-guess volunteering on public boards.

CHAIR PARKS:
We will close the hearing on A.B. 70 and open the hearing on A.B. 362.

ASSEMBLY BILL 362 (1st Reprint): Revises provisions governing the confidentiality of the personal information of certain public employees. (BDR 20-763)

ASSEMBLYMAN OZZIE FUMO (Assembly District No. 21):
Nevada Revised Statutes 247.540, NRS 250.140 and NRS 293.908 provide that confidential information of certain public employees, such as judges and district attorneys, may be kept confidential subsequent to that employee obtaining a court order. *Nevada Revised Statutes* 481.091 identifies persons eligible to request that the Department of Motor Vehicles lists a different address on their driver's license or identification card. It is proper that their personal information be kept private because these employees make decisions which alter people's lives. There is nothing more life-altering than taking away a person's liberty in criminal cases. The situation can be devastating and, sometimes, offenders seek retribution on the employees who make those tough decisions.

There is nothing more devastating in the civil law arena than removing a child from the home. The termination of parental rights is the death penalty in the family court arena. Social workers are sanctioned to carry out the most heartbreaking of orders. In Nevada, personal information of the social worker is a public record. Because of that, social workers are often threatened with bodily harm, death and the death and kidnapping of their own children.

Assembly Bill 362 amends parts of NRS 247.540 and the NRS sections mentioned previously to allow the personal information of a social worker to be deemed confidential upon application to and decision by a court.

MICHELLE MAESE (Service Employees International Union):
I am the Chief Steward for the Supervisory Unit of the Service Employees International Union and an employee of the Clark County Department of Family Services. I am reading my written testimony in support (Exhibit E).

SENATOR SCHEIBLE:
I discussed this bill with Ms. Maese. I like this bill because it is an important issue, especially as a person who benefits from my information being kept confidential. In your conversations with county administrators and other people who will implement this bill, is there a good public policy reason that the law does not allow everybody to make their information confidential?

ASSEMBLYMAN FUMO:
I do not know of a good reason why anybody could not make their information confidential. If you have seen the movie *Cape Fear*, defense attorneys should be allowed to put their names on the confidential list too. I do not have an answer to that question.

SENATOR SCHEIBLE:
At some point, regulations should allow people to decide for themselves if the confidentiality policy makes them feel safer. For example, a social worker's family members, victims of domestic violence or crimes, investigators and a defense attorney should be allowed to keep their information confidential.

ASSEMBLYMAN FUMO:
I agree 100 percent that confidentiality makes sense if a person is a victim of domestic violence or other similar issues. A person must obtain a court order to have the information become confidential. A person cannot request confidentiality for a frivolous reason.

When this bill was heard in the Assembly Committee on Government Affairs, the Clark County managers requested that all county managers be allowed to include their positions in the bill as well. There are only 17 county managers in the entire State. I considered it a friendly amendment, and the bill passed out of the Committee with that amendment.

FAIZA EBRAHIM:
I have been employed with the Department of Family Services for 14 years. I will read from my written testimony in support of A.B. 362 (Exhibit F).

ELLEN BEAUCLAIR-HARTER:
I am a caseworker for the Clark County Department of Family Services. I support A.B. 362. I have worked with the Department for nearly seven years. I regularly work with families in situations involving abuse and neglect.

I have been threatened several times by clients who indicated they knew or could find out where I lived. I filed a protection order against a client due to threats and intimidating behaviors. In this instance, I was in the client's home assessing a situation. The client was agitated and under the influence of illegal substances. The client had unmanaged mental health issues and a criminal history. The client was pacing back and forth, punching her fists and indicating she knew where I lived and followed this with threats to me and my home. I felt the threats were credible based on training and my experience. I am vulnerable, victimized and unsafe in my own home after such interactions.

I have spoken with some of my coworkers. One indicated she refuses to be on social media and has a safety plan to protect herself and family from possible threats. A supervisor indicated a client with unmanaged mental health issues came to the supervisor's home and left a threatening note on his wife's car. There are numerous other stories shared by coworkers who feel exposed and vulnerable in their homes.

These are regular threats and concerns of Family Services employees. There is a daily concern that a client may show up at an employee's home to intimidate, threaten or harm the employee. Family Services employees work to secure the safety of children but, in turn, the employees have to worry about safety in their own homes.

CAROLYN MUSCARI:
I have been a Court Appointed Special Advocate (CASA) worker for 37 years. I worked 18 years as a domestic violence victim advocate. I understand how dangerous the job can be for social workers because it was a dangerous job for me. Social workers go into people's homes where it can be unsafe every day.

Even a court's parking lot can be unsafe for social workers. I have been in the social worker's situation and understand what the workers are going through.

I received a call one night around 10:00 p.m. from a person with an accent. The person said he or she knew where I lived. The person told my husband that he or she knew I worked at a safe house and also knew what kind of cars my husband and I drove. The scary thing was that the car my husband drove was not registered to us. It was a work vehicle. I knew, then, the person calling had been at my house. I called the police; the police were able to trace the call back to a valet department at a casino. I was aware of a person who worked in that particular casino department from one of the cases I was handling at work. I knew from where the call was coming.

It is a scary situation. The police have guns when they go out to people's homes. Judges in the courthouse have protection. Social workers go into the field every day not knowing what they could be walking in to. Social workers deserve to have the same protection that others in these types of dangerous positions have.

I support A.B. 362.

EARL EJ BARNES:
I will read my testimony in support (Exhibit G).

HEATHER RICHARDSON:
I will read my testimony in support (Exhibit H).

PAULA HAMMACK (Assistant Director, Department of Family Services, Clark County):
I will read my testimony in support (Exhibit I).

TIFFANY FLOWERS-HOLMES:
I will read my testimony in support (Exhibit J).

DENA SCHMIDT (Administrator, Aging and Disability Services Division, Department of Health and Human Services):
Our Division provides elder protective services. Our Division receives and investigates allegations of abuse, neglect and exploitation of seniors.

