

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

**Eighty-First Session
April 22, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:07 a.m. on Thursday, April 22, 2021, Online and in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Nicole J. Cannizzaro, Senate District No. 6

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager
Zachary Khan, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Kyle E.N. George, First Assistant Attorney General, Office of the Attorney General
Daniel Heenan, Assistant Fire Chief, Fire Investigation Division, Clark County Fire Department
Yasmin Conaway, Program Manager, Alliance Burn Care Center, University Medical Center of Southern Nevada

Chair Flores:

[Roll was called.] We have two items on the agenda today, Senate Bill 38 (1st Reprint) and Senate Bill 372. We are going to take them in that order. [Rules and procedures were explained.] With that, we are going to go ahead and open up the hearing on Senate Bill 38 (1st Reprint), and I know we have both Ms. Adair and Mr. George. Whenever you are ready, please.

Senate Bill 38 (1st Reprint): Establishes provisions governing the retention of pro bono legal assistance by the Office of the Attorney General. (BDR 18-409)

Kyle E.N. George, First Assistant Attorney General, Office of the Attorney General:

My colleague, Jessica Adair, Chief of Staff, will be joining you in person shortly. She is currently stuck in the Assembly Judiciary Committee meeting, and I think we can agree that I got the better end of this deal this morning. Under current law, the Office of the Attorney General is granted exclusive authority to represent the State of Nevada on legal matters. There are carve-outs where the Office may retain outside counsel on a contingency fee basis when "the Attorney General lacks the resources, skill or expertise to provide representation in the matter that is the subject of the proposed contract" [*Nevada Revised Statutes* (NRS) 228.111], or the Office of the Attorney General can also retain special counsel if representation by the Office of the Attorney General is "impracticable . . . or could constitute a conflict" [NRS 228.091] that precludes us from representation. Additionally, NRS 353.335 prohibits the Office of the Attorney General from accepting free legal services. The framework formed by these laws creates a unique loophole where the Attorney General's Office may not "lack the resources, skill or expertise" to litigate a matter, but we are unable to accept pro bono legal services from top experts in the field whose guidance may greatly aid the state. This bill is intended to close that loophole by allowing the Office of the Attorney General to accept high-quality legal services or advice at no cost to Nevadan taxpayers.

For the purposes of this testimony, I will be referencing reprint 1 of the bill, as passed by the Senate. The first substantive section is section 6, and that provides explicit authority for the Attorney General to enter into a pro bono contract for legal services when he or she believes it is necessary. Section 7 provides that the Office of the Attorney General shall remain the ultimate decision maker on all aspects of litigation or matters in which pro bono counsel is retained. This provision preserves the constitutional role of the Attorney General as the sole determiner of what is in the best legal interests of the state. Section 8 merely provides that

the Office of the Attorney General shall promulgate a form that must be included in all contracts pursuant to this bill.

Section 9 imposes an affirmative duty on pro bono law firms and attorneys retained pursuant to this bill to maintain billing records related to their work for a period of four years. These documents are public records, but the language of the bill provides that this requirement should not be construed to compel the disclosure of otherwise legally privileged documents. Sections 10 and 11 are intended to provide transparency by requiring the Office to post all pro bono contracts on our website within five days of final signature and provide annual pro bono activity reports to the Legislature.

Nested between sections 10 and 11, however, is a section 10.5 that was offered by our office as an amendment prior to the first work session. Section 10.5 provides that any law firm or attorney entering into a pro bono contract with us is barred from entering into a contract as contingency or special counsel with the Office for a period of one year after the completion of pro bono services. The Office of the Attorney General is committed to bolstering public trust in our government, and we believed that this amendment was an important addition to maintain the integrity of our outside counsel statutes.

Sections 12 through 14 are simply conforming changes, and section 15 of the bill amends the gift statute to explicitly allow the Office of the Attorney General to accept legal services provided on a pro bono basis. That is the walkthrough of the bill. Before I close, I would like to thank the Committee for your time and consideration of this bill. I am happy to answer any questions you may have.

