

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Eighty-first Session
April 23, 2021**

The Senate Committee on Government Affairs was called to order by Chair Marilyn Dondero Loop at 1:55 p.m. on Friday, April 23, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Marilyn Dondero Loop, Chair
Senator James Ohrenschall, Vice Chair
Senator Dina Neal
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Vinson Guthreau, Deputy Director, Nevada Association of Counties
Holly Welborn, American Civil Liberties Union
Marla McDade Williams, Churchill County
Katherine Miller, Director, Department of Veterans Services
Amy Garland, Deputy Director, Department of Veterans Services
Andrew LePeilbet, Military Order of the Purple Heart; Disabled American Veterans; Chair, United Veterans Legislative Council, Department of Veterans Services

CHAIR DONDERO LOOP:

We will open the hearing on Assembly Bill (A.B.) 2.

ASSEMBLY BILL 2 (1st Reprint): Revises provisions relating to appointments to public bodies. (BDR 18-437)

VINSON GUTHREAU (Deputy Director, Nevada Association of Counties):

There are hundreds of State level boards and commissions in Nevada. These boards perform critical business on a wide range of important and specific public policy issues. There are over 100 vacancies on boards and commissions in Nevada. Under Nevada law, a qualified individual cannot serve on more than one of these boards whose members are appointed by the Governor. Under Assembly Bill 2, the number of allowable board appointments would be increased to three.

It is the Nevada Association of Counties' (NACO) opinion that diverse and broad, local stakeholder representation is needed to fully represent the diversity and needs of Nevada. This is one of the reasons NACO is requesting the change in this bill to allow individuals to serve on more than one board to ensure that each of these seats is filled with individuals who can meet all of the qualifications required and represent their communities.

As an example, the recently created Board on Indigent Defense Services (BIDS) sets standards and provides oversight on public defenders, a service that every county provides. Public defenders provide legal representation to those who cannot afford it, as is guaranteed by the Sixth Amendment to the United States Constitution.

For the handful of county appointments on this board, some of the requirements to serve are that a member must be a resident of a county with a population of less than 100,000; one member must have expertise and a background in the finances of local government; and every board member must have significant experience in providing legal representation to indigent persons who are charged with public offenses or have represented children who are alleged to be delinquent or in need of supervision; and a demonstrated commitment of providing effective legal representation to such indigent persons. Not many people meet all the qualifications to be appointed to this board. The appointee would usually be a county commissioner or county manager who had expertise in county finances as well as indigent legal defense. The appointee could not be a public defender or a district attorney. There are probably only a handful of people in the State who meet these qualifications, and most are on other boards that work on county-specific issues.

When the BIDS was created, NACO had three commissioners who had worked on and cared very much about indigent defense reform and who met all of the

qualifications. All three of these commissioners were on other boards, therefore they were ineligible. One had a term that was ending on another board and decided not to serve on that board again and became able to serve on BIDS. One had to resign from another board and the third felt he could not resign from his seat on a water district board in his region because he had many years of institutional knowledge on complex water issues and his county needed his representation. That third commissioner also happened to have extensive knowledge on indigent defense reform, and his institutional knowledge and voice on that issue was lost.

Another example is the Board of Trustees of the Fund for Hospital Care to Indigent Persons. Counties are required by law to fund and provide for this local social safety net. This Board oversees funds for hospital care for indigent persons as well as county funds contributed to the State plan for Medicaid. This Board requires four county commissioner appointments. These commissioners learn important and complex subject matter having to do with the formula for funding Medicaid and the web of local dollars that support indigent healthcare. One commissioner with years of experience on this Board had to resign to serve on the BIDS, and the loss of her historic knowledge is keenly felt.

A few other examples of the range of expertise subject matter covered by boards that have county representation include the Commission on Off-Highway Vehicles (OHV), which oversees local grant dollars to fund OHV infrastructure and education; the Governor's Nevada Complete Count Committee, which governs the census effort; and the State Land Use Planning Advisory Council, among others.