Senate Bill 540 was introduced this morning. It will expand our authority and allow us to serve all vulnerable individuals from the ages of 18 to 59, in addition to persons at the age of 60 and older. The work of protective services is a dangerous job. The social workers from the Aging and Disability Services Division have faced similar situations as well. I will not repeat the horror stories.

SENATE BILL 540: Revises provisions relating to vulnerable persons. (BDR 14-1201)

During the initial hearing on this bill in the Assembly Committee on Government Affairs, our agency worked with Assemblyman Fumo and the sponsors to add Adult Protective Services social workers to this bill. The reprint of this bill did not include this request. Our agency supports this bill and wants to place its interpretation of the bill language on the record. The language "performs tasks related to child welfare services or child protective services or tasks that expose the person to comparable dangers" includes social workers who have comparable jobs in protective services for populations other than children.

We appreciate the sponsor working with us. We appreciate the willingness to clarify and ensure all protective service social workers receive the same protections.

MR. FUDENBERG:
Clark County thanks Assemblyman Fumo for working with the County in bringing this bill forward and, more importantly, recognizing the sensitive and difficult job the social workers at the Department of Family Services do. The Department has an amazing group of people. This is one small measure to keep the social workers safe. We support A.B. 362.

JEN CHAPMAN (Recorders Association of Nevada):
I am a Storey County recorder and speak on behalf of the Recorders Association of Nevada. Recorders are required to keep information forever. Ensuring full access to unaltered legal records across multiple formats in perpetuity is an important aspect of the functions and duties of the recorder's office.

Continued open and transparent access is an important part of the local economy's development. An individual or business entity is enabled to leverage owned assets and capital through recorded land records and the constructive notice process. We ask for a continued careful consideration of the individuals

provided confidentiality status in land records. Small changes could have a broader impact on the courts through increased caseloads and be a preliminary step to a nonpublic land record system.

As it pertains to A.B. 362, we support marking information "confidential" for public employees such as social workers or individuals who perform child welfare or protective services tasks. However, we are hesitant to agree to increase the confidentiality status to more than the individuals listed in this bill or to those already granted confidentiality.

Certain individuals need protection. We support people who work for the greater good and put their own safety on the line. We extend a heartfelt thank you to these individuals.

Redacting residential addresses is seemingly simple on the surface, but not only does it change the way recorders provide access to records, it could undermine the concept of constructive notice. Over time, redaction of information could effectively lock or heavily delay the processes of home buying, selling and refinancing.

A key element is that once information is deemed confidential in our office it remains confidential. The mechanism to mark confidential information as public through a court petition is rarely used—if at all. On the contrary, when a recorder's office marks information or records as confidential, the records remain confidential for as long as the recorder's office maintains the record, which could be forever.

Safety and security are concerns of all public entities and citizens. The line between confidentiality and public records continues to be a complex and nuanced topic within the public and private sectors and will continue as such for years to come.

However, recorder's offices are public agencies charged with the responsibility to collect, provide, maintain and protect information. We seek to continue protecting the public's interest in land records to support an individual's future ability to buy and sell real estate. We also seek to be known as a state in which purchasing land is achievable and development is supportive. We do not want to be known for a cumbersome and unsuccessful process in which access to public records or information has eroded over time.

Legislation that restricts access to information contained in recorder's documents could pose a risk to the constructive notice process. We request careful consideration of redaction bills.

VICE CHAIR SCHEIBLE:
Is it possible to move to a system where an ID number is utilized? The number could be kept in a recorder's office and shared with those purchasing property but not made available on the internet to the general public.

MS. CHAPMAN:
I cannot answer that question. I do not have the legal expertise to answer that.

This scenario would be hard for a recorder's office because it already maintains several series of information through multiple formats. Having a placeholder of any type could possibly work. Any change would be on a future basis. Any information a recorder's office marks confidential today could have already been passed on to title companies and the like in the past. Entities are still going to have unredacted records. There is nothing a recorder's office can do to change what prior information was shared because the records were public when they were ordered.

VICE CHAIR SCHEIBLE:
I understand. We appreciate all the work done by the recorders' offices.

SENATOR OHRENSCHALL:
Is the confidentiality system for law enforcement or judicial officers an obstacle for recorders in the State? The confidentiality process in this bill is already in place to protect the confidentiality for some people involved in the court process. This bill seeks to expand the provisions to a group of people who are in dangerous positions, which is not much bigger of a group.

MS. CHAPMAN:
We understand it is necessary to protect people who need it. The process is not a problem now. "But, one piece of rice won't feed a family, but the whole bag can." The issues arise long after properties are bought and sold. Considering how long records remain confidential, people can move or pass in that time, but in 50 or 100 years, recorders and the public will see the effects.

We want to support this bill. We need to protect employees in dangerous positions. I have family members and friends who need protection. But from a land perspective, constructive notice is such an important part of people being able to buy and sell land. Federal law dictates closing periods for land purchases. Recorders are afraid that, over time, the process will be delayed depending on the turnaround time and the amount of information recorders have to redact.

DAVE DAWLEY (Nevada Assessors' Association):
Every session, legislation expands the list of people who can have their information marked confidential. These statutes create a special class of public employees. Government employees have to enforce all the codes and undesirable actions required by the government.

Marking records as confidential closes transparency in government. The public wants to know that similar properties are being taxed or assessed the same. The way the law is written, the public will not have access to assessment information. For example, my neighbors will not be able to tell whether their houses are being taxed or assessed the same as mine.

This bill creates a confidential process only for government employees. There are legal ways and methods by which people can get their names removed from the rolls. This can be done through trusts, LLCs, corporations and the like. Unfortunately, a person may have to pay money in order to utilize those mechanisms.

The assessors are concerned that as more people are able to take their information off the rolls, the more likely corruption could develop later on.

