ASSEMBLY
GOVERNMENT AFFAIRS
March 16, 1977
7:30am

MEMBERS PRESENT: Chairman Murphy
Mr. May
Mr. Craddock
Mr. Jeffrey
Mr. Mann
Mr. Moody
Mr. Robinson
Mrs. Westall (later)
Mr. Jacobsen

GUESTS PRESENT: See attached lists

ASSEMBLY BILL 192

This bill had been previously heard by the committee, however, the committee wanted to hear from Senator Dodge before acting on the measure.

Senator Dodge told the committee that this bill was a result of an interim study to get a handle on the biennial reports. The state budget contains a lot of money appropriated for these reports. So this interim study committee decided to make these reports be compiled into one report by the State Planning Coordinator. Line 5 of the bill is important because it allows the Planning Coordinator to determine the entire format of the report. There is only one reason to justify these reports which is for public information and some of these agencies don't need to make these reports. The objective is excellent because it will bring some kind of order to these reports.

Assemblyman Robinson asked if the bill needed a statement prohibiting unauthorized reports. Senator Dodge said that the committee might want to think about that.

Assemblyman Karen Hayes, sponsor of the bill, joined Senator Dodge at the witness table.

Assemblyman Jacobsen commented that sometimes a person might just want information about one agencies and that it would be a waste if the whole report of all agencies was given out each time.

SENATE BILL 55

Leslie Gray, representing a vast majority of cosmetologists, told the committee that he knew of no opposition to this bill because the purpose of the residence requirement is no longer necessary.

ASSEMBLY BILL 329

Chairman Murphy told the audience that Mrs. Hayes, sponsor of the bill, will not be testifying today as some out of state people could not make the hearing. The bill will be rescheduled for a later date. He then asked for other proponents of the bill to come forward. No one came forward. A group of gentlemen then rose and told the Chairman that they would prefer to wait until the next hearing to make their remarks to the committee. Chairman Murphy then asked for opponents of the bill to come forward who wished to testify today.

Jim Avance, Administrator of the State Taxicab Authority, told the committee that he was not against this bill in concept but there is one problem that needs to be solved. The bill will repeal section NRS 706.881 through 706.885 which are the laws which govern the Taxicab Authority. There needs to be a provision which will keep these statutes active until the new Department is functioning.

David Inwood, Chief Traffic Officer for Wells Cargo, Inc. at Reno, told the committee that he was neither for or against the bill. He just had some comments for the committee's consideration. He noted that the Public Service Commission is very busy.

SENATE BILL 171

Roland Westerguard, State Engineer, told the committee that he was available to answer any questions.

Assemblyman Mann asked why was it necessary to have this bill. He said that the information gathered is expensive to get and they need some personal safeguards.

Assemblyman Craddock asked if this bill didn't go against the philosophy of needing to conserve and save fossil fuels. He was told that yes, but the first draft of the bill did not have any time limit on it and in the second reprint there is a 5 year limit on confidentiality this helps it. They had even tried to make the limit 2 years but had not been accepted.

Assemblyman Robinson asked what kind of punitive action could be taken if this law is not followed. Mr. Westerguard said that it is not specifically spelled out in the bill but administrative regulations could take care of it.

Assemblyman May asked him to define geochemical, geological, and geophysical, he was told that the testimony before the Senate committee said that this would only cover data that would relate

to the geothermal resources and there were comments at that time that the rules and regulations for oil and gas development would cover any exploration wells for those purposes. He admitted that he really could not define the terms as this was not his bill and he was really prepared to testify.

Chairman Murphy announced that the committee would take no further action on S. B. 171 until Senator Raggio was able to testify before the committee.

ASSEMBLY BILL 172

Fred Gale, Director of Archives, said that ever since the origin of the state of Nevada the Secretary of State has always been presumed and in fact has been the keeper of the records but it has never been spelled out that he should be the State Archivist. We are the only state in the union that does not have a State Archivist. He hoped that the committee would pass this.

Assemblyman Jacobsen asked why shouldn't the Legislature designate you as State Archivist. Mr. Gale replied that the Sec. of State has always been known as keeper of the records.

Assemblyman Robinson commented that he did not see why this was needed if it is already known that he keeps the records.

ASSEMBLY BILL 117

Chairman Murphy told the committee that he and Mr. Gale had requested Andy Grose, Research Director, LCB, to come up with an acceptable definition of Public Record and Official Correspondence. He read from a memorandum from Mr. Grose, attached as Exhibit 1.

Mr. Gale commented that he felt the definition was a good one.

Assemblyman Mann asked if the subcommittee had discussed the elimination of the time limits set before material becomes public.

Chairman Murphy told the committee that the subcommittee was not ready to report yet and that there were two other bills on the matter that the subcommittee needed to consider.

ASSEMBLY BILL 437

Chairman Murphy turned the Chair over to Vice Chairman May and took the witness chair.

Assemblyman Murphy told the committee that this bill was an attempt to give some strong direction to Nevada's open meeting law. The intent of the open meeting law has always been to provide for open

meetings and deliberations of all public bodies to the public and to members of the press which often times represent the public. The strength of the open meeting law was recently shown by the District Judge Howard Babcock's ruling which said that the secret session in which three North Las Vegas Department Heads were fired, was a violation of Nevada's open meeting law - even though the open meeting law is at this point extremely open ended and vague. He told the committee that he was considering several amendments to the bill 1)would be to include the Nevada Legislature (Mr. Daykin will appear to speak on the constitutionality of this amendment later). He discussed the basic attributes of the bill which defines meeting, requires advance notice, allows for actions to be voided, and it also provides for penalties (misdemeanor and removal from office). Another addition to the bill would to include a definition of "emergency". One of the problems with the present open meeting laws are that they are scattered throughout the statutes and this bill brings them all together with the exception of the Board of Regents. This bill is not intended as retribution for local governments that had not held open meetings in the past. It is only trying to guarantee the people's right to know. The Legislature is not the main problem, the local governments are. He told the committee that he is open to amendments to the bill within reason. He reiterated the possible amendments he suggested. 1) define emergency 2)include the date, time, and place of meeting on the public agenda 3)try and include the Legislature and 4) perhaps to include electronic means of communications.

After a question by Assemblyman Mann, Assemblyman Murphy told the committee that the thought behind the bill is that for a meeting to take place, a quorum is needed, if a person decides to walk out upon noticing that this is a closed meeting, then that might be the end of the meeting. This bill is definitly trying to force officials not to attend closed meetings. Elected officials should make their decisions in public or make no decisions at all. If a person knowingly participates in a closed door meeting then they are subject to the punitive sections of the law.

After a question by Assemblyman Moody,Murphy clarified that any deliberations of a public body, no matter where it occurs, should be a public meeting.

Assemblyman Robinson commented that "emergency" should be defined more clearly. And that perhaps public records should be defined more clearly.

