

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

**Eighty-first Session
May 26, 2021**

The Senate Committee on Government Affairs was called to order by Chair Marilyn Dondero Loop at 4:31 p.m. on Wednesday, May 26, 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:

Jessica Adair, Chief of Staff, Office of the Attorney General
Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada
Deonne Contine, Executive Director, Washoe Legal Services
Ed Uehling

CHAIR DONDERO LOOP:

I will open the hearing on Assembly Bill (A.B.) 357.

ASSEMBLY BILL 357 (1st Reprint): Revises provisions relating to consumer protection. (BDR 18-887)

JESSICA ADAIR (Chief of Staff, Office of the Attorney General):

Nearly ten years ago, the Office of the Attorney General (OAG) entered into a multistate settlement and a separate State settlement with Bank of America as

a result of the 2008 mortgage crisis. After those respective settlements, the State received \$1.2 billion in borrower relief directly to borrowers, as well as \$87.3 million to the State for consumer protection efforts.

A majority of that funding was directed to the Department of Business and Industry (B&I) to ameliorate the effects of the mortgage crisis. However, a portion of that funding was designated to be used by the OAG. Then-Attorney General Catherine Cortez Masto directed the funding to be used primarily for the creation of positions in the OAG to help Nevadans by investigating and prosecuting consumer fraud and by a grant program to legal aid organizations that provide consumer protection legal assistance to low-income Nevadans, which is referred to as the Home Again program.

This funding has been critical to the State and has helped many Nevadans. In the past decade, the OAG has answered many calls from constituents who did not know where to turn after being scammed. The OAG has investigated and prosecuted countless fraudsters who steal from the vulnerable. There were many success stories and settlements as a result of the Bureau of Consumer Protection at the OAG.

However, we all knew the time would come when this funding would be depleted, and that day is here. It could not come at a worse time for the State. If a new mechanism is not created to fund these efforts, the OAG could lose 26 full-time positions dedicated to consumer protection efforts. This includes attorneys in the Bureau of Consumer Protection who investigate violations of Nevada's consumer protection laws. It also includes sworn peace officers who investigate fraud and elder abuse, prosecutors who bring justice to fraudsters, and administrative professionals who support these divisions and serve in our constituent services unit fielding thousands of complaints from Nevadans victimized by scams and fraud. They were on the frontlines of the Covid-19 crisis and the resulting scams and eviction crisis in this State.

In addition, legal aid organizations will lose millions of dollars in annual grant funding. The OAG was faced with three choices, end the program entirely, which is not acceptable; ask this Legislature for millions of dollars in General Funds to replace the funding, which given the times is not reasonable; or think outside the box. So with the input of stakeholders and Legislative leadership, the OAG crafted an alternate solution.

Assembly Bill 357 is simple in design and efficient in structure. The goal is to direct sporadic settlement funding to consumer protection needs. It is accomplished as follows: in sections 4, 5 and 6, settlement funds are placed into a Consumer Protection Administrative Account. There are some exceptions; restitution to victims and certain other recoveries. The Consumer Protection Administrative Account replaces an account that already exists for administrative purposes. This Account covers many of the administrative costs of consumer protection investigations and litigation and is designed to not fall below \$500,000. For example, the OAG uses this Account to pay its share of costs in a multistate investigation.

In sections 2 and 3, money not used for administrative purposes is transferred from the Consumer Protection Administrative Account into the Consumer Protection Legal Account. That funding is then divided into two equal amounts: 50 percent goes to fund OAG staff that works on consumer protection efforts and other consumer protection activities led by the OAG; 50 percent goes to fund consumer protection efforts throughout the State by the three legal aid nonprofit organizations receiving Home Again funding, the Legal Center of Southern Nevada, Nevada Legal Services and Washoe Legal Services. The distribution in the bill is the current distribution of the Home Again funding.

For transparency and accountability, the legal aid organizations are also required to submit financial statements regarding the use of the funding, and the OAG has the right to audit the legal aid organizations and how they use that money.