SENATOR OHRENSCHALL:
The government employees are a special class by virtue of the dangerousness of their jobs and situations the employees face. We aim to protect public employees who put themselves and their families in danger. If a person or organization wants to know the assessed value of a piece of property, could the person or organization petition a court to obtain the information? I do not see how this bill will prevent the finding of information as to the tax rate or assessed value of a piece of land.

This bill will protect the identity of a person who is in a dangerous situation because of his or her work.

MR. DAWLEY:
Why would an average working or retired individual petition the court to find out if the next-door neighbor is being assessed the same as he or she is? This is not logical to me.

A person can use other options to remove his or her name from the rolls. Removing information from the assessor's and recorder's rolls only removes part of a person's information. Anybody can go online to <Spokeo.com>. Spokeo knows more about me than I know about myself. A bunch of websites rate people and perform similar functions. I do not know how the websites are getting the information.

Removing information from the assessor's website closes transparency in government but does not close the ability for people to find where other people are located. People can just get the information somewhere else on the internet.

ASSEMBLYMAN FUMO:
I understand the neutral testimony although it sounded like opposition testimony. Keeping the records closed perpetually could be modified with a court order. For example, a judge can state that if the property is ever transferred or sold, it becomes a public record unless the new owner makes an application for the records to be sealed again.

As for the nosy neighbor, if the public can find other private information on the internet, the public can find the property tax people pay even it if is not disclosed through the assessor's records.

If this law saves one life, it is worth it. I urge your support.

SENATOR GOICOECHEA:
How do the websites obtain private information? I can Google anybody and find where they live, the street address and a number of names to match up. Clearly, the information does not all come from public records. The problem of social media concerns me, not the fact that we need to require our elected officials to redact these records. Redaction is just one piece of it.

ASSEMBLYMAN FUMO:
I do not disagree with you one bit. Information is on social media. A person can find other means of getting other information.

VICE CHAIR SCHEIBLE:
I will close the hearing on A.B. 362.

Mr. Ott will come to the table now for final comments on A.B. 70 before we move to the next bill.

MR. OTT:
I will address the concerns on the escalation of fines. The fines only apply to a person who knowingly makes a violation. If a person makes an innocent violation, he or she would not be subject to fines. The provision allows members of public bodies to rely on the advice of the body's legal counsel. If there was a close call or concerning decision, members would ask their counsel for guidance and be entitled to rely on that information. The increased fines only apply to someone who has repeatedly made knowing violations of the Open Meeting Law. The fines are appropriate.

VICE CHAIR SCHEIBLE:
We will open the hearing on A.B. 212.

ASSEMBLY BILL 212 (1st Reprint): Revises provisions governing the confidentiality of personal information of certain persons. (BDR 20-620)

ASSEMBLYWOMAN ALEXIS HANSEN (Assembly District No. 32):
I am presenting A.B. 212. Alex Woodley, who is from the City of Reno Code Enforcement Division, is here with me today.

This bill is similar to A.B. 362 presented by Assemblyman Fumo. This bill deals with a smaller number of people but looks to do some of the same things. This law exists to protect a limited number of public officials from harassment and retribution from individuals who may seek revenge or feel like they are not being treated fairly.

Under NRS 247.540, certain public officials are authorized to obtain a court order requiring county assessors, recorders, the Secretary of State or a city or county clerk to make certain personal information confidential. This provision

also applies to family members of those seeking a court order. Personal information is defined in NRS 247.520 and includes a person's home address, telephone number and email address. Statute also allows the same individuals to request identification with an alternative address from the Department of Motor Vehicles.

Justices, judges, certain court personnel, prosecutors and State or county public defenders are authorized to have personal public information held confidential. Assembly Bill 212 allows code enforcement officers and their families the same protection within statute. The bill limits the confidentiality provision to code enforcement officers who have direct contact with the public.

Why do code enforcement officers need such protections? Code enforcement officers are tasked with enforcing the laws, ordinances and codes of a city or county. These tasks require the officers to issue citations to property and business owners. Unlike a police officer who may issue a misdemeanor or a speeding ticket or make an arrest—and probably never see that person again—code enforcement officers commonly deal with the same violator for months or even years. Although the initial contact with a violator may consist of a courtesy letter, the communications commonly last a long time and may include thousands of dollars in citations and other enforcement actions. This constant level of communication may lead to people feeling the code enforcement officer is targeting them, and they may view the interactions as personal.

Based on my discussions with those affected, code enforcement officers receive threats on a regular basis while on the job. Interactions with repeat violators can become confrontational and, in some instances, become physically violent. In neighboring states, confrontations between code enforcement officers and violators have resulted in deaths.

This bill has caused consternation for our assessors and recorders. The assessors and recorders made their concerns known as we worked on this bill in the Assembly. I do not take their concerns lightly. I am a licensed real estate agent and know how important access to parcel information is. I am a fan of public records access.

We are treading in an area which could cause discomfort for the assessors and recorders. The problem is more of a data systems issue. I am not a techie, but having searched records, maybe a number could be utilized instead of a name.

When you look at a parcel in Washoe and Clark Counties, the name is redacted but all the parcel information is there. However, the software may not be similar in other counties. Software updates are expensive. The State is dealing with data system issues with many agencies.

When the assessors and recorders come to the table, maybe they can provide information about software updates that may occur in the summer. It is possible the updates might address the problem.

ALEX WOODLEY (Code Enforcement Manager, Code Enforcement Division, City of Reno):
In the City of Reno, the public has the ability to anonymously submit complaints or express concerns regarding a neighbor or a business throughout the City. A similar process exists in other cities and counties. The City ensures the public does not need to worry about retaliation. A person can avoid conflict by calling the complaint in anonymously. This is a positive service for our residents.

Unfortunately, the code enforcement officers who go into the field do not have the ability to remain anonymous. Code enforcement officers report to a scene, identify and address the violation and inform the individuals that we, as code enforcement officers, representatives of the City, are the complainants.