Assemblyman Jeffrey commented that in small towns adding items to the agenda and having the changes publicized might not be possible. Assemblyman Murphy commented that the bill only calls for publishing the meeting time, date and place, not the agenda items.

Assemblyman Jacobsen commented that it might be putting a real burden on rural boards with volunteer members who might think service is too much trouble with these regulations. It might destroy the volunteer effort.

Deputy Attorney General Bill Isaeff told the committee that the Attorney General says "if in doubt, open the meeting". He supports the concept but pointed out some possible areas of conflict. He added that this bill does correct some of the deficiencies in the present law such as requiring giving notice of meeting. But he added that this bill fails to address a couple of important problems. Declaring actions void instead of voidable which is suggested in S.B. 333 would create many problems. The definition of meeting should include telephone conference calls or communication by electronic means. We need to recognize the reality of conference calls. It needs a definition of emergency. He added that this act does not recognize the necessity of private discussion by licensing authorities following a public hearing as to whether or not a licensee is going to have his license suspended for violations of NRS. When they sit in this capacity, they are acting as a jury and we would not ever try to have jury deliberations in public. He suggested that S. B. 333 should be considered for its meritorious sections.

Assemblyman Westall asked if using the term "voidable" doesn't this put the burden on the public. Mr. Isaeff told the committee that he would rather have the burden on the public than have it mandatorily void. He suggested 180 days to bring action on this.

Chairman Murphy asked him to provide the committee with language to solve the licensing board problem he had mentioned.

Assemblyman Murphy commented after a question by Mr. Jeffrey that the intent of the bill is not to have people dragged out of a cocktail lounge for simple conversation but the intent is when public business is discussed by a quorum of a public body, then that should be a public meeting.

Assemblyman Jeffrey suggested that there be a distinction between administration decisions and policy decisions. Chairman Murphy disagreed because most decisions are important whether they are administrative or policy.

Assemblyman Craddock asked Mr. Daykin who had just arrived if this provision of open meetings sould be applied to the Legislature.

Mr. Daykin replied that he did not believe that it should for the following reason. The Constitution expressly provides that the meetings of the houses of the Legislature shall be open except when the Senate is meeting in Executive Session. There is nothing

that can be done by statute either to add to that or to take away from that provision regarding the Legislature itself. As to the committees, the Constitution expressly provides that each House shall establish the rules and the proceedings. The committees are so integral a part of the proceedings of the houses that I would belive that if a statute proported to regulate a committee of the Legislature, of course if the Legislature did not make any rule on the subject and chose to follow the statute then fine but if the Legislature passed any rule on the subject that would automatically preempt under the Constitution any statutory provision that you would have. Therefore if it were to be extended to the Legislature at all it would have to be so qualified that unless the house otherwise provided by ruled and that makes it for a rather nonsensical statute when you say it is the law unless somebody else changes it.

Assemblyman Robinson asked if new language was needed to apply this rule to unelected officials, just administrative bodies. Mr. Daykin replied that under subsec. 2 of the bill is drafted it includes any board or commission that advises or make recommendations to an entity that expends or disperses public money. Administrators themselves do not fall within the purvue of this because he does not confer with others when he makes his decisions.

Assemblyman Mann suggested that decisions made over a dinner would be voidable. Mr. Daykin said that meetings of a quorum where decisions are discussed should be an open meeting even under the present statutes. There are exceptions to the open meeting laws for collective bargaining, gaming cases, medical and legal screening panels for malpractice cases.

Chairman Murphy asked Mr. Daykin to clarify for the record that if the committee was to include the Legislature in A. B. 437 as it now reads it would not have any effect. Mr. Daykin agreed that it would be either unconstitutional or foolish depending the language that was used.

Charles Zobell, speaking on behalf of the Las Vegas Chapter of the Society of Professional Journalists Sigma Delat Chi, told the committee of his support. His statement is attached as Exhibit 2.

Assemblyman May suggested to Chairman Murphy that a strengthening of the language regarding personnel sessions should be considered.

Marilyn Newton, Nevada Press Women, told the committee of this groups support for the bill and the concept and that they felt the legislation should include the Legislature.

Chairman Murphy commented that this was a unique situation where house rule takes precedence over statute.

Mr. Joseph R. Jackson, Secretary-Manager, Nevada State Press Association, made a statement to the committee which is attached as Exhibit 3. He also presented the committee with a letter from Warren LeRude, Executive Editor of the Reno Evening Gazette and Nevada State Journal which supported the bill. This is attached as Exhibit 4.

Donald La Plante representing the Sigma Delta Chi chapter at the University of Nevada, Reno told the committee of his support for the measure and made some suggestions. 1) Include electronic means of communications in definition of meeting 2) use S. B. 333 definition of written notice 3)define emergency meeting 4)extend the bill to include meetings of the student body governments 5) have a more clear definition of what full and timely notice is. 6)strenghten "knowingly" violates open meeting law provision regarding possible punishment.

Pat Gothberg, Common Cause, presented a statement and list of proposed amendments which are included herewith as Exhibit 5. She added that Common Cause would support voidable instead of void. She also relayed the position of Daisy Talvete, League of Women Voters as in favor of the bill but suggesting that more prominent notice be given and that roll call votes on every matter be mandatory.

Steve Stucker, North Las Vegas, told the committee that he didn't oppose the measure but that clarification was needed with regard to the exceptions that should be in the bill.

Chairman Murphy then presented a clipping from the Nevada State Journal regarding the Babcock ruling which upheld and enforced the present open meeting statutes. A copy of the article is attached as Exhibit 6.

Russ McDonald told the committee that if all of the exceptions that had been mentioned in the meeting were adopted that it would lead to avoidance of the law.

Mr. Frank Sala told the committee that he felt that it would be impossible to negotiate contracts in public, that it is in conflict with Federal regulations.

Russ McDonald mentioned that this law would not be applicable when other Federal regulations are applicable.

Assemblyman Jeffrey stated that competitive bidding has no negotiations anyway. There are just sealed bids.

This was the end of the discussion of A. B. 437.

ASSEMBLY BILL 350

Mr. Bill Galloway, Las Vegas Assessor, explained the bill to the committee. He cleared up some misunderstandings that had been set forth.

COMMITTEE ACTION

SENATE BILL 55- Mr. May moved a DO PASS recommendation, seconded by Mr. Jacobsen, pass unanimously. Mrs. Westall was absent for the vote.

ASSEMBLY BILL 272- Mr. Mann moved a DO PASS, seconded by Mr. May, passed unanimously.

SENATE BILL 105- Mr. Mann moved a DO PASS, seconded by Mr. Jacobsen, motion passed 7-1-1, with Mr. Moody voting no and Mr. Robinson absent.

ASSEMBLY BILL 163 - Mr. Craddock moved to AMEND AND DO PASS AS AMENDED, seconded by Mr. Mann, passed unanimously. Mr. Robinson was absent.

ASSEMBLY BILL 166 - Mr. Craddock moved a DO PASS AS AMENDED, seconded by Mr. Jeffrey, passed unanimously.

