

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

**Seventy-Third Session
March 23, 2005**

The Committee on Government Affairs was called to order at 8:12 a.m., on Wednesday, March 23, 2005. Chairman David Parks presided in Room 3143 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4412 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Ms. Peggy Pierce, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. Chad Christensen
Mr. Jerry D. Claborn
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joe Hardy
Mrs. Marilyn Kirkpatrick
Mr. Bob McCleary
Mr. Harvey J. Munford
Ms. Bonnie Parnell
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman John Ocegüera, Assembly District No. 16, Clark County

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Eileen O'Grady, Committee Counsel

Kiz Malin, Committee Attaché

OTHERS PRESENT:

Dan Musgrove, Intergovernmental Relations Director, Office of the
County Manager, Clark County, Nevada

Ted Olivas, Director of Government and Community Affairs, City of
Las Vegas, Nevada, and Chairman, Nevada Public Purchasing
Commission

Mike Kuckenmeister, Chief, Materials Management Section, Division of
Purchasing, Department of Administration, State of Nevada

John Slaughter, Management Services Director, Office of the County
Manager, Washoe County, Nevada

Steve Walker, Legislative Advocate, representing Carson City, Lyon
County, and Truckee Meadows Water Authority

Chris Matthews, E-Government Information Officer, Department of
Information Technology, Washoe County, Nevada

Michael Mack, City Councilman, Las Vegas, Nevada

Susan Fisher, Legislative Advocate, representing the City of Reno,
Nevada

Kent Lauer, Executive Director, Nevada Press Association, Inc., Carson
City, Nevada

Nancy Howard, Assistant Director, Nevada League of Cities and
Municipalities

Chairman Parks:

[Meeting called to order and roll called.]

**Assembly Bill 259: Revises provisions relating to rights of peace officers.
(BDR 23-546)**

Chairman Parks:

There are several other bills, notably A.B. 207, which last night we referred to the Judiciary Committee. It deals with the same subject as A.B. 259, and I felt for consistency, and for the ability of that Committee to have a hearing on all three of the bills, that it would be simplest for us to refer the bill back to the floor to have it re-referred to Assembly Judiciary Committee.

ASSEMBLYMAN GOICOECHEA MOVED TO RE-REFER
ASSEMBLY BILL 259 BACK TO THE ASSEMBLY COMMITTEE ON
JUDICIARY.

ASSEMBLYMAN CLABORN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- BDR 25-598—Revises provisions relating to powers and duties of rural housing authority. (Assembly Bill 372)

ASSEMBLYMAN HARDY MOVED FOR COMMITTEE
INTRODUCTION OF BDR 25-598. (ASSEMBLY BILL 372)

ASSEMBLYMAN GRADY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 31-606—Makes various changes concerning financial practices of local governments. (Assembly Bill 518)

ASSEMBLYWOMAN PARNELL MOVED FOR COMMITTEE
INTRODUCTION OF BDR 31-606. (ASSEMBLY BILL 518)

ASSEMBLYMAN CLABORN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 726—Revises definition of contractor to include certain construction managers, general contractors and employment agencies. (Assembly Bill 370)

ASSEMBLYWOMAN PARNELL MOVED FOR COMMITTEE
INTRODUCTION OF BDR 726. (ASSEMBLY BILL 370)

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Assembly Bill 179: Exempts certain governmental purchases of personal safety equipment from certain requirements for bidding and purchasing. (BDR 27-355)

Assemblyman John Ocegüera, Assembly District No. 16, Clark County:

Last session I had the honor of introducing and getting passed some legislation that dealt with NRS [*Nevada Revised Statutes*] 332.115. That legislation exempted the purchase of personal safety equipment for use by the fire department and law enforcement agencies, in the protection of personal health, safety, or welfare, during emergency responses. It is pretty narrowly crafted, and I felt that it did what it needed to do. However, some of the purchasing folks have come to me and said that, maybe, we need to expand that just a little bit more.