There have been murders of code enforcement officers in other states throughout the U.S. This past winter, a code enforcement officer in Utah was shot and her body was set on fire. In 2014, California enacted the Cynthia Volpe Act. Cynthia Volpe was a code enforcement officer. A person she was dealing with researched her personal information, found out where she lived and killed her and her family members. This was a horrific incident. Unfortunately, such incidents continue to occur. Nevada has not had that violent of an outcome.

Code enforcement officers regularly receive threats from individuals making statements such as, "How would you like it if I came to your property and did this to you?"

We deal with individuals for an extended period of time. The City of Reno has 473 cases which have been open for over 8 months. In some cases, we have been in contact with those property owners for years. The officers' actions result in abatement, removal and demolition of property as well as the issuance

of thousands of dollars in citations. The City's actions create an unjust relationship where individuals feel the problem is the City's actions and not the individual's failure to obey the rules and laws.

Washoe County has 12 code enforcement officers. There are over 90,000 parcels in the City of Reno. Twelve code enforcement officers will fall under the protected category in this bill out of a population of over 450,000 individuals in Washoe County.

Code enforcement officers have concerns because of the contentious relationships with violators. We seek to be treated similarly to officers in other enforcement capacities. Code enforcement officers deal with individuals who are irate, aggressive and resourceful in finding information. The officers diffuse situations, but those who have young children at home are concerned their family members may be visited by one of the individuals the officer is dealing with on a regular basis. Code enforcement officers receive force-on-force, hands-on and defense training—family members do not.

We ask for your support of this bill.

SENATOR OHRENSCHALL:
Have there been threats or acts carried out against code enforcement officers in Reno?

MR. WOODLEY:
Yes. We have received threats. We notify the police department and visit the location of the individual. Typically, the threatening individual's response is "I was just upset in the moment." We have yet to reach the point of having to create a report because there has been no bodily harm—just threats. Our code enforcement officers have faced situations where they were able to avoid attempted physical contact. We learn of those situations after the code enforcement officers return. There is nothing that can be done in that moment since the offenders are no longer available.

DRAKE RIDGE (Las Vegas City Employees' Association):
We thank Assemblywoman Hansen for bringing this bill forward and urge you to support it.

CHRISTY BRUNNER (Compliance Investigator, State Board of Massage Therapy):
I inspect all massage establishments in northern Nevada from Lake Tahoe to the Utah border and down to Hawthorne. I work closely with law enforcement and local jurisdictions. Sometimes, I am the first to discover problems such as elicit activity or human-trafficking indicators.

This puts me in a precarious position. I will benefit from the protection of this bill. I support this bill and appreciate your consideration.

SANDY ANDERSON (Executive Director, State Board of Massage Therapy):
I am testifying in support of this bill. I thank Assemblywoman Hansen for her assistance with this bill.

Our licensees are sometimes involved in discovering human trafficking, both labor and sex trafficking. Our inspectors are the first line of enforcement and often provide information to federal and local law enforcement. As such, we have experienced threats within our agency.

I ask you to support this bill to protect the public employees who are on the front line of the human trafficking fight. An incident in Florida that recently made national news involved a massage therapy inspector in the field who was the first to identify the trafficking. We have three inspectors doing the same thing in Nevada.

I beseech you to give the inspectors the protection this bill provides.

BIANCA SMITH (Compliance Inspector, State Board of Massage Therapy):
I handle the massage therapy compliance tasks in the five counties in southern Nevada. I urge you to support A.B. 212. There are a lot of news stories and testimony before you today related to the massage industry. We are asking to be included for the protection of our families and ourselves, as well as the protection of the future inspectors and compliance officers who will come through the State Board of Massage Therapy.

MS. CHAPMAN:
The Recorder's Association of Nevada is neutral on this bill. We extend our thanks to Assemblywoman Hansen and the stakeholder group for working with us to minimize the impacts of this bill on records contained within a recorder's office.

MR. DAWLEY:
The Nevada Assessor's Association is testifying in the neutral. At what point are we going to stop the total disregard for transparency in government? This bill includes all sworn and nonsworn inspectors which includes massage, cosmetology and restaurant inspectors. This bill does not just include the 12 officers alluded to before. It opens the door for a lot of other people.

There are other ways in which people can get their information protected, and we prefer people do that. This bill is creating a closed-off government. We do not agree with that.

DENI FRENCH:
I have been threatened verbally and physically as a security guard but nothing to the degree heard today. Those stories shake me. I am appalled that we cannot support those workers in other ways. We live in a time where privacy does not exist. To try to cordon off certain groups to suggest we can keep their information private does not seem realistic. If confidentiality were to be extended to everyone, we could not keep things transparent.

How do people in any governing position or those in the line of fire with a person who is angry, demented or unmedicated protect themselves from too much exposure of their information?

While I support everyone here and their work, CASA never advertises this type of thing as an outcome of a person's involvement. Certain positions have an underlying understanding that a person is putting himself or herself in danger.

I see this bill as a slippery slope. The protections needed have to be found another way. This could be accomplished by saying that if a person sells personal information or makes it publicly available, then the person is breaking the law. Another option is when an employee wears a name tag, the name tag would include a number instead of a name. Those type of solutions might divert people who are not entirely driven to follow through with their threats.

This Legislative Body cannot stop people from disregarding a person's privacy. Until that is possible, we have to keep embracing groups of people who put themselves in danger just by being a politician or people such as myself in a low-level security situation. This Body cannot cover everyone.

People in positions who are threatened need to have the support not only of the court but the police departments and other similar agencies.

I am in a neutral spot while wanting everybody to be protected.

ASSEMBLYWOMAN HANSEN:
This bill contains opt-in language. This bill does not make the confidential process mandatory. The bill gives the code enforcement officers the ability to apply and go through the necessary process. Code enforcement officers are similar to law enforcement because they are enforcing the laws and ordinances and placed in risky situations on an almost daily basis.