ASSEMBLY BILL 167- Mr. Craddock moved to AMEND AND DO PASS AS AMENDED, incorporating amendment no. 56, seconded by Mr. Jeffrey, passed 8-1, Mr. Jacobsen voted no.

ASSEMBLY BILL 192- Mr. Mann moved a DO PASS AND REREFER TO WAYS AND MEANS, seconded by Mr. Jeffrey, Mr. Robinson moved to amend the bill to prohibit unauthorized reports, this motion died for a lack of a second, Mr. Mann's motion passed unanimously.

The committee then took testimony from Mr. Hal Smith of Burrows, Smith and Company on A. B. 186.

ASSEMBLY BILL 186

Hal Smith told the committee that he had researched the present covenants, researched R/S Convention Authority budgets, their collection records and he had contacted various credit rating agencies and underwriting firms that are involved in purchasing Reno bonds. The bill in its present form could do extreme damage to the rating of future bond issues and to the long history of thoughtful consideration on the part of our legislativebodies. It abrogates a contract that was dually entered into and covenanted upon the sale of existing bonds between recognized statutory authority authorized bodies upon the vote of the majority of the registered voters in the County and it was further endorsed by ordinances adopted by the cities of Sparks and Reno. Further endorsed

by ordinances adopted by the County of Washoe. In my queries in trying to establish this, I have no questions of what this bill in its present form would pass. I think there is support and sympathy and probably justifiably within the legislative body. I think there is a clear recognition on the part of the elected bodies encompassed in here that there is probably a reason in wanting to pursue this thing, and a need for it. How you establish the monies that are returned to the benefit of the area is something that you will have to do. I would suggest that you look at the statutory authority establishing the Reno-Sparks Convention Authority and perhaps consider a recognition in the statutes of a body representing all areas of interest in business in Incline Village area. Perhaps by using that for a way to distribute monies that are probably available at the Convention Authority level. Apparently the authorization is only to the Reno Chamber of Commerce, and I think that you can pursue that. There is money available, we recognize that. It is how you get it to the areas where you feel that it ought to be.

Chairman Murphy asked Mr. Smith to provide the committee with information that will help the committee consider problems with the stability of the bonding and how to alleviate them.

Mr. Smith said that if the committee would read chapters 349 and 350 there is always some recital in the bond covenants that the state will adopt no statutes that will ever make bonds taxable, that they will never impose a tax on them and that is always stated on the bonds. There is inferences throughout the statutes that they will not do anything that will change the covenants that existed at the time of the sale. So you haven't grandfathered out the covenants which currently exist with the bond holder. In fact, if we were totally honest with the bond holders we would have notified them of any changes in thinking as we were proceeding. They have that right of notification clearly in NRS 349 and 350.

Chairman Murphy suggested that they not discuss what the committee could not do but rather what amendments could the committee make to the bill as it exists.

Mr. Smith said that he thought the committee could and probably should use the present bill (A. B. 186) as a vehicle for looking at the statutory authority for the Reno/Sparks Convention Authority. Now whether you elected to add representation in certain areas where you presently do not have any, --

Chairman Murphy asked why would the representation be less damaging than the fair and recreation board as it exists now.

Mr. Smith replied that you haven't changed the covenants, only the decision making body.

Chairman Murphy asked Mr. Smith to help Mr. Hartman and Mr. Weise prepare language that would solve the bonding responsibilities questions and have it delivered to the committee. He said he would.

There being no further business, the meeting was adjourned at 12:05pm.

Respectfully submitted,

Kim Morgan

Kim Morgan, Committee Secretary

GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE: 3/16

NAME, ADDRESS & PHONE NO.	REPRESENTING	TESTIFYING ON BILL NO.
Carl A. Soderblom 329-2492 1 EAST FIRST ST., SUITE 905	Nev. RR Assoc.	AB-329
David N. Inwood 1775 E. 4th St. Reno NV 329-0061	Wells Cargo, Inc.	AB-329
Bill ISAEFF	Nev. A.G.	AB 437
Jack Silva	Sen Valley Water & Sanitation District	AB 163, 164, 166, 167
ROY GOLDEN	"	"
Frederick A. Gale.	State Archives.	AB. 117.
Lorraine Sebbas	Beauty Colleges	SB. 55
Jeri B. Wray	Cosmetology	SB 55
Joanne J. Lemke	Salon Owner Cosmetology	SB 55
STEVEN STUCKER	City of North LAS VEGAS	AB437
Ray Morris	Cosmetology	SB-55
Paul Grant	Cosmetology	SB-55

GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE: 2/16

NAME, ADDRESS & PHONE NO.	REPRESENTING	TESTIFYING ON BILL NO.
David Purcell	Cosmetology	SB 55
R.W. Dunker	City of Las Vegas	AB 437
Irene Lurmann	Cosmetology	SB 55
Grant Bastian	Nev. Hwy Dept.	AB 329
Roland D. Westergard	State Engineer	SB 171
W. W. Richards	Motor Carrier	AB 329
Cameron Batjer	Nev. Judicial Selection Comm.	AB 437
Jim Avance	State Toxicol Auth	AB 329
C. R. Wolff	IVGID	
Kermit McMillan	IVGID	AB 163, 166, 167
Lester H Berkson	IVGID	AB 163-166-167
Clark J Guedet Jr	UPRR Co	AB 329

GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE: 3/16

NAME, ADDRESS & PHONE NO.	REPRESENTING	TESTIFYING ON BILL NO.
Robert F Guinn Reno, Nev 323-5127	Nevada Motor Transport Assn	AB 329
Daryl E. Capurro Reno, Nevada 323-5159	Nevada Motor Transport Assn.	AB 329
Donald La Plante Reno, Nv 786-5211	Sigma Delta Chi UNR	AB 437

EXHIBIT L

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627
JAMES I. GIBSON, *Senator, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640
DONALD R. MELLO, *Assemblyman, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
John F. Dolan, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
EARL T. OLIVER, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

February 2, 1977

M E M O R A N D U M

TO: Assemblyman Patrick M. Murphy

FROM: Andrew P. Grose, Research Director

SUBJECT: A.B. 117 and the Definition of "Public Record" and "Official Correspondence"

Chapter 239 of NRS does not contain a definition of public record. At NRS 239.121 there is a definition of "old records." By implication, that is a definition of "records" as well but I think the matter should be more direct than that. In the S.C.R. 30 staff study, we really should have caught this omission.

I have reviewed definitions of public records from California, Florida, Oregon, South Carolina, Virginia and Wisconsin. Copies are attached. There are certain elements common to each and it would seem appropriate to develop an NRS definition based on these other states. I would suggest something along the following lines:

> "Public record" means all papers, documents, correspondence, books, maps, exhibits, sound recordings, photographic films and prints, microfilm, microfiche and computer storage or input devices such as magnetic or paper tape, cards or disks, made or received in pursuance of law or ordinance or in connection with the transaction of public business by any agency or officer of the state or its political subdivision.