Assembly Bill 179 has been introduced on behalf of the Clark County Public Works due to the fact that they also respond as first responders, with fire departments and law enforcement, to emergency situations. In those situations, personal safety equipment is imperative to protect the health, safety, and welfare of that personnel. The Office of Domestic Preparedness, under the direction of Homeland Security, officially recognizes public works agencies as first responders for events involving weapons of mass destruction.

Additionally, the Clark County Emergency Operation Plan designates the Clark County Public Works as a lead agency for floods, earthquakes, storms, and volcanic fallout. I do not know if there is a volcano in Las Vegas, but they are there for it. The Clark County Public Works is designated as a support agency for avalanches, explosions, hazardous materials, and terrorism.

I have with me Dan Musgrove, appearing on behalf of Clark County, who could answer further questions on the bill. He has also offered an amendment and worked with all interested parties to make sure that we narrowly craft this bill so that it does not include too many folks. I think that this legislation would

better give the ability to encompass all the first responders, as the Office of Domestic Preparedness defines, so that they can get this safety equipment when they need to, in a prompt and timely manner.

Dan Musgrove, Intergovernmental Relations Director, Office of the County Manager, Clark County, Nevada:

As we go forward, we realize that there are other agencies and folks that meet that narrowly defined category of being a first responder. Because of the uniqueness of the equipment that these folks need, the limited number of vendors that deal in these areas, and the fact that this is such a new experience for all of us—dealing with the potential acts of terrorism and things that we never thought about prior to September 11, 2001—sometimes, you cannot go through the normal competitive bidding process. You need to be able to get these things immediately. You need to be able to buy special equipment, and that is why this bill was first contemplated by Assemblyman Ocegüera.

Now that we have evolved further in our definitions of what first responders are, we thought it was important to bring a little more to the Legislature in asking for a different broadening. As we broaden it, we also believe that we are going to define it and narrow it so that it is not abused by anybody that should not be going through the competitive bidding process. That is really what this amendment does for you. Initially, it was our Public Works Department who came to him and asked him to allow them to be considered as a first responder, but as I was working with our purchasing folks—both internally in Clark County as well as those experts in the field, such as Mr. Olivas—they suggested that, perhaps, we offer this amendment that would actually put into statute the fact that this competitive bidding exception only be allowed for first responders.

As you can see from my amendment that I passed out ([Exhibit B](#)), all we are asking is that after the word “agency,” when it says “local government agency,” we now expound it to say “local government agency first responders, to prevent, respond, and recover from acts of terrorism and other disasters in which the health, safety and other personnel may be compromised, impaired, or otherwise threatened.”

Further down, we actually define the equipment that they can only buy through this exception to competitive bidding. If I can, I will just give you some kind of indication. The Department of Homeland Security has essentially defined those first responders as those who deal with hazardous materials, public works departments, governmental administrative public safety communication folks, health care agencies, and public health responders. Those are the folks that can utilize this exception to competitive bidding and no one else. We present this to you and hope for your approval.

Assemblyman Grady:

You are eliminating all of Section 2?

Dan Musgrove:

Yes. In discussion with the State, they did not feel that they needed to receive any kind of mention in this legislation. There is someone here from the State who can answer that, but they have enough flexibility within their own statute, where they can make these purchases. That is why. I guess it was the LCB [Legislative Counsel Bureau] who included them initially. In our discussions with them, they felt that they did not need to be included, and that is why we exempted them out of this piece of Chapter 332.

Assemblywoman Pierce:

The way this would read is, in Section 1, page 3, line 17, first responders and then the rest of that goes after "other local government agency." Is that correct?

Dan Musgrove:

What we are doing is, after "agency," we are going to expand it to say "agency first responder." As it was currently drafted in the bill, you just see "other local government agency." We thought that that was perhaps too broad, and there might be some abuse. What we want to do is to just narrow it, with the recommendation from the purchasing folks throughout the state. They had said that not only do we narrow who it is, but because the Homeland Security Department has actually defined who those first responders are, that gives us a little bit more flexibility, so we don't have to keep coming back to say that now that we have allowed for police and fire and public works, we want to talk about EMS [emergency medical services]. For example, UMC [University Medical Center of Southern Nevada] Trauma Center might need special gear in responding to a type of hazardous weapons of mass destruction event.