I thank those who testified in support as well as neutral. I appreciate the information provided in their comments.

CHAIR PARKS:
We will close the hearing on A.B. 212 and open the hearing on A.B. 371.

ASSEMBLY BILL 371 (1st Reprint): Temporarily requires the reporting of certain information relating to requests for public records by certain governmental entities. (BDR S-16)

ASSEMBLYMAN SKIP DALY (Assembly District No. 31):
I am presenting A.B. 371. This bill is meant to provide a method to temporarily gather information. The original bill stated that local government entities could not deny a request for public records unless statute designated the record as confidential. The original bill would have eliminated the balancing test and several other things. People did not like that bill. The more I thought about it and received input, the bill potentially would have created some unanticipated openings—made things public—and we would have had to wait two years to correct it.

I shifted gears, held a couple of stakeholder meetings and put in a conceptual amendment in the Assembly which got us to where we are now. I have held stakeholders meetings since then and plan on another to try to get the issues resolved. I talked with Rick Combs, the Director of the Legislative Counsel Bureau (LCB), to see if the LCB could provide a platform to collect information on the questions asked in this bill through an internet portal. The Legislature has had public information request bills every session during my time as a lobbyist

and as a Legislator. We are trying to fix a problem for which we do not have all the information. I seek to change this pattern by gathering information to determine what types of requests are coming in.

The information this bill seeks from public records requests includes who is asking for the information—if known—and information about the results. For example, how long it takes to reply, the amount of any fee and the reason provided for any denied requests. I have had a range of replies from public records requests, some supported within the law and some not. The only option I have is to sue the person who denied the information. I want to avoid that situation.

I did not want to burden every entity in the State. There are too many. Clark County has 38 departments. Some agencies have reported having 300,000 information requests each year. That is too large of a volume to manage. Therefore, we limited the request for data down to a cross section of cities, counties, school districts, agencies within the cities and counties, and one State agency. The Department of Corrections, so far, has not had too many problems with the direction we are headed.

We are still working on some concerns raised in the stakeholders meetings, including the fact that a couple of agencies listed to collect this information in this bill are elected positions, specifically, the county assessor and district attorney. The counties do not have control over those offices to require them to provide this data. We are looking to find different offices that are not elected to eliminate that conflict. Most of the cities route all public records requests through the city clerk's office. Therefore, I deleted the cities in those groups that work together from the list. We are trying to get the language so everybody is as happy as possible.

We are looking at changing the report period from 120 days to 30 days. We are trying to get a cross section of information through the LCB platform to provide a base of information to analyze without too much burden on the entities. What are the problems? Maybe the problems are not as significant as we think. Maybe there are things we have not identified because we have not come across them. I have had good experiences with some agencies and bad experiences with others. Collecting the information is key for us as Legislators to be able to make corrections on any of these issues.

There is an amendment from the City of Henderson. I will let them talk to that. I have reviewed it and do not have any issues with the amendment.

A couple of ideas have come forward. One idea is we do not need legislation at all. The State can issue a memorandum of understanding to have the entities provide this information. The LCB does not agree with that approach. The LCB needs legislation if it is going to build a platform to collect data. It is not that I do not trust the bodies to do it, but we need something in writing.

Another idea, which we will explore in the stakeholder's group, is to have a task force look at the issue in the Interim. This would not be performed as a study but would involve having the Nevada Association of Counties and the Nevada League of Cities invite as many people as they want to get the information we need. We will explore that idea more.

In the meantime, there will be a platform. I am telling all the people who are here. We need to get this information. Some people are going to come in neutral—some in opposition. I am going forward with something, so I am asking them all to help me make it as equitable and easy to work with as possible. "I ask the stakeholders to not leave me to my own devices as they may not like what comes out." We plan on working on this more and moving along those lines.

I acknowledge this bill is not quite ready yet but did not want to pass the opportunity of a public hearing on this issue.

I am placing all the stakeholders on notice that I plan on going forward, and I will take as much input as I can. We will get this bill as good as we can, but if it is not perfect for everybody, we are going forward with something. That is my plan.

DANIEL HONCHARIW (Senior Policy Analyst, Nevada Policy Research Institute):
I am reading my testimony in support (Exhibit K). We thank Assemblyman Daly for bringing A.B. 371 forward.

RICHARD KARPEL (Nevada Press Association):
We often hear government representatives say things such as "the public records system in Nevada works," or "we are the X Y Z most transparent agency in America."

The reality is nobody in the State really knows how the system operates nor how it is implemented. Some requesters and government workers know their part of it, but nobody has a big picture of how the system works.

Assembly Bill 371 seeks to address that problem by obtaining information on what types of organizations submit requests, how long it takes to get a response, how often requests are denied and the reasons cited when a request is denied. Assembly Bill 371 will begin to answer those questions and give us a common set of facts we can agree to.

Those facts will help lawmakers determine the best way to ensure the public records system in the State is as safe and transparent as possible.

For those reasons, the Nevada Press Association supports A.B. 371.

DYLAN SHAVER (City of Reno):
I have been working with the sponsor on this measure. The memorandum of understanding idea he floated was mine, and I failed to get all the appropriate parties on board. For being so short, this bill does a good job illustrating how the governments in this State are organized differently.

For example, section 2.5 assigns responsibility of carrying out this bill to the person responsible for responding to public records requests. Under NRS 239, the Governor is given the opportunity to designate such a person for every agency within the State government. Local government levels are not given that sort of discretion. All agencies in the City of Reno are public records responders. As a public employee, nothing in NRS 239 states that I can deny a public records request just because I am not the person designated to be the responder.