Chair Flores:

Thank you for that presentation, sir. With that, we will open it up for questions.

Assemblywoman Anderson:

Is this only for criminal, or is it for civil as well? Is it for both elements?

Kyle George:

I do not think there is a limitation placed on the language of the bill, but we do envision this as more civil than criminal. The need in criminal matters is certainly less than in civil where there is a broader range of topics that may arise that we may not be as well-versed in.

Assemblywoman Anderson:

Thank you for that clarification. My second question had to do with section 9, with the four years. What was the decision behind that length of time? Because sometimes we do have some litigation that has a longer time frame, obviously with much more in-depth research. I am trying to figure out a little bit more about that decision.

Kyle George:

I believe that is consistent with other public records, other statutory requirements to maintain records. I am not sure of the source of that time period. That was provided by the

Legislative Counsel Bureau. We do want to retain the ability for the public to look back and see the pro bono activity that is coming through our office. However, I do not know of any specific reason that four years was selected.

Assemblywoman Anderson:

Thank you for the clarification. It is basically consistent with other statutes.

Assemblywoman Thomas:

I have one question, and it is for clarification because I am not understanding section 10.5. I wonder why it was necessary to not have a retained attorney or law firm enter into a new contract with the Office of the Attorney General.

Kyle George:

We added that after the bill was originally introduced because we realized there may be some concerns that some law firms are using this as an end run around existing contingency counsel and special counsel statutes. Under existing law, there is a bidding process that takes place for us to retain some kind of counsel. We open it up to the public. We make sure that everyone interested in such a contract is given an equal opportunity to participate. What we did not want to do is create the perception that law firms and attorneys can buy access to the Attorney General's contracts through pro bono representation—in other words, pay to play. We did not want to create a situation where a law firm was offering free legal services on one matter, perhaps a smaller matter, and then subsequently getting an award for a large legal contract, a large contingency fee contract, that would create a perception that they bought access to the Office of the Attorney General through their pro bono services. We thought the construction of excluding them for a one-year period, a cooling-off period if you will, would ensure that that type of situation does not arise and does not create some sort of mistrust that the contingency counsel, the special counsel statutes were being abused.

Assemblyman Matthews:

Thank you for that last answer and for addressing those concerns regarding the potential pay-to-play situations, which obviously we want to avoid. I wonder if you could speak to whether there are certain policy areas where you have seen a particular need for this type of pro bono work or if there are certain areas where you envision this need arising in the future.

Kyle George:

Two specific circumstances come to mind. One, in the past few years the state was engaged in litigation against the United States Department of Energy over plutonium that was shipped to our state. That area of law is very specialized, and that skill set is not ordinarily housed within the Office of the Attorney General. In that particular case, we retained outside counsel, but were there opportunities to get pro bono counsel and save taxpayer money, we would in fact have been precluded from doing so. The other circumstance arose more recently within the last year as collective bargaining came into effect in the state of Nevada. Collective bargaining was not previously provided for, this past agency was not previously involved in it, and for us to actively and meaningfully participate in collective bargaining, there was a steep ramp-up of legal skills. We had to train up very quickly on an area of law

that none of us had familiarity with. That was an opportunity, for example, where consulting with experts in the field on a pro bono basis would have been helpful, had we had the ability to do so.

Assemblyman Matthews:

Thank you for that, Mr. George. Do you know if there are other states that have this kind of allowance in statute and if so, roughly how many?

Kyle George:

I do not know the answer to that question. What I can promise you is I can find out and get back to you with an answer.

Assemblyman Matthews:

Finally, I wonder if you have identified or anticipate a situation or if you can anticipate the number of outside attorneys that may be ideally situated to perform the type of work you may be looking for, whether you envision this to be an array of multiple attorneys who may be providing this type of work, or whether there may be one or two. My main concern with this may be that this could result in an unelected, unofficial, but semipermanent extension of the office, someone who is consistently being used for these services becoming an unofficial extension of the Office of the Attorney General. I wonder if you could speak to that at all and what you anticipate there.

