

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

**Seventy-third Session
May 2, 2005**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:06 p.m. on Monday, May 2, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Warren B. Hardy II, Chair
Senator Sandra J. Tiffany, Vice Chair
Senator William J. Raggio
Senator Randolph J. Townsend
Senator Dina Titus
Senator Terry Care
Senator John Lee

STAFF MEMBERS PRESENT:

Kim Marsh Guinasso, Committee Counsel
Olivia Lodato, Committee Secretary
Michael Stewart, Committee Policy Analyst
Catherine Barstad, Committee Secretary

OTHERS PRESENT:

Ted J. Olivas, City of Las Vegas
Billie M. Bastian, City of Las Vegas
Santana Garcia, City of Henderson
Kimberly McDonald, City of North Las Vegas
John Slaughter, Washoe County
Chris Matthews, Washoe County
Susan Fisher, City of Reno
Scott K. Sisco, Interim Director, Department of Cultural Affairs
Phyllis Sargent, Assistant Administrator, State Library Services, Department of
Cultural Affairs
David Kallas, Las Vegas Police Protective Association

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Ronald P. Dreher, Peace Officers Research Association of Nevada
Gary H. Wolff, Teamsters Union Local 14
Rick R. Loop, Nevada District Judges Association; Eighth Judicial District Court
Stan Olsen, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and
Chiefs' Association
Doug Sonnemann, Assessor, Douglas County
Dave Dawley, Assessor's Office, Carson City
Alan Glover, Clerk-Recorder, Carson City

CHAIR HARDY:

Welcome to the Senate Committee on Government Affairs. We will call to order a subcommittee with Senator Care and myself present. I would like to open with the hearing on Assembly Bill (A.B.) 31.

ASSEMBLY BILL 31 (2nd Reprint): Makes confidential certain records of local governmental entities relating to use of recreational facilities and participation in certain instructional and recreational activities and events. (BDR 19-602)

CHAIR HARDY:

Rather than going over each line of the bill, just explain the problem.

TED J. OLIVAS (City of Las Vegas):

Our handouts represent support from various jurisdictions ([Exhibit C](#)). Assembly Bill 31 would allow us to keep confidential the personal identifying information we receive from the participants of our recreation programs. This information is considered public record. We bring A.B. 31 before this Committee because there is a concern the information could be misused for various reasons. The bill defines those situations when the information needs to be disclosed. We have had requests for this personal information in the past, and it could easily fall into the wrong hands. The existing law references a Nevada Supreme Court case, *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev (1990), which allows us to do a balancing test. The test is used to decide if records can be released or not. If a particular record is not expressly declared open by statute, the balancing test must be applied to determine if the record must be disclosed. This test begins with the presumption the record is public and should be disclosed. We would have to weigh the public's interest in the document versus the confidentiality interests. This balancing test would be an impossible undertaking. Therefore, we ask for this exemption.

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SENATOR CARE:

This bill would not have anything to do with homeland security or the aftermath of the events of September 11, 2001. Who are "the wrong hands," and where have the requests been coming from? Have you had any indication of what these people would attempt to do with this information?

MR. OLIVAS:

The wrong hands are those people who would use this personal information to stalk individuals or acquire emergency information on the individuals who are attending our programs. Some information, in the wrong hands, could cause harm to our recreation participants. It could potentially be used for sales- and advertisement-type activities.

CHAIR HARDY:

How specific is the information you collect? Could someone obtain knowledge of my daughter's whereabouts, at a specific time, if she were to sign up for one of your programs?

MR. OLIVAS:

That is exactly right. The information we gather depends on the course requested. Sometimes we have medical and emergency contacts, even information on the work schedules of parents. It varies according to individual programs.

CHAIR HARDY:

The cellular numbers of elected officials, parents and professional people would be accessed if a child listed them as emergency contact numbers. Those numbers would then become public information.

MR. OLIVAS:

That is absolutely correct.

BILLIE M. BASTIAN (City of Las Vegas):

I urge the passage of A.B. 31. We have three categories of individuals who are most vulnerable to information falling into the wrong hands. Those are people with disabilities, children and senior citizens.