This bill assigns responsibility to a person who in many of these governments and agencies does not exist. Section 2.5, subsection 1, paragraph (b), subparagraphs (1) through (3) reference the public records coming from the department responsible for public works, the office of the city attorney and the office responsible for planning. The term "planning" may possibly mean municipal long-range planning, but, realistically, there are multiple planning departments, including my own. We think we understand the intent, but the bill does not get us there.

Every city in this State is organized differently. The cities' procedures for processing these requests are also different. In that regard, we believe the intent of the bill is not to require training on the platform referenced by Assemblyman Daly—which we know nothing about—for everybody in the public works department. Rather, the public works employees will need to collect data to input into a system if requests for public records are received by those employees. There is no one person who handles these requests.

Our City's policy is that all requests for public records go through the City Clerk's Office. The City of Reno was the first to offer to collect through the Clerk's Office the data sought for this bill. We thought that approach is a straightforward solution in getting the information requested in this bill.

While the City of Reno can offer to collect and provide that information, it does not mean other cities are organized in such a way to allow that. It is part of our sovereign responsibility to our citizens to organize our municipalities in a way that best serves the citizens. To force all municipalities into one box gets challenging.

This is why I made the suggestion that this measure does not require a bill. The State could just request the local governments provide this information. Every entity involved could determine the best way it could do that. I could not get the buy-in from all the applicable organizations necessary to accomplish this.

Section 2.5, subsection 3, paragraph (a) requires entities to report the type of requester, if known. The City of Henderson has an amendment on this language to specify that entities do not have to ask for that sort of information. It is not good customer service to ask the political party of someone requesting a public record. It is also not good customer service to submit the information based on the suppositions of our employees.

The public has the opportunity to ask for a public record. Our responsibility is to fulfill the request. We want to ensure that we preserve our relationship as public servants. We are not certain that collecting data surreptitiously, even if we are not required to ask any questions to get it, is a good customer service practice. That would be akin to collecting metadata. This Legislature has passed bills prohibiting our dissemination of metadata. We want to be careful with these sorts of things.

On page 3 of the bill, lines 7 and 8 talk about the type of privilege cited for the denial. Under NRS 239, if a municipality or agency denies a public record request, the entity is required to inform the person requesting the information as to why the request was denied. However, the entity is not required to cite the authority but to give an explanation on denials which involve the various court-authorized tests we may use. The person responding to the request may not know the authority behind the direction he or she is given.

The City of Reno is willing to collect this information, but it becomes challenging to comply when the request is put on paper like this. The City wants to ensure its organization is as open as possible. We want to comply with whatever this Committee decides to do. However, I do not want to paint a rosy picture of our ability to put this in a bill. What our municipality can agree to might offend another city or county.

We will continue to work with the sponsor to bring forward a workable piece of legislation. I am not certain what that would look like.

DAVID CHERRY (City of Henderson):
Nevada Public Records Act (NPRA) is working. The vast majority of requests received by the City of Henderson are fulfilled at no cost. The average response time is within half a day, and most requests are fulfilled in less than two days. The City is able to provide this high level of customer service even while processing an enormous volume of requests. In 2017, the City received over 13,200 requests. In 2018, the City received 15,397 requests, bringing the total to more than 28,000 for this 2-year period. Through April of this year, the total has grown to more than 31,800 requests. At this rate, the City projects that by the end of this year it will reach 45,000 requests in this 3-year period.

The City questions the underlying premise of the need for wholesale changes to law, which seems to be the sponsor's long-term desire.

I thank the bill's sponsor for allowing us to bring the amendment (Exhibit L) forward. The amendment is important for two reasons. First, we seek to add language to clarify that an entity can count a request which is still in the process of being fulfilled in the dataset required in the bill.

Section 2.5, subsection 3, paragraph (b) has three categories in subparagraphs (1) through (3): provided in complete form without any

redactions; provided with redactions; or denied in whole or in part. The addition we are seeking will add a category of "in process" for requests that are in the process of being fulfilled. This will be accomplished by adding a subparagraph 4 to section 2.5, subsection 3, paragraph (b).

The second portion of the amendment adds a paragraph to section 2.5, subsection 3. This language is an important protection needed in the bill. As Mr. Shaver explained, the original language of the bill puts local government employees in a position where they must ask a private citizen or other requester a series of questions about who the requester is and why the information is being requested. This situation could put the employees in a situation where they will not have the ability to compel somebody to provide the information. The amended language is needed to make it clear that entities are not required to ask for the information called for in section 2.5, section 3, paragraph (a). That information includes:

> the type of requester, if known, including, without limitation, whether the person who made the request was a private citizen or a representative of a media organization, nonprofit organization, corporation based in this State, corporation based outside this State, political party or labor union.

There are instances where a requester may volunteer that information when making a public records request. However, that is often not the case.

There is no ability under NRS 239 for an entity to require a requester to provide any information about who they are or why they are requesting a public record. It is common for the City to receive anonymous public records requests. The City had one anonymous person submit 67 electronic requests for records in a 48-hour period.

This language is also necessary to ensure entities are not caught in a Catch-22 where the entities cannot refuse to provide a record to a requester unless the requester answers questions about identity, political affiliation, profession or any of the other areas included in A.B. 371. As we read the bill, entities are potentially in violation of the bill's requirements if the requester does not provide this information. This amended language is needed to protect entities from being in the position where they need to comply but at the same time put themselves at risk of running afoul of NRS 239.

The City shares the concerns about language in this bill such as the term, "denied in whole or in part" or what constitutes a denial. It is common that a requester is told a municipality does not possess the record. Is this considered a denial? Our entity would not consider that type of action a denial even though we are not providing the record because we do not possess the record. The language is unclear as to what "denial in whole or in part" means.

The term "departments" as well as the list of reporting personnel referenced in the bill may be different from city to city and county to county.