Kyle George:

That is a good question. The first part of the answer is that I do not anticipate this will be used a lot. This was brought forth for the rare occasions that we do not possess expertise in house. The Office of the Attorney General handles a wide variety of areas for the state. It is a rare occasion that something pops up that we do not have expertise in. For example, recently we had a bankruptcy matter that is not something we normally do, so we had to comb through our staff attorneys to determine who had the skills to help assist in the matter. Honestly, I do not believe that we will have a standing shadow attorney general for two reasons. One, the best use of the term "pro bono services" is to get our own in-house attorneys up to speed on the subject matter as need be. That certainly will prevent us from having the need for a long-term contract with them. The other part of the reason I do not think this will create a shadow system is because of section 7 of the bill, which does provide that the Office of the Attorney General retains final say-so in any legal matter for which we are getting assistance with pro bono counsel.

Assemblywoman Brown-May:

Thank you, Mr. George, for that great presentation and the answer to that last question. Specifically, my question is relative to attorneys that you would utilize for this pro bono opportunity. Would they be specifically attorneys that are licensed here in Nevada or would you have access to attorneys across the country?

Kyle George:

The language of this bill has no limitation that the attorney must be licensed in the state of Nevada, and I think that is purposeful. For example, the expertise we receive may not exist in Nevada. There are some areas of law that are so arcane or so unusual that if we limit the bill to Nevada attorneys only, there may be no value to seeking their counsel. Their expertise on the subject may be equal to others. For that reason, the bill would be more valuable to the Office of the Attorney General if we have access to attorneys nationally. Of course, any filing in any court will have come through our Office in such a circumstance, or the attorney would have to be admitted on a pro hac vice basis.

Assemblyman Ellison:

I have a couple of questions. My first one is, how many attorneys are on staff at the Office of the Attorney General? Do you know?

Kyle George:

I do not know the exact answer off the top of my head. Within my line alone, I have 103 attorneys that report under my half of the Office, and we have Second Assistant Attorney General Brady. I am not sure how many attorneys she has. Roughly, our Office has about 350 personnel in total, but that includes support staff as well.

Assemblyman Ellison:

I know you hit on my colleague's question about section 9. It says "a four-year contract." Legally, can they do that, enter into a contract when that is an elected position by that office? If I just got elected, I could appoint or hire for a four-year program. If this is midterm and they hire somebody, can that legally stand up? Because you are entering a contract for somebody else that might be there down the road.

Kyle George:

Let me find that provision of the bill because my understanding is that records related to that retention must be kept for four years. Assemblyman Ellison, what section were you referencing, please?

Assemblyman Ellison:

I was looking at section 9, subsection 1, where it said, "A retained attorney or law firm shall, from the beginning for pro bono contract upon the date not less than 4 years"

Kyle George:

Thank you, Assemblyman Ellison, for the clarification. I believe that section reads that the records related to this work must be retained for four years after the date on which the contract expires. It does not call for a contract term that goes up to four years of length. Additionally, a contract of this magnitude would have to be approved by the State Board of Examiners as well, which would provide some sort of oversight on the scenario that you described.

Assemblywoman Dickman:

I have a follow-up on Assemblyman Matthews' line of questioning. How difficult do you think it will be to find qualified attorneys who are willing to work pro bono for the state? What is the advantage to them? Maybe you can give me some examples.

Kyle George:

I cannot think of any examples off the top of my head, but generally speaking, legal experts take pride in the ability to say, I have assisted the Office of the Attorney General in the state of Nevada on this issue. For them comes a selling point that demonstrates their expertise in a subject. Very often in matters we have litigated in the past, we have had firms offer to assist us whenever possible, and we obviously did not take advantage of this because legally we could not. Off the top of my head I cannot think of an example that would be illustrative. I do know in the practice of law, offers of pro bono assistance are not uncommon at all.