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SENATOR CARE:

This bill, as written in the second reprint, gives me pause. The provision where it includes a request from a reporter is of concern. You have "public domain," which is what it becomes when a reporter gains access to information. Someone has to weigh this bill and make the judgment as to whether this is a legitimate reporter as opposed to a freelance reporter. It is not the call of government to decide if information is going to be used for journalistic purposes. If you want to maintain confidentiality, simply refuse to turn over information unless presented with a subpoena from court. That is how I read A.B. 31.

MR. OLIVAS:

You are correct. In developing this bill, our first recommendation was to act only by court order. We received an amendment from the City of Henderson to add the distinction of only by subpoena of the court. There were other discussions with trial lawyers from all jurisdictions.

CHAIR HARDY:

Senator, there was also an Assembly Floor amendment from the other House.

Please note for the record, we have reached a quorum, and we are in full Committee.

SENATOR CARE:

Records are either public or private. They cannot be sort of public and sort of private. It is going to have to be one or the other. If you believe records to be confidential, then you have to take the necessary steps to preserve that confidentiality. You have to insist on a court order.

SENATOR LEE:

Who do you keep track of in your database? In general, how long do you keep these records? If you have people sign up for a one-month cooking school, how long does their information remain in your database?

MS. BASTIAN:

We keep personal information on any individual who enrolls in a program. We also keep track of individuals who register at our facilities. This is all decided by the individual sign-in form. A registration form has a retention record within the

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City of Las Vegas covering varying degrees of time. In general, most of our records are kept for seven years.

SENATOR LEE:

If my child signs up for beginner swimming lessons, you will have that information on file for a minimum of seven years?

MS. BASTIAN:

That is correct. In some cases, because of our electronic databank, records would continue on through the years as the child advances to other classes.

CHAIR HARDY:

Are there any additional questions of Mr. Olivas or Ms. Bastian? Is there anyone else wishing to testify in favor of Assembly Bill 31?

SANTANA GARCIA (City of Henderson):

For the record, the City of Henderson fully supports Assembly Bill 31.

KIMBERLY McDONALD (City of North Las Vegas):

We supported the bill in the other House, and we want to remain consistent. The City of North Las Vegas supports this bill.

JOHN SLAUGHTER (Washoe County):

Washoe County supports Assembly Bill 31.

CHAIR HARDY:

Is there anyone else wishing to testify in favor of or opposition to Assembly Bill 31? Since there is no more discussion, I will close the hearing on Assembly Bill 31. We will open the hearing on Assembly Bill 188.

ASSEMBLY BILL 188 (2nd Reprint): Provides that certain databases which contain electronic mail addresses are confidential and not public records open for public inspection. (BDR 19-595)

MR. SLAUGHTER:

I have with me Chris Matthews, Washoe County Information Officer, who will provide some detail on A.B. 188. We approached the Nevada Association of Counties to bring forward the amendment on this bill. We collect e-mail addresses for our database for newsletters and agendas. That database is useful

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to spam marketing firms. We would request that entire database, not the e-mail addresses, be confidential. We have a proposed amendment to Assembly Bill 188 ([Exhibit D](#)).

SENATOR CARE:

Please explain what the database contains. It is confusing when you do not request the e-mail be confidential, only the database.

MR. SLAUGHTER:

The database alone is of value to spam marketing firms. They would not request an individual e-mail address. They want information that is ready to plug into their program.

CHAIR HARDY:

How would you access the data on a particular individual? Am I right in assuming you probably cannot access an individual? If someone requested an individual's e-mail address, how would you handle it? Could you access that under the proposed amendment?

MR. SLAUGHTER:

If we have an e-mail address, it becomes public information. We do not need to protect e-mail addresses. Our intent is to protect citizens who have asked us to put their names in a database so we may communicate with them.

CHAIR HARDY:

I do not understand the distinction. If I am looking for a job, I would offer my e-mail address in order for you to keep me informed. That is the purpose of providing an e-mail address. My expectation is my e-mail address would not be given to telemarketers. What is the reason for the distinction?

CHRIS MATTHEWS (Washoe County):

We appreciate the legitimate reasons why someone might request an e-mail address. For example, the Nevada Press Association may want to follow up on information concerning citizens communicating with their local governments. We want to avoid giving anyone the ability to request those e-mail addresses en masse. A telemarketing firm could not come in and request all e-mail addresses for people who are interested in county commission agendas. They could, however, say, "I know John Slaughter is interested in county commission e-mails, could you give me his e-mail address?" This is a legitimate reason. In

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A.B. 188, we specified only the database be confidential, so the Press Association would still have legitimate access to e-mail addresses. We would not release information in a prepackaged format for business or any other purposes.