The limited number of entities singled out for compliance with A.B. 371 will result in a dataset not indicative of the overall Statewide level of compliance with the NPRA or the use of the exemptions by entities covered under the NPRA. This limited number would not provide an accurate way to gauge whether changes to the law are needed. This bill takes a small number of reporting entities subject to NPRA over a small period of time to create a dataset which will not give a clear picture. If the idea is to use this dataset to determine if a wholesale change is needed to the law—a law which is working—this dataset will not give you that accurate of a picture.

Until we can see the amendment from the bill's sponsor, we cannot render a final judgment regarding A.B. 371. We will remain in opposition until we have amendment language to review.

We look forward to continuing to work with the sponsor and be part of discussions. We have participated in the working groups convened by the bill sponsor and are available to continue to do so.

MR. GUTHREAU:
I appreciate the testimonies from the cities today. I will give a county perspective. The Nevada Association of Counties and other county members have been working with the sponsor. We remain concerned about and opposed to the bill. Numerous conceptual amendments and the nonlegislative solution have been suggested. A conceptual amendment was presented in the Assembly Committee on Government Affairs in a work session that did not allow for feedback. As the sponsor has acknowledged, the amendment did not address everyone's concerns.

Counties do not have one central place where they receive requests for public records. Counties are structured in a way that most of our departments are independently elected. Counties do not track every public records request, reason for redaction or, in a rare circumstance, denial for the request. While the County employee may provide this information to a requester, the counties do not have a central database through which to track this information.

This bill has created some confusion for counties as there seems to be a moving target on the desired outcomes and goal of the bill. Counties are being asked to create an entirely new process to track and report on public records requests that, as a county, cannot be forced on independently elected offices. This new process is being asked for by an arbitrary date in order to conduct a public policy experiment.

The counties are interested in working with the bill sponsor. The counties are concerned about what information they are being asked to collect or know, as others have testified today.

The counties will continue to work with the sponsor on this bill. However, given how far apart we are in reaching an agreement, we lack the needed time to come to a solution. The working group meetings have not garnered any further understanding of our outstanding issues.

We remain concerned about compliance and implementation. The issues remain problematic for the counties.

MR. FUDENBERG:
Clark County is opposed to this bill. I ditto the previous testifier.

CHAIR PARKS:
I am familiar with Clark County. Many agencies have several different offices, for example, planning offices. Comprehensive planning is one example, but many different offices are involved in planning. If I am reading this bill correctly, each and every one of those offices will have to track the requests they receive. Requests are periodically directed to different departments. Some requests would be coming in and some would be going out. Can you talk to any of this?

MR. FUDENBERG:
Therein lies the problem. The bill is unclear on who exactly would be requested to maintain and provide this information. We look forward to continuing to work with the sponsor. We are not sure which of those planning departments will be responsible for this as the bill is written.

MARY WALKER (Carson City; Douglas County):
We oppose this bill. We do not understand the intent of the bill. It targets 15 local governments in the State, including 5 schools. There are 250 local governments in the State. If the intent is to get information on how public records requests are being handled in local governments, 15 out of 250 entities will not provide enough information to then extrapolate the results out to 250 entities.

The bill needs to take a more thoughtful and deliberative approach. We are concerned about the 120 days. That is too long of a time period. We are concerned, in particular, about asking people's political affiliation. If I were going to a local government to ask for public records and someone asked me my political affiliation, when all I am trying to do is find public records, I would be upset. This request makes local governments political. We are not political. We are the government. This is a bad precedent.

We are also concerned that we had no opportunity to testify on this bill in the Assembly because it was brought forth on a work session and no testimony was taken. This is the first opportunity we have had to testify on this bill.

We will work with the sponsor. At this point, we are in opposition.

KATHY CLEWETT (City of Sparks):
We oppose this bill. One of our greatest concerns is with section 2.5, subsection 3, paragraph (a). The City is concerned because it should not matter who is asking for any of the information. A letter will sometimes have a letterhead which provides who is asking for information. However, as a matter of course, our employees do not ask for nor keep track of the requester's information. Employees determine if they are able to provide the information requested and keep track of the work they need to respond to within five days.

The mission of local government employees should not be to ask requesters for this type of information or keep track of who was asking for what type of information.

We also had a question on section 2.5, section 3, paragraph (b), subparagraph (1), "whether the request was provided in complete form without any redactions." I do not know if that information refers to the requester or to the agency's response. I assume it is referring to the agency because we are the ones who may respond with a redaction. There are things in the bill that are confusing.

We have been working with the sponsor. The sponsor has been open about meeting and having work sessions with us in order to find solutions. However, you have heard from many testifiers that issues remain. This bill has important and large types of questions to solve. I am concerned there is not enough time in this Session to do that.

KELLY CROMPTON (City of Las Vegas):
I associate our opposition with that of our sister cities which have testified. I will provide two insights from the City of Las Vegas perspective. First, our records request system is an online form. A person submits that information online. This bill requests some information that we do not ask for. The City would need to change its process which could have a fiscal impact on the City of Las Vegas.

The next issue is with the confusion around the denial of a request when the entity does not have the record. The City of Las Vegas often gets confused with Clark County. Individuals requesting information usually come to the City first if they do not know where to get the information they are seeking. A large percentage of our requests for public records are sent to the County because the City does not hold those records. The bill is unclear as to what we would do in those type of instances.

We have been attending the stakeholders meetings and will continue to. We are in opposition until we can see amendment language.

JOHN JONES (Nevada District Attorneys Association):
We are opposed to A.B. 371 as written. We appreciate the conceptual amendment proposed by Assemblyman Daly during his testimony. We look forward to working with him as the language takes shape.

ERIC SPRATLEY (Nevada Sheriffs' and Chiefs' Association):
I do not only represent sheriffs and chiefs but ex officio coroners. Per NRS 259.020, the sheriffs are ex officio coroners in the counties unless the coroners are appointed per NRS 244. We are here in opposition to this bill.