Chair Flores:

Members, are there any additional questions? [There were none.] Thank you again for your presentation. At this time, we will invite those wishing to testify in support of Senate Bill 38 (1st Reprint). [There was no one.] At this time, we will go to those wishing to testify in opposition to S.B. 38 (R1). [There was no one.] Lastly, we will go to those wishing to testify in the neutral position to S.B. 38 (R1). [There was no one.] Mr. George, you may give any closing remarks you may have.

Kyle George:

Thank you, Mr. Chair. I have none at this time.

Chair Flores:

Members, thank you for engaging. At this time, we will go ahead and close out the hearing on S.B. 38 (R1). If someone could please notify our Senate Majority Leader that we are ready whenever she has an opportunity. I know she is busy this morning, as always. [The Committee recessed at 9:31 a.m. and reconvened at 9:35 a.m.] Good morning, and welcome, Senate Majority Leader Cannizzaro. Welcome to your hardworking Committee on Government Affairs. At this time, we will open the hearing on Senate Bill 372

Senate Bill 372: Revises provisions relating to injury caused by fire. (BDR 54-1007)

Senator Nicole J. Cannizzaro, Senate District No. 6:

I am here today to present to you Senate Bill 372, which revises the process of reporting burn injuries. Chair Flores, with your permission, I would like to give a bit of background, walk briefly through the bill, and then turn it over to Mr. Heenan and our doctors over at University Medical Center of Southern Nevada (UMC) to further explain the reasoning behind S.B. 372.

By way of background information for members of the Committee, burn injuries remain one of the leading causes of unintentional injury. In the last decade, Nevada's hospitals have treated tens of thousands of patients with varying degrees of burns. Health care providers

work in conjunction with fire departments to report specific levels and types of burns as outlined in *Nevada Revised Statutes* (NRS) 629.045. For example, the Clark County Fire Department is the seventh-busiest fire department in our country, and its personnel serve as first responders to aid many of these burn victims every single year. Because fire departments in Nevada are busy with numerous responsibilities, S.B. 372 seeks to refine the reporting process for certain burn injuries. While not all injuries are attributed to arson, there is still some level of investigation required in each case. This bill establishes steps that need to be followed after a burn injury occurs. Primarily, it extends the necessary time frame from three to seven working days to report an injury to the State Fire Marshal. It also limits the type of burns required to be reported by the health care provider after treating a burn victim. And ultimately what S.B. 372 will do is facilitate a more focused, in-depth investigation into only those incidents that require it while lessening the burden on health care providers and first responders to report some incidents unnecessarily.

With your permission, Chair Flores, I would like to turn it over to Mr. Daniel Heenan and then over to our doctors over at UMC to further provide some context for S.B. 372.

Daniel Heenan, Assistant Fire Chief, Fire Investigation Division, Clark County Fire Department:

I have been employed by the fire department for the last three years. Prior to that, I was a special agent with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, commonly known as ATF, for 30 years. Within my capacity as an ATF agent, I was the certified fire investigator in the state of Nevada and I worked with state and local fire investigation units in determining how a fire started, where it started, and why it started. I was also part of the United States National Response Team and became team leader of that unit for 20 years. That unit would travel throughout the United States and the world when there were large-scale fires and explosions to assist the state and local counterparts in determining how, why, and where the fire started.