Assemblywoman Pierce:

We are only narrowing it on line 17, "other local government agency"; we are not narrowing it on the other?

Dan Musgrove:

We do again on page 4, line 3. Anytime where it says "agency," we went ahead and added that "agency, first responder."

Ted Olivas, Director of Government and Community Affairs, City of Las Vegas, Nevada, and Chairman, Public Purchasing Commission:

We are in support of this. We have reviewed this legislation. We were involved in the drafting of this legislation last session. It was specifically drafted for

police and fire. Shortly after the session, we were informed that there are other folks that are first responders to these types of disasters, so we thought that this needed to be amended appropriately. We believe that with the amendment that Mr. Musgrove provided ([Exhibit B](#)), it narrowly defines who we think needs to be included in this section of NRS 332.

Mike Kuckenmeister, Chief, Materials Management Section, Division of Nevada Purchasing, Department of Administration, State of Nevada:

We are in support of [A.B. 179](#) with the proposed amendment.

Assemblyman Sibley:

Do you know how many times, since the law was changed, we have used this exemption to purchase items? Is it used frequently?

Mike Kuckenmeister:

I cannot speak to how the local governments have used the exemption. We have numerous contracts that we put in place proactively for use by the Department of Public Safety, the Nevada Division of Forestry, and other agencies. For example, NDOT [Nevada Department of Transportation] is very often in position to respond to emergencies on the highway when they need various supplies. I am not aware of how often we have invoked that, because our approach to purchasing is that we anticipate these kinds of things and set things up in advance for the agencies to access them, so that they have a broad scope of materials available to them to use at any time. We have catalog-type contracts with companies within the state and outside of the state, where we can help facilitate acquiring appropriate supplies that they need.

John Slaughter, Management Services Director, Office of the County Manager, Washoe County, Nevada:

We have reviewed the bill and the amendments and are in support of both. For the record, volcanic ash fallout in northern Nevada is a threat that we face.

Steve Walker, Legislative Advocate, representing Carson City and Truckee Meadows Water Authority:

We are in support of [A.B. 179](#) with the amendments.

Chairman Parks:

[Closed the hearing on [A.B. 179](#). Opened the hearing on [Assembly Bill 188](#).]

[Assembly Bill 188](#): Provides that certain electronic mail addresses are confidential and not public records open for public inspection. (BDR 19-595)

**John Slaughter, Management Services Director, Office of the County Manager,
Washoe County, Nevada:**

Chris Matthews, Washoe County's webmaster, is with me today. He will provide some additional insight on the need for the bill. Washoe County presented this issue to NACO [Nevada Association of Counties] this last fall, the board of directors of NACO approved the request, and I bring it forward in their name. The intent of A.B. 188 is to make email addresses provided to governments by citizens for the purpose of communicating electronically with that government confidential.

Many government agencies, including Washoe County, routinely offer to send various documents to citizens through email. Meeting agendas, project update reports, and citizen newsletters are a few examples of documents that we typically offer to send electronically to our citizens. However, many citizens are reluctant to communicate electronically with us, knowing perhaps that Internet marketing firms can request these email address lists from the government agencies with the intent of sending spam [unsolicited bulk email]. Anyone with an email inbox knows the frustration of opening Microsoft Outlook, only to find their inbox containing various offers for the latest wonder drug or the most incredibly low mortgage interest rates. In researching this issue, we have found several claims that a verified email address, which is what we are talking about when we collect email addresses, is worth anywhere from \$7 to \$12 and can be sold many times over to Internet spammers. In our situation, you can imagine the value of these large lists of citizen email addresses to Internet spammers. We want to remove these email address lists from this market.