This bill places an unnecessary and unanticipated staff burden on all counties other than Clark and Washoe Counties—the two counties with dedicated medical examiner offices—in terms of tight law enforcement budgets. Law enforcement staff members already perform many additional functions and duties outside of their normal duties. This bill requires another task for which our agencies must find time to develop a standardized data collection procedure through which each agency will compile and submit data for this bill in the appropriate fashion.

We provide public records as requested in our sheriffs' offices. Depending on how arduous the data collection and reporting would be, we would not want to hire additional personnel in order to temporarily comply with this bill.

The jurisdictions throughout Nevada are quite diverse. I could not speculate the impact of this bill. We prefer to focus our expenditures on personnel who provide a real and tangible benefit to public safety in these communities.

Section 2.5, subsection 4 states that a request by a pupil "for the record of a pupil is not a request for a public record for purposes of subsection 2." We want to make sure this language does not undermine the protections afforded by NRS 392.029 and does not inadvertently allow for persons—a pupil or his parent or guardian—to obtain otherwise confidential information on other students. This may lead to bullying or furtherance of other criminal action. If that is not the case, and for the purpose of this bill, a request by a pupil which is otherwise considered an extraordinary use or which might be a large request for information other than that certain pupil's school records, that request should be considered a public record.

We request to be part of the discussion going forward to come to an agreement and move us out of opposition.

STEVE CONGER (Nevada League of Cities and Municipalities):
We oppose this bill for many of the reasons which have already been given.

MR. FUDENBURG:
I failed to state in earlier testimony that I spoke with Jamie Rodriguez from Washoe County. Ms. Rodriguez requested I mention Washoe County also opposes this bill for many of the same reasons already mentioned.

ASSEMBLYMAN DALY:
Eighty to 90 percent of the issues that came up in testimony regarding the coroner's office and the elected officials have been discussed in the working group. I will try to fix them. Another concern related to sampling 250 public entities. I, obviously, did not want 250 entities reporting. If that were the case, it would have belabored the process.

I amended the original bill that would have required local governments to provide records not specifically confidential by statute. Through the working group, it was determined the original bill would not work. I agreed with that. We came up with a potential solution to easily narrow information down through a portal. We created a time frame to provide the information to make the process as simple as possible.

Those changes were suggestions from the people who came up in opposition today. Yes, I put in a conceptual amendment because it had to be done. I did the best I could. Do I think it is 100 percent ready? As I testified earlier, no.

> But when I have people that come up and say, "Well, we want to expand it more now," I find that disingenuous. When I have people come up and say, "I can't understand plain language that says did you provide the record or didn't you, and if you didn't, why didn't you?" Pretty simple language if you ask me and when I have these agencies come up ... and they'll all come and work with me again and we are going to try to do this, which is why I testified in the first place ... that if you don't want to do it and you're gonna say every excuse in the world not to do it, I'm gonna do the best I can

to take your suggestions and come back to this Committee and hopefully will get something passed.

But something needs to be done. It's pretty simple. Get the information. If it is all as transparent and everything is rosy as you say, that's counter to the experiences I've had with many agencies of public information requests I've got at a variety of levels. From what their excuse was, which wasn't by statute, it wasn't under the balancing test, it was some other common law … it happened in Pennsylvania … I will show you a Carson City request I got where they listed ten different things other than the statute. So, it's not as simple as all of these people're making it. It is not as 100 percent, and it is not as clean as they're trying to make it sound.

Some are good agencies and I have had no problems; others are not. I am just trying get some information, the best information we can. Is it going to be 100 percent and perfect? No. But zero information for us to try to base future questions on … and we have had these issues come up every single session—every single session.

So, if they want to just keep hiding the ball, it's fine. Come to the meeting, come to me with solutions, and I am sure I'll consider them if they are reasonable.

CHAIR PARKS:
In your working group, did you talk about possible tracking forms or how you might compile the data to have discrete incidents that could be tallied?

ASSEMBLYMAN DALY:
Yes. This would be accomplished through the internet platform created by the LCB. The entries would be simple and straightforward. The employees would answer questions such as the following: "Did you provide the record? Was it redacted? If it was redacted, then what was the reasoning for the redaction? Did you use the balancing test? Did you use some other common law issue?" If the answers were unknown, the employee would mark the box "unknown."

> I've had agencies tell me that, "Well, we've made a specific record a public record in statute, so because you made that public, that means ... " the expression of one thing is the exclusion of the other. I forget the Latin term ... maybe Senator can tell us ... for the legal term on that, and they'd use that as an excuse, even though public records law says you can't construe the law that way, unless it's confidential.

The employees will answer the questions online, "kind of idiotproof if you will." There will only be so many questions and answers for an employee to provide. The results will be compiled by the LCB. The LCB will provide the results to the Legislative Commission as well as make it publicly available.

This bill came from a suggestion to simplify the request by getting everybody on the same platform to answer the questions.

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CHAIR PARKS:
We will close the hearing on A.B. 371. Hearing no further business, this meeting is adjourned 3:40 p.m.

RESPECTFULLY SUBMITTED:

Becky Archer,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	2		Agenda
	B	9		Attendance Roster
A.B. 70	C	7	Gregory Ott / Office of the Attorney General	Testimony in Support
A.B. 70	D	4	Gregory Ott / Office of the Attorney General	Proposed Amendment
A.B. 362	E	2	Michelle Maese / Service Employees International Union	Testimony in Support
A.B. 362	F	1	Faiza Ebrahim	Testimony in Support
A.B. 362	G	1	Earl EJ Barnes	Testimony in Support
A.B. 362	H	2	Heather Richardson	Testimony in Support
A.B. 362	I	1	Paula Hammack / Department of Family Services, Clark County	Testimony in Support
A.B. 362	J	1	Tiffany Flowers-Holmes	Testimony in Support
A.B. 371	K	1	Daniel Honchariw / Nevada Policy Research Institute	Testimony in Support
A.B. 371	L	3	David Cherry / City of Henderson	Proposed Amendment