Oregon also says what are not public records. I'm not convinced we need that but here is the exception list for ORS 192.005.

> * * * but does not include:
>
> (a) Records of the Legislative Assembly, its committees, officers and employees.
> (b) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.
> (c) Extra copies of a document, preserved only for convenience of reference.
> (d) A stock of publications.

We definitely don't need (a) because the limited exceptions for BDR's and our other legislator requests are covered in 218 of NRS. I believe the definition suggested of what is a public record does not require a listing of exceptions.

My feeling about section 4 of A.B. 117 is that it is not needed if you adopt the suggested definition. It includes correspondence "* * * in connection with the transaction of public business." I doubt that it is necessary or desirable that correspondence beyond that be public records. In fact, section 4 as proposed does not go beyond that.

APG/jd
cc: Assemblyman Westall
Fred Gale

California

CHAPTER 5

State Records

Article
1. General. §§ 14740, 14741
2. Administration of State Records. §§ 14745, 14746
3. Duties of Agency Heads. § 14750
4. Disposal of Records. §§ 14755, 14756
5. Annual Report. § 14760
6. Record Centers. §§ 14765–14768

ARTICLE 1

General

§ 14740. Citation of chapter

This chapter shall be known as the "State Records Management Act."

Added Stats 1965 ch 371 § 179.

Prior Law: Based on former § 12950, as added by Stats 1963 ch 1786 § 1.

§ 14741. "Record" or "records"

As used in this chapter "record" or "records" means all papers, maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by an agency, regardless of physical form or characteristics. Library and museum materials made or acquired and preserved solely for reference or exhibition purposes, and stocks of publications and of processed documents are not included within the definition of the term "record" or "records" as used in this chapter.

Added Stats 1965 ch 371 § 179.

Prior Law: Based on former § 12951, as added by Stats 1963 ch 1786 § 1.

Cross References:
Public writings defined: CCP § 1888.

Collateral References:
Cal Jur 2d Records and Recording Laws § 2.
McKinney's Cal Dig Records §§ 2, 29.
66 Am Jur 2d Records and Recording Laws §§ 1, 12 et seq.

CHAPTER 119

PUBLIC RECORDS

119.01 General state policy on public records.—It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person.

History.—s. 1, ch. 5942, 1909; RGS 424; CGL 490; s. 1, ch. 73-98; s. 2, ch. 75-225.

119.011 Definitions.—For the purpose of this chapter:

(1) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(2) "Agency" shall mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

History.—s. 1, ch. 67-125; s. 2, ch. 73-98; s. 3, ch. 75-225.

119.012 Records made public by public fund use.—If public funds are expended by an agency defined in subsection 119.011(2) in payment of dues or membership contributions to any person, corporation, foundation, trust, association, group, or other organization, then all the financial, business and membership records pertaining to the public agency from which or on whose behalf the payments are made, of the person, corporation, foundation, trust, association, group, or organization to whom such payments are made shall be public records and subject to the provisions of s. 119.07.

History.—s. 3, ch. 75-225.

119.02 Penalty.—Any public official who shall violate the provisions of subsection 119.07(1) shall be subject to suspension and removal or impeachment and, in addition, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 5942, 1909; RGS 425; CGL 491; s. 1, ch. 17173, 1935; CGL 1936 Supp. 7520(6); s. 73, ch. 71-136; s. 6, ch. 75-225.

119.021 Custodian designated—The elected or appointed state, county, or municipal officer or officers charged by law with the responsibility of maintaining the office having public records shall be the custodian thereof.

History.—s. 2, ch. 67-125.

119.031 Keeping records in safe places; copying or repairing certified copies.—Insofar as practicable, custodians of public records shall keep them in fireproof and waterproof safes, vaults or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use. All public records should be kept in the buildings in which they are ordinarily used. Record books should be copied or repaired, renovated or rebound if worn, mutilated, damaged or difficult to read. Whenever any state, county or municipal records are in need of repair, restoration or rebinding, the head of such state agency, department, board or commission, the board of county commissioners of such county or the governing body of such municipality may authorize that the records in need of repair, restoration or rebinding be removed from the building or office in which such records are ordinarily kept for the length of time required to repair restore or rebind them. Any public official who causes a record book to be copied shall attest it and shall certify on oath that it is an accurate copy of the original book. The copy shall then have the force and effect of the original.

History.—s. 3, ch. 67-125.

119.041 Destruction of records regulated.—No public official may mutilate, destroy, sell, loan or otherwise dispose of any public record without the consent of the Division of Archives, History and Records Management of the Department of State.

History.—s. 4, ch. 67-125; ss. 10, 35, ch. 69-106.

119.05 Disposition of records at end of official's term.—Whoever has the custody of any public records shall, at the expiration of his term of office deliver to his successor, or if there be none, to the Division of Archives, History and Records Management of the Department of State, all records, books writings, letters and documents kept or received by him in the transaction of his official business.

History.—s. 5, ch. 67-125; ss. 10, 35, ch. 69-106.

119.06 Demanding custody.—Whoever is entitled to the custody of public records shall demand them from any person having illegal possession of them, who shall forthwith deliver the same to him

PUBLIC RECORDS POLICY

192.001 Policy concerning public records. (1) The Legislative Assembly finds that:

(a) The records of the state and its political subdivisions are so interrelated and interdependent, that the decision as to what records are retained or destroyed is a matter of state-wide public policy.

(b) The interest and concern of citizens in public records recognizes no jurisdictional boundaries, and extends to such records wherever they may be found in Oregon.

(c) As local programs become increasingly intergovernmental, the state and its political subdivisions have a responsibility to insure orderly retention and destruction of all public records, whether current or noncurrent, and to insure the preservation of public records of value for administrative, legal and research purposes.

(2) The purpose of ORS 192.005 to 192.170 and 357.805 to 357.895 is to provide direction for the retention or destruction of public records in Oregon, and to assure the retention of records essential to meet the needs of the Legislative Assembly, the state, its political subdivisions and its citizens, in so far as the records affect the administration of government, legal rights and responsibilities, and the accumulation of information of value for research purposes of all kinds. All records not included in types described in this subsection shall be destroyed in accordance with the rules adopted by the Secretary of State.
[1973 c.439 s.1]

CUSTODY AND MAINTENANCE OF PUBLIC RECORDS

192.005 Definitions for ORS 192.005 to 192.170. As used in ORS 192.005 to 192.170, unless the context requires otherwise:

(1) "Archivist" means the State Archivist.

(2) "Photocopy" includes a photograph, microphotograph and any other reproduction on paper or film in any scale.

(3) "Photocopying" means the process of reproducing, in the form of a photocopy, a public record or writing.

(4) "Political subdivision" means a city, county, district or any other municipal or public corporation in this state.

(5) "Public record" means a document, book, paper, photograph, file, sound recording or other material, such as court files, mortgage and deed records, regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use. "Public records" includes correspondence, public records made by photocopying and public writings, but does not include:

(a) Records of the Legislative Assembly, its committees, officers and employes.