Some may argue the solution is not perfect because the OAG has no way of anticipating incoming settlement funds to the State. However, it is one with the potential to be self-funded in its success.

The bill also allows the OAG to carry forward revenue to manage its funding and avoid future shortfalls. Most importantly, this bill allows the OAG to continue doing its job to help Nevadans. No one in this State investigates and prosecutes fraud like the OAG. No one else in this State investigates and prosecutes individuals and companies who violate its consumer protection laws like the OAG.

These lawsuits bring settlement funds to the State. This bill preserves the OAG's ability to do its job and pay for those jobs. No one else in the State

provides legal assistance to low-income Nevadans in consumer protection efforts like the legal aid organizations.

BARBARA BUCKLEY (Executive Director, Legal Aid Center of Southern Nevada):
The Legal Aid Center of Southern Nevada (LACSN) is the largest legal aid organization in the State providing free legal assistance to individuals who cannot afford an attorney with civil cases. One of its most important programs is its consumer protection unit. In our system of law, the OAG can prosecute consumer fraud cases and file actions against wrongdoers on behalf of the State but cannot represent an individual who is defrauded.

If someone cannot afford an attorney, that is where legal aid comes in. Without it, someone could lose their life savings, their home, their property and their shot at the American dream. A good example of this is guardianship fraud. A few years ago, predatory guardians were ruining the lives of vulnerable Nevadans. Someone would show up on a doorstep saying I now have guardianship of you. Before you knew it, the senior was out of their home, placed in a group home and had their life savings stolen by a fraudster. In these cases, legal aid gets involved and is appointed at the beginning to prevent fraud from happening in the first place. I can give you so many examples; foreclosures, predatory lending and scams. There is a scam a minute, especially in Las Vegas.

The legal aid organizations in Nevada are: Washoe Legal Services for Washoe County, Nevada Legal Services for the rural counties, and LACSN for Clark County. They have been funded by the national mortgage settlement for over a decade. At a time when the funding is needed more than ever, we have run out.

This is a solution to keep us going. We hope this innovative approach wins your approval.

DEONNE CONTINE (Executive Director, Washoe Legal Services):
We use Home Again funds in the same way that Ms. Buckley mentioned. I am grateful to have your consideration for this bill, so we can keep doing the great work we have been doing.

SENATOR NEAL:

Section 4, subsection 3 says "in the discretion of the Consumer's Advocate Is the Consumer's Advocate in the OAG or the B&I?

MS. ADAIR:

The Consumer's Advocate is in the OAG. The Consumer's Advocate serves as the Chief of the Bureau of Consumer Protection. When the bill was originally drafted, it only had two dates noted in section 4, subsection 3 of the bill. If a significant amount of money is sitting in the Administrative Account or the OAG was running out of money in the legal account, the OAG would like to have ability, at the Consumer's Advocate discretion, to move money from the Administrative Account to the Legal Account. The OAG could avoid a situation where it could not pay for staff in a shortfall.

SENATOR NEAL:

The language reads any amount in excess of \$500,000. What are the chances there will be an excess of \$500,000? How many transfers are envisioned to occur? I did not see the language as a limit; I saw it as the overage.

MS. ADAIR:

Yes, it is the overage. The OAG wants to keep the \$500,000, so it has the ability to participate in multistate investigations that offer cost sharing. In answer to your question on how much funding it gets, it is totally random and unpredictable. The OAG gets an average of about \$3 million per year in settlement funds; therefore, it is anticipated there will be an overage. The overage is used for OAG staff and legal aid. Sometimes, the OAG will have a banner year and will get a \$10 million *Volkswagen* settlement. Sometimes, it will not have much settlement funding, but I cannot be too sad about that because it means the State has not had its consumer protection laws violated.

The goal is to have continued funding to participate in the multistate investigations and everything else, besides what we need to keep doing our job. The funding goes to the OAG and legal aid organizations for consumer protection purposes only.