SENATOR CARE:

I understand the distinction. The city or the county generates the database. You are regarding that information as your property, and you want it to remain confidential. If a reporter were to request all e-mail correspondence between a commissioner and Mr. Smith, you would produce that information. What you would not release is the database. Do I have that correct?

MR. SLAUGHTER:

Yes, that is correct. Our original intent was to protect the database from spammer marketing firms.

SENATOR CARE:

Another concern is losing control and being subject to selling database information.

CHAIR HARDY:

I am interested in the case law. We know the status concerning our e-mail. As Legislators, anything we do on a State computer is open to the public. The question is, how do we treat the other side? Certainly, the press or anyone else has the right to request my e-mails, and those e-mails would be provided. The people sending e-mail to my address have the expectation of privacy. This is a threshold-level situation we are covering. I would like our Committee Policy Analyst and our Committee Counsel to provide some insight into case law.

SUSAN FISHER (City of Reno):

The City of Reno is in full support of Assembly Bill 188.

MR. OLIVAS:

As a representative of the City of Las Vegas, I convey our support for A.B. 188. There is a handout of an actual e-mail used to send out information to sign up for a class ([Exhibit E](#)). This is a real-life example of what we are trying to accomplish with this bill.

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CHAIR HARDY:

Is there anyone else wishing to testify in favor of or in opposition to Assembly Bill 188? We will close the hearing on Assembly Bill 188 and turn our attention to the hearing on Assembly Bill 510.

ASSEMBLY BILL 510: Revises provisions related to publications of state agencies and local governments. (BDR 33-400)

SCOTT K. SISCO (Interim Director, Department of Cultural Affairs):

In 1861, the Territorial Council and House of Representatives passed a concurrent resolution to collect old records connected with early history, and file them in the archives of the Territory. The documents were sent to the Nevada Territorial Library, which became the Nevada State Library, with Nevada statehood on October 31, 1864. In 1865, the State Library was created in statute. Our role as the institutional memory and historical recordkeeper was established with our statehood ([Exhibit F](#)).

Copies of all State and local government publications are required to be delivered to the State Library, where they are made available to the public free of charge. Assembly Bill 510 will establish and maintain Internet publications on the Web site. In order to preserve electronic publications, we will need to protect the data and migrate it to new platforms of hardware and software. This legislation represents what we believe to be good public policy because it will help solve the largest problem currently facing the State Publications Distribution Center program, that of organizing and making available electronic publications.

CHAIR HARDY:

Do we receive hard copies? Do you generate hard copies?

MR. SISCO:

Many of the organizations are not in compliance with the current law which requires six copies of hard copies. Most of the agencies do not recognize they are required to provide six copies. We are probably in a 50- to 60-percent compliance rate with the agencies giving us public records. This legislation should make it easier to get those publications on the Web site.

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CHAIR HARDY:

If there is a Web site shutdown for any reason and we do not have a hard copy, then it is lost anyway.

MR. SISCO:

There is an enormous amount of backup within the State Libraries. The mission is not to transport the responsibility of these publications to the State. We just want to make sure the information makes it into the libraries.

PHYLLIS SARGENT (Assistant Administrator, State Library Services, Department of Cultural Affairs):

I support A.B. 510 because many documents are published on the Internet, and we do not have access to some of the documents we need. The passing of this bill will enhance the overall history aspect of State publications.

CHAIR HARDY:

There will have to be a study of *Nevada Revised Statutes* (NRS) to determine exactly where this language is lacking. There certainly are other areas in statute where we could provide for electronic transfer and electronic submission of documents. We would probably save the State a great deal of money by this implementation.

Is there anyone else wishing to testify in favor of or opposition to Assembly Bill 510? The hearing on A.B. 510 is now closed. We will open the hearing on Assembly Bill 142.

ASSEMBLY BILL 142 (1st Reprint): Authorizes certain persons to have personal information contained in certain public records kept confidential in certain circumstances. (BDR 20-952)

DAVID KALLAS (Las Vegas Police Protective Association):

I am here today in support of A.B. 142, which was presented in the Assembly on behalf of the Police Protective Association. The intent of this bill is to take information contained on the assessor's Web site that pertains to peace officers and judges, and make that information confidential. This legislation is not unique. The states of Florida, Connecticut, New York, Colorado and California have similar legislation which allows officials from certain venues to request information from public files be kept confidential. There is enormous concern

regarding retaliatory action against law enforcement officers. We initiated this legislation two sessions ago.