(b) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

(c) Extra copies of a document, preserved only for convenience of reference.

(d) A stock of publications.

(6) "Public writing" means a written act or record of an act of a sovereign authority, official body, tribunal or public officer of this state, whether legislative, judicial or executive.

(7) "State agency" means any state officer, department, board, commission or court created by the Constitution or statutes of this state. However, "state agency" does not include the Legislative Assembly or its committees, officers and employes.
[1961 c.160 s.2; 1965 c.302 s.1]

192.010 [Repealed by 1973 c.794 s.34]

192.015 Secretary of State as public records administrator. The Secretary of State is the public records administrator of this state, and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the public records laws.
[1973 c.439 s.2]

192.020 [Repealed by 1973 c.794 s.34]

192.030 [Amended by 1961 c.160 s.4; repealed by 1973 c.794 s.34]

192.040 Making, filing and recording records by photocopying. A state agency or political subdivision making public records or receiving and filing or recording public records, may do such making or receiving and filing or recording by means of photocopying. Such photocopying shall, except for records which are treated as confidential pursuant to law, be made, assembled and indexed, in lieu of any other method provided by law, in such manner as the governing body of the state agency or political subdivision considers appropriate.
[Amended by 1961 c.160 s.5]

(31) To each county solicitor.

(32) To the judges of juvenile and domestic relations courts. (1952 Code § 1-564; 1942 Code § 2109; 1932 Code § 2109; Civ. C. '22 § 73; Civ. C. '12 § 63; Civ. C. '02 § 60; G. S. 40; R. S. 61; 1836 (6) 648; 1883 (18) 588; 1889 (20) 335; 1894 (21) 1076; 1897 (22) 458; 1902 (23) 964; 1936 (39) 1317, 1350, 1548; 1941 (42) 85; 1962 (52) 1731; 1967 (55) 719.)

Effect of amendments. — The 1962 amendment added item (30) The 1967 amendment added items (31) and (32).

CHAPTER 10.1.

PUBLIC RECORDS.

Sec.
1-581. Definitions.
1-582. Custodians of records.
1-583. Penalties for removing, defacing, etc., records.
1-584. Records to be turned over to successors or to Archives.
1-585. Penalty for failure to deliver records.
1-586. Inspection and examination of records.
1-587. Records to be protected; restoration, etc.
1-588. Records management program.
1-589. Archives to assist in creating, preserving, etc., records; inventories and schedules.
1-590. Further duties of Archives.
1-591. Destruction or other disposition of records.
1-592. Inventorying, repairing and microfilming records.
1-593. Custodians may microfilm, etc., records; preservation or disposition of such copies.
1-594. Penalties for refusal or neglect to perform duty under chapter.

§ 1-581. Definitions.—For the purposes of this chapter *"public records"* means the records of meetings of all public agencies and includes all other records which by law are required to be kept or maintained by any public agency, and includes all documents containing information relating to the conduct of the public's business prepared, owned, used or retained by any public agency, regardless of physical form or characteristics. Records such as income tax returns, medical records, scholastic records, adoption records and other records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter, nor shall the definition of public records include those records concerning which it is shown that the public interest is best served by not disclosing them to the public; *provided, however,* if necessary, security copies of closed or restricted records may be kept in the South Carolina Department of Archives and History, with the approval of the agency or political subdivision of origin and the Director of the Department of Archives and History, and, *provided, further,* that for purposes of records management closed and restricted records may be disposed of in accordance with the provisions of this chapter for the disposal of public records.

"Agency" means any State department, agency or institution.

"Subdivision" means any political subdivision of the State.

"Archives" means the South Carolina Department of Archives and History.

"Director" means the Director of the Department of Archives and History. (1973 (58) 350).

Records required by §§ 37-105 and 10-425 of the Code which relate to the Chief Insurance Commissioner being designated as agent for the service of process are public records and are to be retained and disposed of in accordance with a schedule adopted pursuant to the provisions of this chapter. 1972-73 Op. Att'y Gen., No. 3644, p. 327.

§ 1-582. Custodians of records.—The official in charge of an office having public records shall be the custodian of such records and may appoint a records officer for his agency or subdivision to carry out his duties and responsibilities as set forth in this chapter. (1973 (58) 350.)

§ 1-583. Penalties for removing, defacing, etc., records. — Any person who unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates, secretes or destroys it shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars nor more than five hundred dollars. (1973 (58) 350.)

§ 1-584. Records to be turned over to successors or to Archives.—Any person having custody of public records shall, at the expiration of his term of office or employment, deliver to his successor, or if there is none, to the Archives, all public records in his custody. (1973 (58) 350.)

§ 1-585. Penalty for failure to deliver records.—Any person in possession of a public record who refuses or neglects within fifteen days after written request is made to him by the legal custodian of the record or by the Director of the Archives to deliver as herein required such public records to the requesting party shall be guilty of a misdemeanor and upon conviction be fined not exceeding five hundred dollars. In addition, the legal custodian of such public records or the Director of the Archives may apply by verified petition to the court of common pleas in the county of residence of the person withholding the records and the court shall upon proper showing issue orders for the return of the records to the lawful custodian or the Director of the Archives. (1973 (58) 350.)

§ 1-586. Inspection and examination of records.—Every person having custody of public records shall permit them to be inspected and examined at reasonable times and under his supervision by any person unless such records by law must be withheld, or the public interest is best served by not disclosing them, and he shall furnish, upon reasonable request and at a reasonable fee, certified copies of public records not restricted by law or withheld from use in the public interest. (1973 (58) 350.)

Virginia — proposed law based on an interim study

E. "Custodian" shall mean the public official in charge of an office having public records.

F. "State Librarian" shall mean the State Librarian or his designated representative.

G. "Public official" shall mean all persons holding any office created by the Constitution of Virginia or by any act of the General Assembly, the Governor and all other officers of the executive branch of the State government, and all other officers, heads, presidents or chairmen of boards, commissions, departments, and agencies of the State government or its political subdivisions.

H. "Public records" shall mean all written books, papers, letters, documents, photographs, tapes, microfiche, microfilm, photostats, sound recordings, maps, other documentary materials or information in any recording medium regardless of physical form or characteristics, including data processing devices and computers, made or received in pursuance of law or in connection with the transaction of public business by any agency of the State government or its political subdivisions.

Nonrecord materials, meaning reference books and exhibit materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications, shall not be included within the definition of public records as used in this chapter.

§ 42.1-78. Confidentiality safeguarded.—Any records made confidential by law shall be so treated. Records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this chapter.

§ 42.1-79. Archival and records management function; administration; State Archivist.—The archival and records management function shall be vested in the State Library Board. The State Library shall be the official custodian and trustee for the State of all public records of whatever kind which are transferred to it from any public office of the State or any political subdivision thereof.