I would like to review the bill with the Committee as it is written. First, I would like to note that in Section 1 of the bill, I believe that there is a reference to NRS 239(b) that is incorrect. It should reference NRS 239. Subsection 1 of the bill provides that when a person gives an email address for the purpose of communicating with a government entity, that email address is confidential and is not public record. We are aware that the Nevada Press Association has a proposed amendment that will further define that it is the actual list or database of these email addresses kept by governments that is at issue. We agree with this proposed amendment. It is these lists of email addresses that we want to protect. That is where the value is to the Internet spammers.

There are several exclusions in the bill, listed in subsection 2, specifically for emails provided to governments by persons who have a contractual relationship with the government and individuals who seek to do business with the government by responding to an RFP [Request for Proposal] or other bid proposal. In these cases, the bill maintains that these email addresses are considered public records. In Section 3, the bill provides for disclosing email

addresses in response to a court order or to prosecute a crime. It also provides for the disclosure of these email addresses to another government entity. I will now turn the testimony over to Chris Matthews, who originally brought this matter to our attention.

Chairman Parks:

The only comment I would make is that as the bill is written it does reference NRS 239(b). We will leave it up to Legal to tell us if, perhaps, it needs to be in NRS 239.

Chris Matthews, E-Government Information Officer, Department of Information Technology, Washoe County, Nevada:

I just wanted to rattle off a few statistics for you, so you have some information. We investigated why we might aggressively pursue a plan for using email and other online communication for our citizens in Washoe County. Using some national trends and applying them to the population of Nevada, there are approximately 800,000 Nevadans who currently interact with their government online. This would be local, regional, state, and federal government. This is interacting either by website or by using email, which represents a very significant population base here in Nevada. We want to encourage that and encourage more people to get online and to use these communication methods in order to reach us.

One of the reasons for wanting that is just a matter of efficiency. If we were to send a printed newsletter to those 800,000 people, using a conservative estimate, of, say, 25 cents per person to send a printed newsletter—that would cover the cost of the newsletter and the mailing—we would be spending \$200,000 to send a newsletter to those 800,000 people. Assuming we had the email addresses for all 800,000, we could turn around and send an electronic version of that newsletter to them at a cost of nothing other than the cost of just assembling the newsletter.

It represents a very significant potential savings to us in order to be able to communicate electronically, as opposed to or in addition to our traditional print methods. So, we have been preparing to offer our citizens the ability to give us their email address and tell us what they are interested in receiving—everything from agendas to parks and recreation opportunities, and one of our biggest interest draws, jobs—online. But, we have been hesitant to put that online for the reason that these lists are public record, and any web-savvy mass marketer could conceivably wander by and request the list and use it for a variety of reasons, legitimate or illegitimate.

[Chris Matthews, continued.] We are not quite so worried about the legitimate ones, but we are worried about the illegitimate uses—most importantly, a current trend that is happening online, which is called “phishing.” This is to use email and websites to trick people into giving personal information, such as Social Security numbers, email addresses, credit card information, and things of that nature. They do this by posing as a reputable financial institution, such as Citibank or SunTrust Bank. You will receive an email that says, “Important account information needed for your Citibank account.” This goes out to people who do not even have Citibank accounts. It will then prompt you to go to a website, and the website looks like Citibank. They have spent a lot of time making their site look like the site that it is supposed to be but, classically, it is hosted in Russia or someplace else—such as Hong Kong or Thailand—out of easy reach for local law enforcement. You fill out a form, and they thank you for your input. On the form you have filled out your name, Social Security number, credit card information, and PIN [personal identification number], for the purpose of verifying your account, reactivating your account, and things of that nature. Then you have provided that information to people who should not have it.

A survey run by the Gartner Group showed that the phishing industry is an industry that nets currently up to \$2.4 billion a year. That is just in the direct cost of money lost through illegitimate account withdrawals, credit card information that was used to make illegitimate purchases, and it does not even address the concept that your identity at that point has been compromised. People could apply for home loans and other financial transactions using your name and your Social Security number.