During the time period between 2001 and 2005, one of our officers conducted a long-term investigation on a gang member in North Las Vegas. This gang member was able to obtain all personal data on our investigator by downloading from the assessor's files. In this case, we were able to interfere with the plot to harm our investigator, but it was a difficult task. There was an issue whereby I received a letter at my home, and because of the concern for my family, I went outside to open the envelope. The envelope contained a typewritten letter concerning a case I was working. The letter was innocuous, but my concern was receiving the letter at my home address. We are not trying to create a special privilege with this bill. Our job is to prevent a crime from happening. We are attempting to make it difficult for our personal data to get into the hands of criminals. This will provide peace of mind for our families.

SENATOR TIFFANY:

There are many ways to obtain information on law enforcement officers. In today's electronic age, passing this legislation is not going to plug the dam or make the difference you are intending. Protection will not come just by stopping the county assessor from providing the information. That is unfortunate, but true.

MR. KALLAS:

I agree 100 percent. However, we can try to plug the dam, or we can let it flow over. From our perspective, we need a first step toward limiting the information that goes out.

SENATOR TIFFANY:

Again, there are just so many ways to obtain information. This move is not going to do it. If you own a home with a mortgage, you are wide open to a number of personal inquiries.

MR. KALLAS:

I do not disagree that there are many ways to obtain personal information. What I do know is that right now, the assessor's Web site is the easiest access for anyone. The recorder's office is a little tougher. You can even request that your personal information be removed from the voter registration, so it will not be distributed.

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SENATOR CARE:

There have been concerns about stalking, especially with entertainers, television anchors and those sorts of people. There must have been that discussion in the Assembly, or am I wrong?

MR. KALLAS:

Yes, there was that discussion. We know existing law allows you to hire an attorney and appeal to the court if you can provide justification. We are trying to be proactive and perhaps prevent these actions or worse. Our society has become more violent, and we need to start someplace. If we can only save one life right now, it is a start.

SENATOR CARE:

Would judges and officers, upon retirement, have the duty to notify the assessor that they are no longer eligible for the rolls?

MR. KALLAS:

Under current legislation, the retired officer would maintain the same privilege as the active officer. I cannot speak for the judges' position.

RONALD P. DREHER (Peace Officers Research Association of Nevada):

I support A.B. 142. With the amount of data already out there, nothing is secret in this day and age. The only way we can start practicing confidentiality to protect officers and judges is to initiate a process, and this is the beginning. It is a prospective legislation. It is not retroactive. We cannot stop what is already out there. This legislation starts with the assessor, since that is the easiest way to obtain information, right now. When you zoom in on the assessor's Web page, you can obtain a picture of any officer's home, with the address. It is there in diagram form. That is what we are trying to stop. We must start, at some point, to provide safety and security for everybody. There has been, as Senator Care stated, a lot of discussion and compromise from the way the original A.B. 142 started out. We are asking for you to begin the process with Assembly Bill 142. It is going to take years to stop the public information source from getting out there. Nothing will happen immediately, but what is important is that this is a start. It will not take effect until July 1. I strongly urge this Committee to support Assembly Bill 142, and let us begin this long process.

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SENATOR LEE:

Mr. Kallas, in your case you might have five or ten properties. In the assessor's roll, would you be redacted as the owner of those properties? How would that be handled?

MR. KALLAS:

It is supposed to apply to your primary residence. The only thing that would be removed is the owner's name.

SENATOR LEE:

If you owned a piece of property free and clear next to my lot, could I go to the assessor's office to find out who owns that property?

MR. KALLAS:

The intent of A.B 142 should apply to the primary residence only. I am not worried about someone finding out I own a piece of property in some subdivision that is not my residence. The owner address on other properties would be a post office box. That would not impact my family. That is not the intent of this Legislation.

SENATOR CARE:

Mr. Dreher, no matter what we do with this bill, the information is always there in the public library. A person will find what he is looking for, if he is determined.

MR. DREHER:

That is correct. As we have stated, we must start somewhere. We want to secure information that is readily available, now. It will take years to stop that flow of information.

GARY H. WOLFF (Teamsters Union Local 14):

I stand here in support of A.B. 142.