The State Librarian shall be responsible for the proper administration of public records.

The State Library Board shall name a State Archivist who shall perform such functions as the State Library Board assigns.

§ 42.1-80. Advisory Committee.—There is hereby created a State Public Records Advisory Committee. The Committee shall consist of nine members. The committee membership shall include the Secretary of Administration and Finance, the State Librarian, the State Health Commissioner, the State Highway and Transportation Commissioner, the Director of the Division of Automated Data Processing, the Auditor of Public Accounts, or their designated representatives and three members to be appointed by the Governor from the State at large. The gubernatorial appointments shall include two clerks of courts of record and a member of a local governing body. Those members appointed by the Governor shall remain members of the Committee for a term coincident with that of the Governor making the appointment, or until their successors shall be appointed and qualified. The Committee shall elect annually from its membership a chairman and vice-chairman. Members of the Committee shall receive no compensation for their services but shall be paid their reasonable and necessary expenses incurred in the performance of their duties.

§ 42.1-81. Committee's responsibilities; appointment of advisory bodies; assistance of the State Librarian.—The Committee shall have responsibility for proposing to the State

Wisconsin – regulation

INTRODUCTION

This handbook is a guide to the procedures required to accurately and intelligently inventory records and schedule their retention and disposition. When the schedule is prepared, retention criteria is formulated to evaluate the requirements of the records which in turn will dictate their ultimate disposition.

Records become the memory, evidence and history of all actions taken by people, thus becoming an indispensable item in the efficient and economical conduct of daily business. The responsibility of attempting to control the State's paperwork is, at best, a horrendous task that will take the dedicated effort of all concerned.

Records Management, Paperwork Management, and Information Control are some of the titles attached to the programs designed to control the life cycle of records. Whatever the terms used, they have the same goal, which is to control the creation, maintenance and disposition of records.

Records must be retained until they have fulfilled their purpose or until their record values (i.e.; administrative, legal, audit, historic and research) have ceased to exist. The following definitions are provided to assist in inventorying, scheduling, and disposing of any State record.

Chapter 16.81 of the Wisconsin Statutes has authorized a records management service to assist in establishing retention and disposition criteria which will allow an agency to ultimately dispose of records whose value has diminished to the point that they will no longer be needed.

THE PUBLIC RECORDS BOARD

The Public Records Board was established by Wisconsin Statutes, S. 16.80, for the prime purpose of preserving important State records and providing for the orderly disposition of all others.

The Board is composed of the Governor, Director of Historical Society, Attorney General, and the State Auditor– or their designated representatives.

DETERMINATION OF RECORD CHARACTER

The following definitions are provided to assist in inventorying, scheduling, and disposing of any State record. See also Appraising Records, page 5.

Record Series . . .
Documents, volumes, or folders that are arranged under a single filing system, or are kept together as a unit because they relate to a particular subject, result from the same activity, or have a particular form.

Public Records . . .
All books, papers, maps, photographs, films, recordings, or other documentary materials or any copy thereof, regardless of physical form or characteristics, made or received by any agency of the State or its officers or employees in connection with the transaction of public business and retained by that agency or its successor as evidence of its activities or functions because of the information contained therein, except the records and correspondence of any member of the State Legislature.

Nonrecord Material . . .
Library and museum material made or acquired and preserved solely for reference or exhibition purposes.

Extra copies of records which are in addition to what is ordinarily required for filing, or which have no continuing purpose. These include: "reading" files, "tickler" copies of correspondence, and identical copies maintained in the same files.

Stocks of publications and of printed documents where sufficient copies have been retained for official purposes. Section 35.85 (7) of the Wisconsin Statutes requires that 3 copies are filed with the State Historical Society, and Section 43.13 requires that 3 copies be sent to the Legislative Reference Library. (However, agencies are encouraged to keep one file copy of all publications.)

Material not filed as evidence of office operations or for its informational value.

Route slips used to direct the distribution of papers or letters of transmittal; teletype messages which do not relate to the functional responsibility of the agency. If the route slip contains pertinent information it must be retained with the material. Initials to signify that the route slip has been seen are not approvals, and the route slip need not be kept.

Preliminary drafts of letters, memoranda, reports, worksheets, and informal notes which do not represent significant basic steps in the preparation of record documents. (To determine intrinsic value in the records consult with the State Archivist.)

Perforated, magnetized, and photographically coded cards and tapes, provided that documents containing the same information are available and such cards and tapes were not necessary in the determination of an administrative decision and are not needed for post audit purposes.

Dictation machine tapes and mechanical records which have been transcribed into typewritten or printed form.

The retention of valuable records should not be jeopardized by making nonrecord material a part of the official files, or mixing record material with nonrecord material.

Exhibit L

STATEMENT ON AB 437

My name is Charles Zobell. I am a reporter for the Las Vegas Review-Journal, but today I speak on behalf of the Las Vegas Chapter of the Society of Professional Journalists - Sigma Delta Chi.

Our chapter, which represents Southern Nevada journalists in both the print and electronic media, met last Saturday to discuss proposed changes in the State Open Meeting Law. After considering each bill section by section, we voted unanimously to support AB 437.

As professional news persons, we are committed not only to accurate and objective reporting, but also to constant and vigorous defense of the people's Constitutional right to know.

We firmly believe that the success of a representative democracy requires an educated electorate; that to make wise decisions, voters must know what their elected and appointed officials are doing with their government.

The responsibility of informing the public is ours, but we cannot fulfill that responsibility when the public's business is conducted behind closed doors.

Our rationale for supporting a strong, comprehensive open meeting law is basic.

First, the people do not yield their sovereignty to the agencies which serve them.

Second, the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.

And Third, the people's right to remain informed, must be protected so that they [redacted] may retain control over the government they have created.

★ Open meetings encourage honest government. In a fully open, democratic government, illegal behavior is observable and can flourish only if a voting majority chooses not te be informed or, being informed, approves. In the absence of electrate ignorance, personnel in an open government will behave at least as honestly as the majority of the electorate expect them to; behavior below that standard will result in removal.

★ Open government is necessary to establish popular confidence in government. "Watergate" and other scandals involving public officials have greatly shaken popular [redacted] faith in governmental processes. Secrecy itself adds to the disbelief. Secrecy is assumed [redacted] purposeful, and without a clear explanation to the contrary, it is assumed that secrecy hides the illegitimate or inept. Only by widely opening governmental processes can the beliefs that government is full of hanky-panky, personal advantage or simple incompetence be dispelled.

★ Opening governmental meetings facilitates accurate reporting of what occurs. Even when meetings are closed, some reports may be leaked to the public, but such reports are often slanted to favor the views of the informant.

Some may say that we already have an open meeting [redacted] law, and ask [redacted] why do we need to change it?

Our experience in reporting government gives us a clear answer to that question.

The law is vague and that [redacted] vagueness has encouraged numerous violations.

Just last week, for [redacted] example, the district court in Clark County found that the North Las Vegas City Council violated the law when it met in secret last year to fire several administrative officials.