Referencing this bill, S.B. 372, there are some changes that we would like to make in section 1. As Senator Cannizzaro said, we would like to move the reporting time from three days to seven days. The UMC burn unit down here is one of the busiest burn units in the nation, and as such, the nurses and doctors have a responsibility for the medical care of those patients. Changing that administrative reporting period from three days to seven days allows the nurses and doctors to really concentrate on providing care to the patients rather than the administrative necessity of reporting to us within three days. All it does is it changes the form. Currently, there is a form created by the State Fire Marshal Division within the Department of Public Safety that they have to fill out. We have had numerous sit-down meetings with the doctors and staff over at UMC to formulate a more current form. Not only is it more specific to the type of burn injuries we are looking at, but it also can be filed electronically. That form has been created by UMC and will be formed and sent out to the various fire units, either Las Vegas Fire & Rescue, City of Henderson Fire Department, City of North Las Vegas Fire Department, or Clark County Fire Department down in the south. That way we can have a better response time to those needs. Additionally, section 1,

subsection 1, changes the type of burn injury to be reported to "open flame, explosion or flash fire."

I will sit back in a minute and let the doctors and nurses explain why that change is effective, but basically the nurses and the doctors have a better understanding about whether the burn injury that is being presented lines up with the facts and circumstances that are told to them by the victim of the burn injury. If the facts and circumstances do not equate, then they need to report that to us, and we will do further investigation. But many times, the types of burn injuries that they are seeing make perfect sense and fall in line with the story that they were provided, and in those instances we rely on their expertise to tell us that it is something we potentially do not have to investigate. Again, I will defer to the burn unit people to talk about those specific injuries.

Finally, section 2, which refers to NRS 475.125, currently says that, as fire investigation divisions, when we receive information from a hospital, we "shall" investigate. We would like to change that word to "may." That gives the managers of the fire investigation units the ability to manage their people properly, to manage their caseload of the respective fire investigation divisions; that way we ensure that we are focusing on—if it turns out to be an incendiary fire, commonly referred to as an arson—identifying those people and really concentrate on those focal points more specifically. That ends my presentation. I am happy to answer questions after the burn unit manager speaks.

Yasmin Conaway, Program Manager, Alliance Burn Care Center, University Medical Center of Southern Nevada:

Dr. Saquib sends his apologies. He was unable to make this hearing today. He is currently seeing patients in the clinic and is on call today, but this would not have been possible without him. By way of background, we are the oldest and only verified burn center in the state of Nevada, which means we provide the highest-level quality care and still pursue ways to improve patient outcomes even after they leave the rejuvenating confines of a hospital room or seek the expertise of our outpatient clinic team. We are fully verified by the American Burn Association, the governing body for burn care, which also sets forth guidelines for best practices, and best practices is what we are trying to achieve here today.

The changes proposed today will provide a more targeted reporting based on burn injuries caused by flame, flash fires, and explosions. Currently, the bill does not delineate any mechanism of injury, requiring all types of injuries to be reported, including scalds, contact burns, and friction burns. The person making soup who spills a pot of boiling water on themselves gets reported. The elderly person who checks the mail, falls on the hot sidewalk, and sustains a pavement burn from the hot concrete gets reported. The motorcyclist who skids across the asphalt after a crash, sustaining a friction burn, gets reported. These injuries are required to be reported to the appropriate fire department for investigation.

For some perspective on how many reports, with the current verbiage in this bill, out of the 1,396 patients we served in 2020, there were 290 patients who met criteria for reporting. Under the proposed language, that number would drop to 140 patients, representing over a

50 percent decrease in reporting. What does that mean for the front line? It allows for more efficient utilization of resources. At UMC for instance, we have a multitiered process for identifying and abstracting this information for reporting which can take upwards of one to two budgeted hours per day. The benefit of this change would allow the resources to be redeployed to critical aspects like patient care, outreach prevention, burn education to first responders, and the community at large, all while still capturing the cases that warrant appropriate investigation. Another change proposed in this bill includes the use of an approved form by the local fire department. The updated form would integrate seamlessly with the changes stated earlier by allowing for standardization, flexibility, cooperation, and coordination amongst the affected parties.