Assembly Bill 2 addresses only one change in section 2, subsection 6, which allows a person to be appointed to up to three boards, commissions or similar bodies. This bill would become effective upon passage and approval.

HOLLY WELBORN (American Civil Liberties Union):

The American Civil Liberties Union (ACLU) started this partnership with NACO in the last Legislative Session when we were crafting the makeup of the BIDS. That Board developed as the result of litigation that the ACLU filed against the State regarding indigent defense services throughout the State.

As we were crafting it, the makeup of the board was vital. It needed people who were interested and were not serving as public defenders to ensure the

board would function as efficiently and fairly as possible. However, there was a conundrum, how do we appoint the right individuals to this board. As you can see, much shifting had to take place, and it was incredibly difficult. Many of those were appointments the Office of the Governor makes to various boards and commissions throughout the State.

Additionally, the ACLU has a niche example of how the Governor, being bound by statute to appoint a person to only one board or commission, has had negative consequences for the ACLU. The ACLU is required by statute to sit on the Nevada Sentencing Commission and the Advisory Commission on the Administration of Justice (ACAJ). The ACLU strives to ensure it has different staff members on those commissions. Typically, I would serve on one, whether it is the ACAJ or the Nevada Sentencing Commission, and either the executive director or the legal director would serve on the other commission. However, last year both the legal director and the executive director left. There was no one who could fill those positions. For six months during the pandemic, when the inmate advocate should have been heard on the Nevada Sentencing Commission, incarcerated individuals had no voice on that commission because I could not serve on both.

This is a public policy choice that we have to make. It does not mean the Governor has to appoint the same person to these commissions. It just allows a person to be appointed to more than one board or commission to remove obstacles and keep them functioning.

SENATOR GOICOECHEA:

I am not familiar with these statutes. I want to make sure the bill only affects State boards. The pool of people is limited in rural areas. If someone serves on an irrigation district board and maybe the mosquito board, he or she could still be eligible for a Governor's appointment. I do not see in the bill where it specifically says State boards.

MR. GUTHREAU:

This bill covers gubernatorial appointments to Statewide boards.

SENATOR GOICOECHEA:

I just want some clarification because the Governor appoints to fill vacancies even on county commissions.

HEIDI CHLARSON (Counsel):

I agree. This is meant to apply to gubernatorial appointments. It would not impact an appointment if the appointment is done at the local level. It only applies to boards, commissions or similar bodies.

CHAIR DONDERO LOOP:

As I was listening to Senator Goicoechea, I was thinking about an autism board which needed someone appointed from the rural areas who had an autistic child. It was having trouble because that person already sat on a board. How would that work?

MS. CHLARSON:

Section 2, subsection 6 of the bill allows a person to be appointed by the Governor to three boards, commissions or similar bodies. That person is not limited to just one appointment. That person is limited to three.

CHAIR DONDERO LOOP:

Yes, I saw that. Sometimes in smaller communities, the same three people sit on the same three boards. There is not a large pool to draw from because not everyone wants to do it. If there are specific requirements for an appointee, this would cover that.

Is that okay with you Senator Goicoechea?

SENATOR GOICOECHEA:

Yes, that is okay.

SENATOR NEAL:

I was not sure if you said this, but I was looking at a provision from 2011 and why the Governor is limited to appointing a person to only one board or commission. I remember thinking that the same voices participate in the same issues. There was no diversity of thought.

People from southern Nevada who may have had an interest but were not in the political arena or did not have any kind of political relationships were not being asked to be on a board. It made sense to give more people opportunities instead of limiting appointees to friends and people who are well known. It would give other people an opportunity to be appointed to boards. We probably would not have a Dr. Tiffany Tyler or anybody else on a board if the Office of the Governor

did not have to search for someone to appoint. How someone gets appointed is a different political environment and a different political alignment.