And last month Attorney General Robert List issued an opinion stating that the Las Vegas City Commission violated the law [redacted] when it met in secret in December to discuss a personnel reclassification study.

The Clark County Commission often meets in secret, under the guise of a personnel session, to discuss the public's business. The commission also evades the open meeting law by simply calling special meetings without notifying the press.

Elected [redacted] officials will agree that the present law is inadequate because it does not define "meeting" and because it is not entirely clear on what governmental bodies are covered.

We support AB 437 because it answers these and other questions.

-- The proposal defines "meeting" and includes deliberations under the requirements of the law. The public has a right not only to know the decisions of their elected officials, but also to know how those decisions were reached.

-- The bill gives a comprehensive definition of "public body." There should be no question as to who is covered by the law. It would include any administrative, advisory, executive

or legislative body which expends or disburses or is supported in whole or in part by tax revenue.

-- The bill requires advanced notice of all meetings. No longer could public officials say: "Well, the door was open. Can we help it if you didn't know about the meeting?"

-- To give the law more strength, the bill voids all actions which are made in violation of the law and sets the heavy punishment of a misdemeanor and removal from office for any public officials who participates in an illegal meeting.

Removal from office may seem like a harsh price to pay, but public officials are going to continue to violate the open meeting law if there is not a provision strong enough to keep them from closing the doors.

In summary, we urge you to protect the people's right to know by giving AB 437 a "do pass" recommendation. Thank you.

SDX of LV

~~1. "Meeting" means the convening of a quorum.~~

Proposed amendment to Section 1

1. "Meeting" means the gathering, whether in one place or by electronic means, of a public body at ~~xx~~ which a quorum is present to deliberate toward a decision or to make a decion~~x~~ on any matter over which the public body has supervision, control jurisdicitom or advisory power.

1. "Meeting" means the gathering, whether in one place or by electronic means, of two or more members of a ~~x~~ public body to deliberate toward a decision or to make a decision on any matter over which the public body has supervidion, control, jurisdiction or advisory power.

COMMENTS by the Nevada State Press Association regarding Assembly Bill 437, the Open Meeting Law, before the Assembly ~~Judiciary~~ Govt Af. Committee March 16, 1977. (AMEND 3)

(OR PUBLIC RECORDS)

Seven proposals regarding open meetings have been introduced thus far in the Fifty-Ninth session of the Nevada Legislature. A brief review is in order.

SR 5 refers to Senate Standing Rule 92 and requires adequate notice by posting information relative to bills, topics and hearings. Adopted March 3, the rule seems to be working well.

SB 103 clarifies provisions of and exceptions to the Open Meeting law. The bill specifies that all meetings of public agencies are to be open. It was amended the first time to cover governing bodies of special districts and a second time to specifically include the University of Nevada Board of Regents. Passed by the Senate March 2, SB 103 is now in this committee.

SB 333 introduced last week sets out additional requirements for public meetings, describes meetings as a quorum of the membership of a public body to discuss or act upon a matter over which its has jurisdiction. A public body is defined as a body of the state or a political subdivision supported in whole or in part by taxpayers' money. Written notices of meeting schedules are required at the start of each calendar year and written public notices are required three days before a meeting, to be posted in the office and at least three other separate places. Personnel sessions are allowed but their scope is limited and defined. A public body cannot close a meeting when an appointment to a public office or a public body is being discussed.

AB 437 introduced on the same day as SB 333, is the Assembly's all-inclusive public meeting bill. Its description of a meeting is about the same as in SB 333. AB 437 expresses the intent of the Legislature that public bodies exist to aid in the conduct of the public's business and that deliberations and actions be taken openly. All sessions except personnel sessions must be kept open. Public notices must be posted at least 24 hours before a meeting, except in an emergency. Any action taken at a meeting of which such notice has not been posted is void. Each member attending a meeting in violation is guilty of a misdemeanor and loses his office. A member attending an invalid meeting is not an accomplice of any other member so attending. Section 4 of AB 437 substitutes the word "public" body for "legislative" body. Section 2, however, defines a public body as any administrative, advisory, executive or legislative body of state or local government which derives all or any part of its support from the taxpayers' money.

AB 114 provides for advance notices of public meetings at least 24 hours in advance and provides that except as otherwise provided in the constitution, all meetings of the legislature, its committees and subcommittees are open to the public. Any actions taken without complying are void. The measure is in Legislative Functions.

AJR 15 proposes to amend the constitution to require open and public committee and subcommittee meetings and ban Senate executive sessions. This resolution is in Legislative Functions.

AB261, designed to bring Nevada into compliance with federal Law Enforcement Assistance Administration directives, is being wrestled with by the Assembly Judiciary Committee which is hopeful some kind of bare bones legislation can be developed to satisfy the Feds.

Although still basically opposed to permitting any public body to close a meeting of any kind, even personnel sessions, which have in the past been abused and will no doubt continue to be abused, the Nevada State Press Association regards AB 437 as a good bill. It nails down what a meeting is and what a public body is. It expresses the intent of the Legislature. It requires all meetings except personnel session to be kept open with advance notice of such meetings. It provides that any member of a public body being held in violation of the chapter is guilty of a misdemeanor and forfeits his office. We object to the word "knowingly" because this provides too broad an avenue of escape. We believe the intent to apply provisions of the law to the Legislature and its committees and subcommittees, including those which meet between sessions, should be expressed more firmly. We question the meaning of the word accomplice in subsection 3 of section 5 and wonder if the subsection accomplishes anything.

Pride of authoriship aside, we believe there are many good features in SB 333 which could be incorporated in AB 437 by amendment. One is the requirement that public bodies set up and give notice of their meeting schedules at the start of each calendar year. We believe these notices should be published in the newspaper as public notices and suggest that consideration be given this proposal. Requirements that minutes be kept properly and what they shall contain would be a welcome addition. So would the provision which would permit all or any part of any meeting to be recorded on audio tape. This would stop a lot of flap over who said, or didn't say, what, would bring about better, clearer reporting of the news and would stop the all-too-frequent cry: "I was misquoted." It seems ridiculous in this electronic age that some public bodies refuse to allow their meetings to be taped. But some still do. AB 437 provides that actions taken at a meeting of which advance notice has not been given are void. SB 333 provides that any such action is voidable, but leaves it up to the district court to decide. This is a very well thought out provision. To say that an action is void is all very well, but the case should be tried in a court of competent jurisdiction thus providing validity. SB 333 would required the consent of two-thirds of a public body before a personnel session could be held and the motion to close the meeting must specify the subject to be considered and must be made at an open meeting. The bill also specifies what may be considered at a personnel session, providing somewhat narrow limits. Appointment of a person to a public office or a public body could not under any circumstances be discussed at a personnel session. And a personnel session isn't mandatory whatever is to be discussed.