We are very aware of this and very hesitant to open our citizenry up to being subject to these kinds of things. We are requesting this bill to help us to protect our citizens and to help protect those lists of email addresses so that they are not requested and so that we do not have to give them out. In this online world, where more and more people are going phishing, we do not want to be the ones providing the bait.

Chairman Parks:

As I understand it, there are proposed amendments that will be introduced on this bill. Mr. Slaughter, do you know?

John Slaughter:

I have seen one amendment from the Nevada Press Association. I am not aware of any others. We would be happy to look at those as well.

Chairman Parks:

As we go through the list of individuals, I am sure that we will entertain that.

Steve Walker, Legislative Advocate, representing Lyon County and Truckee Meadows Water Authority:

Lyon County and Truckee Meadows Water Authority support A.B. 188. Truckee Meadows Water Authority sees it as an opportunity to have the efficient dialogue with its customers via email, and offering that the email address would not be disclosed would increase the use of that by customers.

Ted Olivas, Director of Government and Community Affairs, City of Las Vegas, Nevada:

We are in support of this bill as amended. The amendment that we did see was from the Nevada Press Association. We are in support of that. I believe that Mr. Slaughter and Mr. Matthews provided an appropriate review and "phishing report" ([Exhibit C](#)) of this bill and what it does. I am joined by Councilman Mack, who would like to provide some firsthand experiences that have occurred at the city related to email addresses.

Michael Mack, City Councilman, City of Las Vegas, Nevada:

Today, I am here to testify in support of A.B. 188. From one politician to another, I think that I can talk to you firsthand of my experience of how I believe the constituency of Las Vegas is being abused by some of these people who have asked for these lists. As a requirement of it being of public record, we have many companies that come to Las Vegas and they ask to buy our list. Of course, we cannot sell the list. These people ask for them because it is public record, and they can get them for free and then sell these lists.

The City of Las Vegas is quite proud of the fact that we are using cutting-edge technology to bring government a little bit closer to our constituency, whether it be email blasts or bringing information to the citizenry. We do jobs online, and we have our sewer bills that you can pay online. We actually have a new ordinance that will enable people to sign up for garage sales online. We will have a permitting process for garage sales. It has been quite helpful as our city is growing.

Approximately four years ago, I created an electronic newsletter, which is called the "The Ward No. 6 Electronic Newsletter." There might be a few members of you that might have seen it or are on my list. It is the largest database, I think, in Clark County for this use. I am quite proud of it and I seem to manage it well, but what has happened recently is, since I have not elected to reseek my term, a lot of the candidates seeking my office have requested this list to use for political purposes. I have talked to them all individually and said, "Please don't

do this, because many people will opt out." The information we provide every Thursday could be a wind advisory or road conditions. We update the citizens of Ward 6 of what is happening, and it seems to be quite helpful, and people like it, and the low cost is helpful to our taxpayers.

[Michael Mack, continued.] Many of them opted to continue because it is an inexpensive way to campaign, by just getting our list. I have just a sampling of emails by people who are outraged that they are being spammed by these candidates. Beyond the candidates, we are getting real estate companies and insurance companies that are requesting these lists and using them to spam our database. I think that it is going to be quite harmful.

The biggest concern I have is, because I have two elementary school kids myself, that our leisure services and our safety programs are online, and our youth are getting online to sign up for these services. These lists are also being used and being requested to be spammed out. I am quite concerned and appreciate any support that you can give to this bill.

Ted Olivas:

We do have some emails ([Exhibit D](#)) that we would like to submit for the record. I will make copies and get them to the Committee this afternoon.

Susan Fisher, Legislative Advocate, representing the City of Reno, Nevada:

We want to go on record in support of the bill with the proposed amendment as well.

Kent Lauer, Executive Director, Nevada Press Association, Inc., Carson City, Nevada:

The amendment is quite simple. As you can see in Section 1 ([Exhibit E](#)), we clarified that the database containing these email addresses is confidential. That is the concern of the bill's proponents, and we are tightening up the language to say that the database is confidential.