SENATOR NEAL:

How much is required to be in the internal reserve?

Ms. ADAIR:

It is 120 days of operating costs. This will force the OAG to ensure it has an internal reserve to pay for its staff before it pays for anything else. The OAG must manage this money effectively and ensure staff is funded first. If the OAG has a large excess of money that it knows it will be able to fund staff in the foreseeable future, it might be able to use the excess money for public education or other programing around consumer protection. We do not want to get into a situation where the OAG has spent money on other things without paying for its staff. This is a legacy-building exercise for future attorneys general.

SENATOR OHRENSCHALL:

I appreciate the bill and Attorney General Aaron Ford for bringing the bill. Thanks to Ms. Buckley and Ms. Contine. I appreciate all the hard work you do in your legal aid offices in helping our constituents. You fill a vital need that was lacking.

CHAIR DONDERO LOOP:

Ms. Buckley, can you tell me how many cases or people come into the office looking for assistance with this kind of legal help?

Ms. BUCKLEY:

The numbers for our organization, especially with the pandemic, are off the charts. Last quarter, it was over 10,000 requests for services just to our organization alone. We are the largest recipient of funding. We have over 14 full-time equivalents paid for from this funding. Cases are everything from guardianship fraud to scams; you name it, we see it. My favorite one from last year was an organization spelled Ubre. It convinced individuals to go into their business, buy cars, work with them at Ubre, and create a small business, while there was no such thing as Ubre. All these cars were purchased in their names. We had to sort it out with the dealerships, give the cars back to the dealerships, and get these people out of the system. The OAG ended up getting involved. You would shake your head at the things we see.

ED UEHLING:

I have no idea what this bill is about. But, I can see it enhances the bureaucracy. If we are talking about fraud against the people of Nevada, look at the last year where the State and the local governments, which are presumably under your purview, spent billions of dollars paying their employees while

prohibiting the majority of society from even working. From what the person testifying said, they are concerned about the employees, not about retaining their employees, being able to pay their employees, and not about the services to the people who are harmed. The public was harmed immensely by the actions of the government during the last 12 or 14 months.

Then someone talked about guardianship. I had a radio program back in 1994, and Councilman Miller from the City of Las Vegas also had a radio program. We talked about the guardianship fraud that was being committed at that time. There was no action by the government. The government itself was committing the fraud. The government created 90 percent of the fraud in this State.

I do not know how it relates to this bill, but it is interesting to see how we are out to protect all the employees of the government and all the government, but huge harm is being done to private individuals; all these people that are being forced to have people in their homes and cannot collect rent that was agreed upon. The government is supporting that. The Attorney General is supporting that. They are telling people to go ahead and rip off your landlord. I have a neighbor who has people not paying rent even though they have plenty of money to pay the rent. Fortunately, I have not been subjected to that. I have a neighbor who is losing tens of thousands of dollars.

MS. ADAIR:

I do not know how to respond to some of the accusations that were made on the record against the Attorney General. However, to the extent that the Committee has questions about these specific positions the OAG is seeking to use settlement funding to pay for, they are: Constituent Services Unit staff, Criminal Investigator II and Compliance Auditor positions who work in the financial fraud and elder abuse division, attorneys who work in the criminal prosecutions division who prosecute financial fraud and attorneys and legal support staff in the Bureau of Consumer Protection. It will save bureaucracy in that you will not see my face in the future at the Interim Finance Committee asking permission to spend settlement funding on anything other than consumer protection.

CHAIR DONDERO LOOP:

I will close the hearing on A.B. 357, but I would also like to work session this bill if we do not have any more discussion. I would entertain a motion.

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SENATOR OHRENSCHALL MOVED TO DO PASS A.B. 357.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DONDERO LOOP:

Having no further business to come before the Senate Committee on Government Affairs, this meeting is adjourned at 4:56 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