MS. WELBORN:

The ACLU had that concern when it began these conversations. The original iteration of the bill left it wide open for one person to get appointed to numerous boards. After numerous conversations with the Assembly, we wanted to address those issues and ensure that we narrow this bill to address circumstances where only two or three people can meet very distinct, delineated, statutory requirements, and there might not be a large pool of people to draw from. The conclusion was that if we cap it at three boards or commissions, we would be able to reach out and appoint the right people and ensure the same person is not sitting on 10 or 15 different boards. We are searching for highly-qualified, diverse people for those positions.

SENATOR NEAL:

I understand what you are saying, but more often than not people would ask about who is in your circle? People usually do not go beyond their circle. For example, you represent a subset of a circle, but how many people from the Las Vegas Chapter of the National Bar Association, who may have specialties, have been asked to be on any of those boards. If that is not your circle of friends, if that is not your political circle, then you do not even reach out because you only think about people you know. The reason you cannot find qualified people is because this is driven by a perspective that is not broad enough because you are not affiliated with those individuals. Some of these individuals would love to do it but do not get the opportunity because of how relationships work.

MS. WELBORN:

The point you are making is important. It is a question of the Office of the Governor diving into the types of outreach programs it has when it is considering specific candidates to be on boards. The ACLU provides recommendations. For example, it provided a list of individuals who could serve in particular roles on the BIDS. There was also an effort from the Office of the Governor and from different appointing authorities. Speaker Jason Frierson and Majority Leader Nicole Cannizzaro have appointing authority on that board so they were able to get people appointed. There are different creative processes the Office of the Governor or whoever has appointing authority will go through in order to expand that base.

I can only speak to that from that perspective. I know this has been an issue. At one point, there were 300 vacancies on boards and commissions, and there were some aggressive campaigns and outreach programs to get people to apply. Representatives from the Office of the Governor went to meetings to encourage board participation. Those efforts are ongoing, but one of the tools that would be helpful is if a person could be appointed to more than one board to fill a vacancy while they look for other qualified people.

MR. GUTHREAU:

It is counterintuitive to think this improves diversity. Limiting it to three boards or commissions after having conversations in the Assembly helped us strike the right balance. Because many of the boards have such specific subject areas, if you find someone from an underserved community or someone who has never had the opportunity to serve on a board before, the appointments are limited. If someone's financial background is needed on another board, we could not necessarily use that person. I agree with you that we should all strive to reach those individuals who may be interested and have not served.

It is NACO's view there is an unintended consequence in which diversity and representation is actually limited.

SENATOR NEAL:

I want to make sure we think about that. I understand because NACO spoke with me about this bill. Sometimes, it is not even an underserved community. I am talking about professionals who are not in underserved communities. They are in the professional circle. They are not in other circles but they have the expertise. They are not poor. They are legitimate professionals who are not being asked.

I bring this up because in 2011 and 2013, there were certain bodies that had never participated in the Legislative process. This was a time before Richard Franklin Boulware II became a federal judge for the U.S. District Court, District of Nevada. It was the first time the NAACP, within its legal framework, had testified before the Legislature—mainly because I drew it in. Relationships were built from that. Mr. Boulware was well known.

The conversations and the thought patterns I noticed when thinking about other people was that the NAACP had never had a place in testifying in this building. "So, do not get used to it," was said by a Senator at the time. I remember it

distinctly because I wanted someone with a certain type of civil rights expertise to come and present from that perspective. It just so happened it was now Judge Boulware. He was a talented Harvard graduate who could bring a perspective to legislation never brought before. I wanted him to have a seat at the table knowing that is sometimes how the universe thinks. I am bringing that up because it happens.

CHAIR DONDERO LOOP:

Thank you for your important perspective.

I know we have a website people can access to see which boards have vacancies. Is there any other outreach? Does NACO or anyone else reach out to groups such as the autism group, the NAACP and everything in between? Does anyone reach out to these groups to inform them there is a website listing board vacancies?