RICK R. LOOP (Nevada District Judges Association; Eighth Judicial District Court):
Almost all of the judges in the State of Nevada support Assembly Bill 142.

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STAN OLSEN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We stand in support of this piece of legislation. Assembly Bill 142 is a small step in the right direction to protect those people who put their lives on the line daily.

CHAIR HARDY:

Is there anyone else wishing to testify in favor of or in opposition to Assembly Bill 142?

DOUG SONNEMANN (Assessor, Douglas County):

Based on discussions with the Douglas County Sheriff and many of the deputies, we have received a list of 40 properties requesting the picture be removed from the database. This was completed 9 months ago before A.B. 142 even came forward. A few of the deputies requested their names be removed from the roll. Two of the deputies requested we just put their wives' names on the parcel. I was willing to try that. The wife's name instead of the officer's name would come up in a property search. When names are removed, holes are created in our database. The blanks bring more attention to these properties because of the missing information. We would have to create a program that would provide hidden fields, which is contrary to our policy of open government information. I would prefer a substitute for the information gap, rather than the proposed legislation.

SENATOR CARE:

We are talking about community property. If you know the officer is married, all you have to do is punch in the last name and you can obtain the name of the spouse. Is that correct?

MR. SONNEMANN:

You are absolutely right. That is why we prefer to have them establish a trust or something else that would better disguise the information.

SENATOR CARE:

In section 8 of Assembly Bill 142, as I read it, you are the one who decides if a reporter's request is legitimate. Maybe, you also decide who is a legitimate reporter. How would you do that?

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MR. SONNEMANN:

That is something for which we would have to set procedures.

DAVE DAWLEY (Assessor's Office, Carson City):

The information is out there. If you stop it with us, it can be obtained another way. Searchers can look at the map and connect it with the parcel number. The only way you can solve the problem is to put it in a trust or create a fictitious name. There are legal ways to accomplish these changes. I have a huge problem with taking the addresses away from the books. Refer to A.B. 142, section 8, subsection 1, paragraph (f) and paragraph (g). If you are going to sell the information to the people who distribute the information, then why do it? You are defeating the purpose.

SENATOR TOWNSEND:

Mr. Dawley, perhaps you can clear this up. On page 3 of the bill, section 8, subsection 1, paragraph (f) states:

In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

Are assessors selling the information now, in bulk, to marketing and survey companies? All this does is codify that if you have a regulation, you can do it. What is the purpose of this?

MR. DAWLEY:

We currently do that. If someone requests even labels, we will print the labels and send them out. We do not question the use of the information.

SENATOR TOWNSEND:

Do you sell any information to anyone?

MR. DAWLEY:

Yes, we do. Whoever calls with a request receives the information.

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SENATOR TOWNSEND:

That is good to know. What about e-mail addresses and phone numbers.

MR. DAWLEY:

We do not carry e-mail addresses or phone numbers.

Senator Townsend:

This does not make any sense at all. We cannot give this information out from the Department of Motor Vehicles records. All someone has to do is go to the assessor's office for the same information. I do not agree with it one way or the other, but it is inconsistent. This needs to be addressed.

MR. DAWLEY:

That is exactly right. Some of our largest purchasers of this information are real estate offices. They buy the information and hand it out to their agents.

CHAIR HARDY:

A police officer makes a decision to go into a line of work that is dangerous. That is his decision, up front. Putting a family in harm's way is my concern.

ALAN GLOVER (Clerk-Recorder, Carson City):

I am neutral on A.B. 142. We are concerned with section 16 and the \$2,500 civil penalty or fine for what amounts to a misdemeanor. Even though holding property in trust with a post office box is preferable, we keep our information confidential and have not experienced any problems. We would request that section 16 be deleted.

SENATOR RAGGIO:

What is the procedure for someone requesting confidentiality in connection with the voter's registration?

MR. GLOVER:

They simply write a letter requesting the information be kept confidential. We insert a code to prevent the information from coming up. We retain the information, but we are able to block it from anyone else. This can be found in NRS 293.558.

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CHAIR HARDY:

Is there anyone else wishing to testify on Assembly Bill 142? We will close the hearing on A.B. 142. Are there any further recommendations, suggestions or business for the Committee? As there is none, this meeting is adjourned at 3:17 p.m.

RESPECTFULLY SUBMITTED:

Catherine T. Barstad,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____