Assemblyman Hardy:

In regard to line 23 of your amendment that reads, "(b) For any reason to any other governmental entity," could another government entity get the list but not have the same requirement on themselves? Then it would be accessible to another entity. So, can we say, "To any other government entity that, likewise, has the same NRS statute?" I am trying to make sure that we do not send it to another government entity that is not jurisdictionally required to keep the database confidential as well.

Kent Lauer:

I would have no problem with that. That clarification would be fine.

Assemblywoman Pierce:

How does a FOIAR [Freedom of Information Act request] work with this? I am just trying to figure this out myself. Maybe you already have the answer.

Kent Lauer:

I am not sure what the question is. Could you elaborate?

Assemblywoman Pierce:

In connection with a Freedom of Information Act request, does this, in any way, prohibit or impede a government agency from complying with this request?

Kent Lauer:

If somebody under this amendment came into a local government office and requested the database of email addresses, the local government would refuse that request because that is confidential by statute. Essentially, our public records law in the state of Nevada says that all public records are open to inspection except those that are considered confidential by specific statute. In this case, there would be a specific statute declaring that the database of email addresses is confidential.

Assemblywoman Pierce:

What is the reason for Sections 2 and 3, if 1 specifically says that what we are talking about is a database?

Kent Lauer:

I believe that the purpose of the language in Section 2 comes from the original bill. Maybe the proponents could address that more specifically. In Section 2, it would just clarify that email addresses for those who engage in commercial communication with a government entity are not affected by this language. There might be several vendors who respond to a local government entity's proposal. That local government entity might keep a list of those vendors' email addresses. This bill would not apply to those who engaged in commercial communication. What we are trying to do there is strike a difference between the average citizen who communicates electronically and those of a commercial nature. We want to make sure that the public still has access to email addresses of those who communicate in a commercial capacity.

Assemblywoman Pierce:

That is my concern also. I just wanted to make sure, for instance, does "establish a business or contractual relationship with a government entity"

include lobbying? Is there no way to say that lobbying would not be included under that?

John Slaughter:

I agree with Mr. Lauer's assessment of a business relationship that someone has with the government, and a private relationship that a citizen has when they are just seeking to get information from the government. Since we are requesting RFPs [Requests for Proposal], we may prepare an email list of those businesses that are seeking business with the county, and we would not want to make that private and confidential. We would want that to be part of the public record. That would include those lobbyists.

Nancy Howard, Assistant Director, Nevada League of Cities and Municipalities:

The Nevada League of Cities would like to go on record as being in support of the amendment.

Chairman Parks:

We will have Susan Scholley prepare a mockup of the bill, so we can have a chance to review it before we go into a work session on it, so that everyone can see it and we can get some other comments, if there are any.

John Slaughter:

As we were discussing Assemblyman Hardy's thought on the government entity issue, I think that he has discovered a loophole and, perhaps, closed a loophole where we would be able to provide the address to a government in Oregon or Washington, and then they do not have similar statutes. We would agree with that portion of an amendment.

Assembly Committee on Government Affairs

March 23, 2005

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Chairman Parks:

[Closed the hearing on A.B. 188.] The meeting is adjourned [at 9:02 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Haywood
Transcribing Attaché

APPROVED BY:

Assemblyman David Parks, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 23, 2005

Time of Meeting: 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
A.B. 179	B	Dan Musgrove, Director, Intergovernmental Relations, Clark County Manager's Office	Proposed Amendment to <u>A.B. 179</u>
A.B. 188	C	Chris Mathews, Washoe County Webmaster	Phishing Report
A.B. 188	D	Michael Mack, Councilman for Ward No. 6, Las Vegas, Nevada	Copies of Emails
A.B. 188	E	Kent Lauer, Nevada Press Association	Proposed Amendment to <u>A.B. 188</u>