MR. GUTHREAU:

I cannot speak to the internal workings of other appointing agencies, but NACO uses a pool of county commissioners and county staff. The NACO mentions that an appointment is either vacant or coming up for vacancy in a public meeting. The NACO relies on its commissioners. If the appointee is not going to be a commissioner, even if it is, the commissioners go into their local communities to recruit people. The NACO has recent examples of that especially on some OHV Commission replacements. When a vacancy comes up, an individual or a group of individuals is vetted by the Commission. Sometimes NACO is allowed to make up to three recommendations for an appointment. I can only speak to NACO processes which are transparent and done in public meetings.

MS. WELBORN:

When LaNiesha Dawson was in charge of boards and commissions in the Office of the Governor, she was creative in reaching out to different groups. She reached out to the ACLU several times to get recommendations for individuals she might not have been thinking of.

I had conversations with the Governor's Chief of Staff about who to appoint, how to get the right person and that sometimes the expertise might not exist. Some people might not have the required expertise, so how do we get creative and maybe change the makeup of a particular commission? When we are

developing boards and commissions, the Legislature decides how narrow the scope is on the expertise a person must have in order to serve on a commission. It is a multifaceted issue. This bill is one piece to help address that. There is a strong commitment in the Office of the Governor to diversify and get the right people on boards and commissions.

Senator Neal brought up Dr. Tyler, who is an incredible example of someone with specific skills and expertise which could be critical and vital on multiple boards and commissions. The Governor is prohibited from appointing her to those commissions. If we can get creative and think of different ways to get these boards and commissions looking the way we want them to, we should continue that conversation.

MARLA MCDADE WILLIAMS (Churchill County):

Churchill County supports A.B. 2. Churchill County has three commissioners who are required to serve on various bodies. The limits in law prove challenging for ensuring proper representation because of the statutory restrictions. In Churchill County's case, there are statutory requirements for a member of the Churchill County Commission to serve on a board or commission; however, there are limits on how many State boards or commissions one person can sit on. If only three members are on a county commission, there comes a point that the statutory requirements cannot be fulfilled.

For all the reasons noted by the presenters of the bill, Churchill County is asking for your support of A.B. 2.

CHAIR DONDERO LOOP:

We will close the hearing on A.B. 2 and open the hearing on A.B. 76.

ASSEMBLY BILL 76: Revises provisions relating to care for veterans. (BDR 37-284)

KATHERINE MILLER (Director, Department of Veterans Services):

Assembly Bill 76 would authorize the Department of Veterans Services (DVS) to establish and operate adult day healthcare programs for veterans and would eliminate obsolete requirements in statute concerning the location of veterans homes in Nevada.

An adult day healthcare program is operated during the day in a safe, supervised environment that offers healthcare and social services tailored to individuals with physical disabilities or mental impairments. These programs provide respite care for family caregivers while combining home- and community-based services for veterans. The program may also give the caregiver the opportunity to seek employment outside the home, thereby improving the family's financial situation.

Services in an adult day healthcare program can include assistance with daily living activities, physical, occupational and speech therapies, help with medical equipment, medication management, personal care services, socialization, peer interaction, physical activity and companionship. A veteran's adult day healthcare program has two added benefits. First, culturally competent staff understand how a veteran's military history may shape health practices and susceptibility to mental and physical health risks. Second, these programs provide peer support among adults with a shared military culture—a culture that generally transcends ethnicity, race, religion and gender.

Under *Nevada Revised Statutes* (NRS) 417, the DVS is not authorized to establish or operate veterans' adult day healthcare facilities; however, veterans and their families often request this service. The U.S. Department of Veterans Affairs (VA) pays a per diem of \$79.52 for veteran adult day healthcare services. This per diem makes the operation of adult day care facilities possible without reliance on State General Funds. This proposal would give the DVS the authority to operate adult day healthcare facilities—the first step in seeking federal grant funding for construction, renovation or rental of facilities or equipment.