Given the benefits, I strongly encourage you to consider the passage of the revised provision of this bill. Doing so means you will be making a direct, positive impact on how we use public resources, provide outreach and education, work within particular budget constraints, and benefit the health and well-being of all Nevada's visitors. Thank you to the Committee for your time. I welcome any questions.

Chair Flores:

I echo the sentiment of the Committee. Last year and the beginning of this year have been incredibly difficult for all the work that our first responders and medical personnel have been doing. We wanted to thank you for your tremendous efforts. We know that you have been the unrecognized heroes at times. I know that we often say thank you, but it is not enough. Please say thank you to our doctor who could not be here today. You should never apologize for taking care of humans over presenting a bill. With that, Senate Majority Leader, do you have any additional comments, or should we open it up for questions?

Senator Cannizzaro:

No, Chair Flores. That concludes our presentation, and we would be happy to take any questions from members of the Committee.

Assemblywoman Thomas:

I appreciate the presentation, and for the presenters over at UMC and the fire department. We know that we want less reporting of issues that concern the fire department, but my biggest concern are those other reports that go out, those of abuse of our children and/or elderly—are we dropping those? Are those reports still to be made, and if they are, where are those reports going?

Senator Cannizzaro:

This bill does not change any of the required mandatory reporting statutes that would require reports for child abuse or elder abuse that come in. With respect to where those are related to burn injuries that come into any of the health care providers, they would still be required when those burn injuries are associated with what you are seeing here, which is that "open flame, explosion or flash fire." They are not explained by something as simple as Ms. Conaway mentioned; if someone spills hot water on her hand and that burn is consistent with that, then that report would not have to be part of the investigation. But obviously

where there is suspected child abuse or elder abuse going on, that would still very much fall within the reporting requirements. Something that is nonaccidental would need to be reported, not only to the fire department, but also to the appropriate authorities for either child welfare or elderly supportive services.

Chair Flores:

Members, are there any additional questions? [There were none.] We will now go to those wishing to testify in support of S.B. 372. [There was no one.] Next, I will invite those wishing to testify in opposition to S.B. 372. [There was no one.] Lastly, we will go to those wishing to testify in the neutral position to S.B. 372. [There was no one.]

Senator Cannizzaro:

I wanted to extend my thanks to Ms. Conaway for being here with us and for all of her hard work. Chair Flores was so gracious of the Committee to express our support for the really tough job that they do every single day and have been doing, especially so in the last year, and also to Mr. Heenan for his work on this bill and helping to put something together that both makes sense and helps balance the needs of our fire departments and our health care providers. Again, I thank the Committee very much for taking the time this morning to hear S.B. 372. And of course, as always, my generous thanks to you, Chair Flores.

Chair Flores:

With that, we will go ahead and close out the hearing on S.B. 372. Next on the agenda is public comment. [Rules were explained. There was no one.] With that, we will go ahead and close out public comment.

Members, tomorrow we are going to be meeting at 9 a.m. We have three bills that we will be hearing, Senate Bill 72 (1st Reprint), Senate Bill 311, and Senate Bill 360 (1st Reprint). I anticipate Madam Vice Chair running the meeting as I will be doing two bill presentations tomorrow morning, but please be prepared and give yourselves an opportunity to review those bills. I know Assemblyman McArthur will be there to help Madam Vice Chair should it be necessary—our influencer of the building, inspiring the youth.

Members, thank you all for everything. I need to do this now because I forgot to do it yesterday, and I intend to have a nice, wonderful dinner with our staff at some point, but I wanted to say, yesterday we were supposed to do a quick shout-out for Staff Appreciation Day. Thank you to our amazing staff in the Government Affairs Committee. I consistently

say that, and you all know how amazing they are, but I wanted to once again, publicly today, say how incredibly grateful I am to have such an amazing group of folks surrounding me and you all. This Committee would not be anything without them. If I could adjourn in their honor, this meeting is adjourned [at 9:54 a.m.].

RESPECTFULLY SUBMITTED:

Zachary Khan
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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