Coming in here to testify in favor of AB 437 and spending so much time discussing what a swell bill SB 333 is might seem undiplomatic and distressing, but the point is that the stronger the bill, the better. Both bills are only now starting through the legislative treadmill and could run the risk of getting caught up in the logjam as the session nears its close. By taking the best features of each bill and amending them into one bill, the risk of the logjam could be avoided. Nevada is in dire need of an open meeting law such as these two measure could provide. The present laws are considered good yet they are said to promote confusion and permit evasion, and the time to clear the air has arrived.

Joseph R. Jackson
Secretary-Manager
Nevada State Press Association.

Exhibit 4

Reno Newspapers, Inc.

Publishers of RENO EVENING GAZETTE and NEVADA STATE JOURNAL (Morning and Sunday)

March 15, 1977

P. O. Box 280
RENO, NEVADA
89504

Nevada Assembly
Judiciary committee

Ladies and gentlemen:

We applaud the goals set forth in AB 437. The Reno Evening Gazette and Nevada State Journal support the sincere efforts of all legislators to bring more of government into the public view. We think AB 437 contains several provisions to accomplish this.

We believe the addition of a strong penalty provision calling for the forfeiture of office by those who violate the law is a positive step toward strengthening open government.

We are particularly pleased the bill brings a sharper definition to what meetings and public bodies are. Modern government includes more and more advisory boards and including them under open meeting and public record provisions rightfully brings more of government into public view.

We endorse the prior notice requirement set forth in this bill. We believe three days notice would be of more benefit to the public than 24 hours, however. We suggest a sharp definition of what an emergency situation is be included to avoid abuse.

We suggest a fuller legal process for voiding actions taken in illegal, closed meetings. We recommend consideration of the process outlined in SB 333, a companion open meeting law bill pending in the Senate.

In fact we urge review of SB 333 for its detail in specifying requirements for executive session, minutes, public notification and its definition of public bodies.

Hopefully members from the Assembly and the Senate will consider the best from both bills to produce the best legislation in the highest interest of the public.

Sincerely yours,

Warren L. Lerude
Executive editor
Reno Evening Gazette
Nevada State Journal

Exhibit 5a

common cause / NEVADA

March 16, 1977
Testimony before the Assembly Governmental Affairs Committee
by: Pat Gothberg, CC/Nevada
re: AB 437

Common Cause supports efforts to strengthen Nevada's open meeting law. If citizens are to understand and have confidence in governmental decisions, they must be allowed to observe the processes by which decisions are made. As is stated in California's Brown Act, " The people of this state do not yeild their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so they may retain control over the instruments they have created."

We are particularly pleased to see the voidability clause in this bill. An open meeting law can often be a farce without meaningful sanctions. Voiding actions taken in violation of the open meeting law is a step in the right direction. 21 states now have voidability clauses in their open meeting laws. We would even go a step further and suggest that this bill should provide for citizens to be able to sue to enforce the law; 28 states now include this in their laws. If you choose to add a section giving citizens a right to sue, appropriate language is suggested on the sheet of amendments.

The forfeiture of office if members of a public body knowingly participate in closed meetings against the law is one of the strongest penalties that can be included in a law. If the Nevada Legislature makes this law, our open meeting law would be greatly strengthened.

Common Cause also supports the need for adequate notice, for no meeting is open to the public if the public has no advance knowledge that a meeting is to take place. We do have some suggestions to make in this area. If at all possible, we like to see notice given longer than 24 hours in advance. We realize that there are occasions when this might not be possible. The exception for an emergency in this bill should provide for those occasions when meetings must be held and a notice of a few days might not be practical. On the other hand, Nevada is an unusual state in that geographically, there is a lot of distance between populated areas. If possible, notice should be given 72 hours in advance.

Not only do we prefer a longer advance notice, but we suggest that the law should specifically require that minutes be taken of all meetings, especially since some meetings, according to our law, may be closed.

common cause NEVADA

I've saved the most important point until last. If the Nevada Legislature is going to pass an open meeting law, it should most certainly include the Nevada Legislature. It doesn't make sence to require everyone else to do the public's business in the open and then exempt the Legislature from that requirement. 31 states have open meeting laws that include the legislatures. Common Cause is pleased to notice that 11 Nevada Senators have co-sponsored an open meeting bill in that body which applies to the Legislature as well as to local entities. It appears that a bill which covers the Legislature would pass the Senate. Since the Assembly already has a standing rule which requires all meetings be open and since it appears that the Senate could pass a bill which applies to the Legislature, it would seem appropriate for the Assembly to step forward and amend this bill accordingly.

Exhibit 5b

common cause / NEVADA

SUGGESTED AMENDMENTS FOR AB 437

Page 1: Delete line 15

Page 2: Change lines 13 and 14 as follows:

Except in an emergency, the required notice shall be given at least 72 hours before the meeting and shall include the agenda, date, time, and place of the meeting.

Page 2: The following two new sections are taken from language in a model bill and are offered as a starting point for your consideration:

MINUTES. (a) All public bodies shall keep written minutes of all of their meetings. Such minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent;

(3) the substance of all matters proposed, discussed, or decided, and, at the request of any member, a record, by individual member, of any votes taken; and

(4) any other information that any member of the public body requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within a reasonable time after the meeting except where such disclosure would be inconsistent with other sections of this act.

(c) All or any part of a meeting of a public body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction except when a meeting is closed pursuant to other sections of this act; provided that in so recording there is no active interference with the conduct of the meeting.

ENFORCEMENT. (a) The Attorney General and the public prosecutors of competent jurisdiction shall enforce the provisions of this act.

(b) Any person denied the rights conferred by this act may commence a suit in a court of competent jurisdiction for the county or city in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of this act or to determine the applicability of this act to discussions or decisions of the public body. The court may order payment of reasonable attorney fees and court costs to a successful plaintiff in a suit brought under this section.

Exhibit 6

NSJ 3/10/77

Meeting Law Violated

LAS VEGAS (UPI) — District Judge Howard Babcock ruled Wednesday that the secret session in which three North Las Vegas department heads were fired violated Nevada's open meeting law. He ordered the trio reinstated.

Shirley Hansell, former North Las Vegas city clerk; Helen Pivoda, former director of personnel; and Irene Porter, former planning director, were terminated following a North Las Vegas City Council executive session Nov. 9, 1976.

Attorney George Franklin won a writ of mandate in Babcock's ruling which said, in part, "The court is persuaded the Nov. 9 meeting of the City Council went beyond the scope of the open meeting law. . ."

The ruling said the meeting was in direct conflict with the expressed purpose of Nevada's open meeting law and that adoption of a reorganization plan was clearly not within the scope of an executive session.

Franklin said the three former officials could report back to their offices almost immediately. Some of them, however, have accepted other posts since their termination.

Babcock took issue in the ruling with the council's use of a waiver of public notice prior to the Nov. 9 meeting.

"The impact and practical significance of Nevada's open meeting law is frustrated by local provisions that permit a waiver of the call and notice of special meetings," said the judge's ruling.