To be clear, the DVS is not seeking authority to begin to operate an adult day healthcare services program, just to put the authority to establish or operate one in statute. That would be that first step by which the DVS could start seeking grants. The DVS is not asking for any funding or staffing to operate adult day healthcare facilities this Session.

Assembly Bill 76 would also eliminate obsolete language in NRS 417 that mandates where a first and a second veterans home will be constructed because first and second homes have already been constructed.

SENATOR NEAL:

I know the bill says "To the extent that federal funding is available" When I was looking at 38 CFR section 51.2, I noticed it requires a clinical nurse and a primary care physician. Do you already anticipate having those relationships? Do you have them now?

MS. MILLER:

We do. The DVS is looking at different models of adult day healthcare services programs. One in New York at Stony Brook, the Long Island State Veterans Home operates an adult day healthcare program on the same campus. It uses the same staff, and it might have expertise in social services programs associated with drop-in care. It is the same type of geriatric medicine, nursing care, physical therapy and social services the DVS provides in its veterans homes in Boulder City and Sparks.

SENATOR NEAL:

I want to make sure that if the DVS gets the funding, it has the medical and a range of therapists on board. I am trying to determine what the staffing is like and who can leverage this.

MS. MILLER:

Yes, the DVS has those services. However, if it were to operate an adult day healthcare program, it would need to bring in additional medical providers with that same expertise.

AMY GARLAND (Deputy Director, Department of Veterans Services):

The DVS is constantly developing relationships with nursing homes and with the University of Nevada, Reno, for nurses. It just joined the American Hospital Association to help broaden and strengthen those relationships. It is constantly looking at relationships to extend the services our veterans need.

MS. MILLER:

I hope that answers the question. We have the expertise. Should the DVS operate an adult day healthcare services program in the future, it would need to bring on additional staff to provide those services. The expertise is already there.

CHAIR DONDERO LOOP:

Because the bill says "To the extent that federal funding is available, the Director may establish and operate programs" You mentioned a model program. Is there anything in the queue so if the funding shows up, the DVS can be ready to go, or is it waiting for the funding and then it will develop a plan?

MS. MILLER:

The DVS submitted a grant for adult day care health care because of the way the process works. That will put the DVS in the queue, but it would not be able to accept that grant because it does not have the authority to operate the program.

There are a couple of different models we are looking at. One involves the construction of a facility, but that would require a State match. Many states are renting existing facilities, modernizing them and buying equipment so the cost is low. The grants the VA is awarding to states cover those costs. Speed is of the essence to me because we have a great need, especially in southern Nevada, for adult day healthcare services. Rather than build a new facility, I lean toward renting a medical space and then operating within that facility. There are many different options. By the time Nevada is ready for that, we will have laid out a number of different options and take it to the Legislature and the Governor's Office to see which makes most sense at that time.

There is money available. The VA started offering per diem just a couple of years ago. Before then, it would not have been affordable because it was not reimbursable. Now it is affordable. We have both the need and the funding source.

SENATOR OHRENSCHALL:

This could help many veterans in southern Nevada and their families.

MS. MILLER:

Not only veterans but the whole family would benefit. We have found that one family member has to stay home as the caregiver, and the other goes to work rather than both family members working to bring more money into the family. It is a wonderful program, and it benefits not only the veteran but the caregiver and the family as a whole.

Senate Committee on Government Affairs
April 23, 2021
Page 13

SENATOR OHRENSCHALL:
I agree.

ANDREW LEPEILBET: (Military Order of the Purple Heart; Disabled American Veterans; Chair, United Veterans Legislative Council, Department of Veterans Services):

We support A.B. 76, and ditto everything Director Miller said. This is an essential element as veterans age. This service will be needed more and more in the future. We appreciate that it was presented by DVS, and we support it fully.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Government Affairs
April 23, 2021
Page 14

CHAIR DONDERO LOOP:

I will close the hearing on A.B. 76.

Having no further business to come before the Senate Committee on Government Affairs, this meeting is adjourned at 2:40 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Marilyn Dondero Loop, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda