MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Eighty-second Session
May 3, 2023

The Senate Committee on Government Affairs was called to order by Chair Edgar Flores at 3:31 p.m. on Wednesday, May 3, 2023, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Edgar Flores, Chair
Senator James Ohrenschall, Vice Chair
Senator Skip Daly
Senator Pete Goicoechea
Senator Lisa Krasner

GUEST LEGISLATORS PRESENT:

Assemblyman Reuben D'Silva, Assembly District No. 28
Assemblywoman Melissa Hardy, Assembly District No. 22

STAFF MEMBERS PRESENT:

Jered McDonald, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Rosalie Bordelove, Chief Deputy Attorney General, Office of the Attorney General
Steve Walker, Board of County Commissioners, Douglas County
Jennifer Berthiaume, Nevada Association of Counties
Bruce Parks, Chair, Washoe County Republican Party
Eva Romero
Fernando Romero, President, Hispanics in Politics

Hardeep Sull
Stephen Wood, Nevada League of Cities and Municipalities
David Cherry, City of Henderson
Wade Gochnour, Assistant City Attorney, City of Henderson
Leonardo Benavides, City of North Las Vegas
Warren Hardy, Air-Conditioning, Heating and Refrigeration Institute
Kathy Flanagan, Southern Nevada Water Authority
Maggie Salas Crespo, Deputy for Southern Nevada, Office of the Secretary of State
Rudy Pamintuan, Chief of Staff, Office of the Lieutenant Governor
Bethany Khan, Culinary Union Local 226
Alma Lozoya
Christine Saunders, Progressive Leadership Alliance of Nevada
Deanna Hua Tran, Nevada Immigrant Coalition

CHAIR FLORES:
I will open the hearing on Assembly Bill (A.B.) 52.

ASSEMBLY BILL 52: Makes various changes to the Open Meeting Law. (BDR 19-416)

ROSALIE BORDELOVE (Chief Deputy Attorney General, Office of the Attorney General):
I am the chief of the boards and open government division of the Office of the Attorney General (OAG). This division houses the Open Meeting Law (OML) enforcement unit within the OAG, in addition to representing many State agencies governed by public bodies.

Assembly Bill 52 includes revisions to *Nevada Revised Statutes* (NRS) 241 which is Nevada's OML and a few other chapters relating to the OML application.

Nevada's OML first passed in 1960 and is considered a sunshine law. Sunshine laws exist in many states and require public disclosure of government agency meetings and records. In enacting the law, the Nevada Legislature declared all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that actions by public bodies be taken openly and their deliberations be conducted openly. This intent is stated in NRS 241.010.

When I conduct trainings on this law to public bodies across the State, I emphasize the importance of this provision as it guides the interpretation of the law by the OAG and the courts. Nevada courts have stated that the OML was promulgated for the public's benefit and as such should be construed in favor of openness and transparency. The OML applies to meetings of Nevada public bodies, both of which are terms defined in NRS 241. A public body is defined in NRS 241.015, subsection 4 and includes any administrative, advisory, executive or legislative body of the State or local government consisting of two or more people which expends, disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to such a body and is created by the State Constitution, a statute, regulation, city or county charter or ordinance, executive order or formal resolution. Subcommittees of public bodies are also public bodies themselves.

The Legislature is exempt from the OML by NRS 241.016 although it often follows many of the same procedural standards such as publishing agendas, allowing public comment and facilitating public access to meetings. The OML only applies to meetings of public bodies which is defined as a quorum of the body together with deliberation or action. A quorum is generally defined as a simple majority of the public body or another proportion established by law.

Deliberation is to collectively weigh, examine, reflect or discuss while action is a majority vote. The OML does not prevent all private discussions by members of the public body, only those that involve a quorum. Additionally, the OML does not prevent a gathering of a quorum of public body members at a social or professional function so long as there is no deliberation or action.

The OML law imposes several requirements on public bodies including the posting of a full agenda that clearly and completely describes all items to be discussed and is posted not later than 9:00 a.m. on the third working day prior to the meeting. The meeting agenda must be posted on Nevada's Notice website <https://notice.nv.gov> and at the public body's principal office and website if it maintains one.

Any person requesting a copy of the agenda must have a notice sent to them. The agenda outline requires public comment periods at the beginning and end of each meeting or before action items. It further requires all supporting material be made available to the public when it is provided to members of the public body.

Public bodies are also required to keep minutes of their meetings that include the substance of discussions and actions.

Exceptions to the OML are few and narrow. Public bodies may hold closed sessions to consider the character, alleged misconduct or professional competence of a person. They may also receive information from their attorneys regarding potential or existing litigation involving a matter over which a body has jurisdiction and to deliberate toward a decision outside of the agendized meeting.

However, action regarding litigation must be taken during an open meeting unless the public body has delegated that authority to its chair or chief executive. Additionally, emergency meetings are authorized in law but may only be used to address truly unforeseen circumstances such as disasters or health and safety emergencies.

The OML requires that the public have an opportunity to comment at each meeting. Reasonable limitations may be time, place and manner restrictions. A public body can never restrict comment based upon the viewpoint of the speaker. Presiding officers may limit comment when comments are unduly repetitious or willfully disruptive. The OML does not prohibit the removal of any person who willfully disrupts a meeting to the extent its orderly conduct is made impractical.

Any action taken in violation of the OML is void, and the OAG has statutory enforcement power to investigate and prosecute violations. Additionally, any person denied the right conferred by NRS 241 may sue to have an action declared void. The public does not have to rely solely on the OAG for enforcement. Criminal and civil penalties may also apply to members if the violation is known.

The OAG strives to assist members of the public and public bodies in understanding and complying with this law. It provides training to public bodies across the State and offers training videos on its website that are available to anyone. A deputy attorney general is assigned to answer Open Meeting Law questions every day.

Assembly Bill 52 is the result of several meetings of the OML Task Force which consists of representatives of public bodies in State and local government and

public interest groups including the American Civil Liberties Union. The goal of the bill is to allow public bodies to run the government while protecting the public's right to observe and be heard in that process.

Section 2 of the bill provides clarification to the definition of a quorum. It provides that when there is a vacancy on a body, that position does not count when calculating a quorum. The law is unclear as to whether a vacant position is counted, which can lead to confusion when a body has multiple vacancies and is trying to hold a meeting.

Sections 3, 7, 16, 17, 18 and 19 relocate language from NRS 241.034 to separate the notice required for administrative action against a person from the notice required to acquire real property via eminent domain. They changed the notice requirements from 5 working days for personal service to 7 calendar days and from 21 working days via certified mail to 14 calendar days. Section 3 also provides for alternative methods of notice for an employee of the public body.

Many public bodies make direct employment decisions regarding certain positions such as the superintendent of a school district or the executive director of a State agency. As such, the public body holds a closer relationship with these individuals than they do with the general public. The alternative notice provisions for employees consider that closer relationship and the need for a body to take certain employment actions in a shorter time frame.

Section 4 clarifies that action requires a majority of the voting members of the body because the law is unclear with respect to whether nonvoting members are counted when making the calculation. It also cleans up language for purposes of continuity with the provision added by A.B. No. 253 of the 81st Session.

Section 4 further adds a definition of administrative action against a person for purposes of the notice requirements I just discussed. The definition comports with the existing interpretations by the OAG for this term.

Lastly, section 4 cleans up the definition of a meeting to clarify the existing meaning.

Section 6 changes notice requirements to individuals about whom a public body may consider their character to mimic those in section 3 and provides for the same alternative methods of notice for employees as in section 3.

Section 8 adds language to provide continuity in the NRS cleanup.

Sections 9 and 10 provide that the quorum reduction provision in the ethics law, NRS 281A.420, subsection 5, applies to all public bodies in the State. The language of this provision does not apply to bodies comprised entirely of elected officials in a county whose population is 45,000 or more unless the official has written advice from an attorney regarding his or her ethical conflict.

Language in the law is ambiguous with respect to Statewide entities and could be construed to apply a different ethical standard to the votes of elected officials in rural counties. The proposed change would apply the same ethical standard and quorum reduction ability to all bodies across the State.

Sections 5, 11 and 12 exempt from the OML committees of private citizens created by city councils or the Secretary of State to draft the background for ballot questions. It is clear from the legislative history of these committees that they were not intended to be public bodies; and in most circumstances, they would not meet the definition of a public body. The same committees created by county commissions already have an identical exemption.

Sections 13, 14 and 15 provide that library foundations, parent-teacher associations and certain university foundations are not public bodies unless they otherwise meet the definition of a public body contained in NRS 241.015. This clarification codifies existing Nevada Supreme Court caselaw and is intended to update the statutes since the definition of a public body was changed in 2011.

Assembly Bill 52 makes clarification and revisions to the existing OML in an effort to strike the appropriate balance between allowing public bodies to carry out the public's business efficiently and effectively and ensuring the public and the media are able to observe and participate in that business.

SENATOR DALY:
I am not sure what court case you are talking about or what definition of a public body was changed in 2011. The definitions of a public body in NRS 241.015, subsection 4, paragraph (a), say it includes a library foundation

as defined, an educational foundation as defined and a university foundation as defined. The language in the bill which says only if they are public bodies muddies the water. They are covered under NRS 241. They have to have open meetings if they are public bodies, and the law clearly states that they are.

I do not know the change that you were talking about. You would have to go back to determine if they are making a recommendation to another public body which would make them subject to the OML. You are never going to know that if they do not keep minutes and there are not public records. Can you explain that because I do not understand?

MS. BORDELOVE:
The case I am referring to is *Frudden v. Pilling*, a U.S. District Court unpublished opinion Case No. 61932 (2014). It is an unpublished case which is part of why we hope to codify the decision in this bill.

In 2011, the public body definition contained in NRS 241.015 was changed to add the creation prong—the portion of the definition that says a public body must be created by the Nevada Constitution, a statute or by another public body was added in 2011. Prior to that, statutes were contained in NRS 388 which refers to parent-faculty associations (PFA), but the other ones existed prior to 2011. The Supreme Court case looked at it and said, specifically, this was with respect to a PFA. They did not meet the creation prong and therefore were not public bodies. The OML does not apply to PFAs unless they otherwise meet that definition. The Supreme Court case held that if they met that creation prong, they would be a public body. But as it is, most of these foundations would not meet the creation prong.

To use the PFA example, it is a group of parents who are raising money for a school. The big difference is they may raise money for use by a school but are not making decisions with respect to taxpayer money within the school or making recommendations. That is what underlies the decision.

It was brought to the Task Force's attention again, on the PFA side, because there were concerns by school districts as well as by some members of similar associations that if they would have to start complying with the OML, and they were not sure if they did, school districts would now have to start providing significant administrative support to faculty associations so they could comply. That would be quite a drain on school district finances.

SENATOR DALY:
Maybe instead of your fix, you change the statute on the definition and capture the intent because the educational foundations in NRS 388.750 have been subject to the OML since 1993.

MS. BORDELOVE:
They are not subject to the OML. Are you referring to PFAs?

SENATOR DALY:
I am referring to an educational foundation as defined in NRS 388.750, subsection 3.

MS. BORDELOVE:
Parent-faculty associations are included in that and are required to comply with the provisions of the chapter. However, the Nevada Supreme Court has stated they are not required to comply with the OML if they do not meet the definition of a public body.

SENATOR DALY:
Is there a difference between an educational foundation and a PFA? To me there is. Is an educational foundation as defined in NRS 388.750, subsection 3, a PFA?

It seems to me rather than putting the language in those sections and if there is a Nevada Supreme Court case saying they have to meet these prongs, we can change the definition of a public body and be clear on the intent if they are educational foundations making recommendations or a PFA.

If we do not want a PFA subject to the OML, the definition could be changed to make it clear rather than language in the bill because now the question is did it make a recommendation? It is going to create confusion.

MS. BORDELOVE:
Nevada Revised Statutes 388.750, subsection 3 would include a PFA. That was the concern. It does not mean that all educational foundations are exempt because if they are created by a school board and making recommendations to the school board with respect to how the school board expends its money, they would meet the definition of a public body and be required to comply with the OML. If a PFA creates an *Internal Revenue Code Section* 501(c)(3) to support

itself so it can have a bank account separate from the school's bank account but raise money to support teachers, it would meet the definition in NRS 388.750, subsection 3. However, it would not meet the definition in NRS 241.015 because it was not created by the school board. It created itself. It is a nonprofit charitable organization.

SENATOR DALY:
I understand. Were PFAs complying with the OML prior to the court case?

MS. BORDELOVE:
Most PFAs do not comply with the OML. The case dealt with a PFA that existed prior to and after the 2011 change. The case was from December 2014. It found that prior to the change in the definition, they were required to comply with the OML. But after the OMLs public body definition changed and included the creation prong in 2011, they no longer met the definition.

If a foundation were created, such as a school board creates a nonprofit, chooses the members, instructs it to use its own funds and files paperwork to create a 501(c)(3) and that nonprofit makes recommendations to the board, that would meet the definition in NRS 241.015 and be required by statute to comply with the OML.

But the difference is that some of these PFAs are entities that people got together and created themselves to be charitable organizations. They just happened to raise money for a governmental entity because they want to help support a governmental entity. They are not public bodies under the law.

SENATOR DALY:
Thank you. I think I am getting it.

The Legislature established the procedure for a library foundation and the educational foundation including the PFA, and a statute was created which said bodies are subject to the OML. Whether they complied with it from 1993 to 2011 or 2014 when this court case came out remains to be seen. However, they are subject to the OML because the statute is clear. It does not matter who created it, the law changed in 2007 which had an unintended consequence.

This proposed fix muddies the water because before every meeting the members would have to determine if they will be subject to the OML. If it is a

problem with the creation of a PFA and we intended these people to be covered, we should correct the change and fix the mistake or the unintended consequence in the definition rather than fixing it in the bill. That is my opinion and what I am hoping to work on with this bill.

MS. BORDELOVE:
I would be open to looking at other language if there are suggestions for another way to get there. The analysis would not have to be done for each meeting. It would be for each body because this is the creation prong. It depends on how the body was created. That is where the analysis would be done, and a body should already be doing this because this is not necessarily changing the law. This is codifying how the laws have already been interpreted by the Nevada Supreme Court. The Attorney General's Office would be happy to work with you if you have alternative language in mind.

SENATOR DALY:
You know as well as I do that whatever that caselaw and precedent, then that definition is changed. The Court would have to reexamine the whole case. That case and that precedent, published or not, is going to have a new case to determine if that is done. We can fix it there rather than muddying the waters the way the bill does.

SENATOR OHRENSCHALL:
What is the reason for the proposed language in section 11, subsection 9 of the bill? Were there issues with committees coming up with ballot questions in the past with the OML?

MS. BORDELOVE:
This was brought to the OML Task Force because of concerns by the governmental agencies creating these bodies if they need to offer that administrative support. They usually appoint individuals whose job is to be partisan in what they write. They are writing the for-and-against arguments for a ballot question that go into the sample ballot information.

They do not appear to meet the definition of a public body unless administrative support is offered. The concern was if they are given a conference room where they can sit down and talk to each other or an email address, are they being supported by tax revenue which would trigger the OML? Otherwise, they are

not really supported by tax revenue because they are comprised of nongovernment employees.

Bills that created the ballot committees we want to exempt from the OML passed in the same session but were different bills than the exemption given to county commissions. It seemed odd that committees created by counties have an exemption but those created by the Secretary of State or by city councils do not. The hope was to clarify that these were not intended to be public bodies. From legislative history, it did not appear they were intended to be.

STEVE WALKER (Board of County Commissioners, Douglas County):
Douglas County Board of County Commissioners unanimously voted to support A.B. 52.

JENNIFER BERTHIAUME (Nevada Association of Counties):
The Nevada Association of Counties (NACO) supports A.B. 52 and thanks the Attorney General for his continuous engagement of local governments on this matter and for including NACO on the OML Task Force.

BRUCE PARKS (Chair, Washoe County Republican Party):
I oppose A.B. 52. When there is no quorum to conduct business, there should be no business conducted. Removing the quorum requirements actually means constituents in the district in which a public body representative is missing are not represented.

When one submits OML complaints that are not investigated, I do not understand why a law would be created that is never enforced. It is not law; it is a suggestion. I have submitted numerous OML complaints with no resolution whatsoever. When I contact the OAG, I always hear it is being investigated.

We just came out from underneath horrendous emergency provisions that absolutely quelled the voice of the people at numerous public bodies. Those emergency conditions lasted entirely too long.

This bill, in my opinion, does nothing to enhance the public's confidence in their representation in public bodies and does more harm than good by suppressing the people's ability to address their government with their grievances.

EVA ROMERO:
I oppose A.B. 52. The negative impact of the OAG's proposed revisions to OML presented in A.B. 52 has already happened to my colleague, Hardeep Sull, and to me, much to our detriment. We realize our letter (Exhibit C) to Senate members is lengthy. However, I implore you to take the time to review all of it so you can see for yourselves the problems occurring with the OML process, and how the OAG's attempt to revise the law actually eases the burden of State boards and agencies of having to be transparent in their practices and affords them the ability to disrespect and violate the due process rights of Nevadans.

In short, the OAG as legal counsel and enforcer for State boards and agencies rarely enforces or punishes its own clients. To be clear, the OAG's interest in passing A.B. 52 is to protect its own clients, not Nevadans, not private citizens.

Passing A.B. 52 will continue to erode transparency in government and rob the people of their constitutionally protected due process rights, resulting in immediate harm to the public you have the duty and privilege to serve.

This issue does not follow a particular party line. It is a problem affecting all Nevadans, regardless of party affiliation. You have a duty and responsibility to protect your constituents, to protect Nevadans by opposing A.B. 52.

FERNANDO ROMERO (President, Hispanics in Politics):
Hispanics in Politics opposes A.B. 52 that will shield and usurp the reasons we have an OML in Nevada. I am surprised that proposed changes and amendments have made it through the Assembly and applaud those who oppose the bill.

I have attended many board meetings and witnessed too many bad actors. The proposed quorum changes would be problematic since the number would be adjusted and lead to boards and agencies not wanting to fill the vacancies when it is advantageous for them. This will make boards and agencies political instead of acting for the good of Nevadans.

In addition, the OAG is now revising notice and service requirements which do not allow an individual more time but less time and, in some instances, reduce it by 15 days. I have called the OAG in opposition and am surprised as to what is happening with the OML. Frankly, the Attorney General has washed his hands of my complaints.

There are many compelling reasons and arguments to oppose A.B. 52. Members of the Committee, I urge you to read the compelling written testimony, Exhibit C, submitted by Hardeep Sull and Eva Romero to be thoroughly enlightened as to why I oppose this bill and urge you to do the same.

HARDEEP SULL:
I oppose A.B. 52 because its objective is to protect the OAG and its clients which are boards and agencies. It undermines the accountability and does not protect Nevadans. It is incumbent upon each one of you to protect Nevadans, not the OAG and its clients.

As you are aware, the OML in Nevada is a set of statutes governing how public meetings are conducted in the State. The law requires that most meetings be open to the public. In order to conduct a meeting, a quorum must be met for the meeting to proceed. When we start to alter quorum requirements, Nevadans will no longer be protected. Decisions will be unrepresentative. There will be a lack of accountability and a waste of our resources. These public bodies will be emboldened to misbehave in a manner that is not constitutional.

We can all agree that due process is a fundamental pillar of our justice system. The notice and service modifications in this bill will damage the integrity of the OML by reducing the number of days for the notice and the more absurd edition of an electronic email to be used as a proper method of delivery, which as we all know is problematic.

As you are aware, Nevada has whistleblower protections. These changes in A.B. 52 would allow boards and agencies to retaliate against individuals who report illegal activities or wrongdoing in the workplace.

Honorable Senate members, there is no place in Nevada for A.B. 52. Please protect all Nevadans and keep Nevada's government open and transparent by opposing A.B. 52. Please remember that a vote for A.B. 52 is a vote against Nevadans.

CHAIR FLORES:
I have received written testimony (Exhibit D) in opposition to A.B. 52 from Reva Crump.

SENATOR OHRENSCHALL:
In section 6, on page 9, lines 10 through 13 about the written notice given by electronic mail, would that be instead of regular or certified mail? Would that be if the person wants to be notified by email or would that just be generally for every member of that body?

MS. BORDELOVE:
This is for employees. It could be directly to the person or, if a person is represented specific to the matter at hand, electronic mail to his or her attorney. If it is someone who is not represented or not an employee, for example, taking disciplinary action against a licensee or a city is citing a property or something of the sort, it would require mail or personal service.

SENATOR OHRENSCHALL:
The email would only be to someone represented by an attorney to that attorney. There still would be either regular mail or personal service if it was something like citing someone regarding a property thing or licensee complaint.

MS. BORDELOVE:
Correct. It could be to the attorney via electronic mail only if the public body has already been corresponding with the attorney and knows that the individual is represented. For example, in a licensing instance, if there have been settlement discussions or something going on and it is known that this individual is represented by an attorney in the matter, then the notice could go only to the attorney. But it would have to be known that the person is represented by an attorney for the specific matter being discussed. If it is something out of the blue, that notice will be sent via certified mail or personal service.

While I cannot speak to any specific instances regarding employees, I note that the majority of people directly employed by public bodies are at-will employees. They take the job knowing they have no due process rights. They neither have a property interest in their job nor are entitled to a hearing prior to termination.

These provisions were targeted to help rural communities. Many school districts in rural communities hire every teacher. The board itself will hire every employee or a number of them. This is also the case for State and other agencies. There are instances when many employees are employed specifically by the body, and the only way an employment decision can be made is via a public meeting.

I have heard the quorum issues. The reason this was included is because of the confusion regarding quorum requirements. We would be willing to discuss alternative suggestions regarding the language on the quorum issue. The goal is to clarify law regarding vacancies and whether they count toward the quorum.

CHAIR FLORES:
People have concerns. I ask that we meet offline with some of them. If we have an opportunity to sit down, we could alleviate some of those concerns by having a formal conversation and going through some of those sections. They may be reading the sections differently and or have specific hypotheticals they are applying to those sections and are concerned there may be loopholes or issues with transparency.

Would you send the 2014 Nevada Supreme Court case you mentioned to Committee staff?

The Committee has received a conceptual amendment (Exhibit E) from Reno City Council member, Jenny Brekhus.

We will close the hearing on A.B. 52 and open the hearing on A.B. 60.

ASSEMBLY BILL 60 (1st Reprint): Revises provisions governing local improvements. (BDR 22-372)

STEPHEN WOOD (Nevada League of Cities and Municipalities):
The idea for this bill was brought to the Nevada League of Cities and Municipalities by the City of Henderson, which is one of several cities across the State that has neighborhood improvement districts (NID).

Neighborhood improvement districts are established by ordinance after a majority of property owners within the district support its creation. The ordinance includes improvements to be maintained; the exact description of the NID, including the parcels within its boundaries; as well as the roll of assessments on the properties within the district to support the improvement project.

The assessment roll must be updated annually through the adoption of a new ordinance. As some of you may know, the ordinance process for local governments is cumbersome, requires multiple public meetings, many staff

hours and publications. The bill seeks to amend NRS 271 to streamline the process by which these assessments are updated on an annual basis to support the improvements within the NID by allowing local government governing bodies to update the amount of the assessment roll by a resolution.

An amendment was placed on the bill in the Assembly to allow property owners to opt in for electronic notifications in addition to the mail notifications sent out in advance of an annual assessment roll update.

DAVID CHERRY (City of Henderson):
Neighborhood improvement districts can only be created through a majority vote of property owners in a defined geographic boundary. It is also important to note that A.B. 60 does not change any of the existing requirements in statute as they relate to the creation of a NID.

The City of Henderson first brought this concept to the Legislature as S.B. No. 47 of the 78th Session that was signed into law that year. A NID allows property owners to come together and fund neighborhood improvement projects through an assessment on each of their properties. Local governments administer the assessment and can help property owners with contracting for improvement projects. Owners also have the option to form their own nonprofit entity to manage projects and other needs.

The City of Henderson has one NID at the Meridian Estates near Robindale and Pecos Roads. This was formed to replace dead trees, add shrubbery and remove waste while also adding grading and irrigation systems, accent boulders and rock mulch, all of which help to preserve the neighborhood's curb appeal, which in turn contributes to maintaining property values.

The NID's costs are divided among the neighborhood's 166 property owners and paid through the annual assessment which is at the heart of A.B. 60. This commonsense legislation seeks to streamline the process for updating the assessment roll once an NID has been created while maintaining requirements meant to ensure the public can participate in the process.

Assembly Bill 60 requires the property owner to be given a 21-day notice by mail or an electronic notice by email, if requested in writing, that the assessment roll is being amended to reflect the new assessment amount. The

notice also lets property owners know they can attend a public meeting where they can provide comment or lodge a protest.

The City of Henderson supports A.B. 60 and believes it will streamline the process for updating annual NID assessments, resulting in savings of both time and money.

WADE GOCHNOUR (Assistant City Attorney, City of Henderson):
Language in statute provides for a different process. We want to streamline that process in section 3 of the bill. Sections 1 and 2 are conforming changes.

Section 3 is the heart of this bill, streamlining the process from what is now three or four meetings of the public body, which means a minimum of two and one half months to get this process completed, to a single meeting of the public body while preserving the same notice and increasing that notice.

Instead of annually setting a new assessment and accompanying lien, a lien is in place and the amount of the assessment would be amended. The city or local body conducting the neighborhood improvement project will send out written notice by certified or registered mail, which is consistent with what is already done, at least 21 days in advance of the assessment roll update as opposed to 20 days under statute.

As Mr. Cherry pointed out, due to an amendment in the Assembly, there is also an option for a homeowner and/or tenant of that property to opt into an email notice on an annual basis, allowing another opportunity to provide notice.

Instead of the public body holding a hearing to pass a resolution, that resolution sets a public hearing later on, the notices go out, the public hearing of the body is held to listen to the complaints and take care of whatever objections may occur. The public body then moves on to the ordinance process which is reading a bill and title at one meeting then skipping into the next meeting to adopt that ordinance, potentially avoiding as many as four public meetings.

With this bill, the notice will be sent out 21 days in advance, telling the residents, owners or tenants about a meeting of the public body—in fairness to the prior bill, an OML meeting that is published and noticed. They will be told when the meeting will be held and at what time, and they can come and raise

any objections at the meeting or supply written objection prior to the meeting. They will be able to come speak on that.

At the meeting, the council would do the same thing it has done previously and walk through the meeting. After that, the council will have to pass a resolution which only requires a single meeting and can be done at the same meeting that sets the assessment.

Under the old process, the notice they received said the assessment roll is available with the city clerk. One can look at it and try to figure out one's assessment. One advantage of this process is that the notice identifies their assessments for the following year.

As Mr. Cherry pointed out, this is not in any way changing the initiation or creation process. This is only after a NID creation. It will allow us to streamline the process which will result in fewer costs being passed on to the neighborhood as part of the assessments.

SENATOR DALY:
My concern is in section 3, subsection 2 where "hold a public hearing upon the estimate of expenditures and the proposed assessment roll" has been stricken and replaced with shall "consider the amendment to the assessment roll at a public meeting of the governing body." Considering something and holding a public hearing are two different things. I know you are trying to streamline it but based on your testimony, you still intend to have a public hearing. I always want to make sure the words hit the intent because if it says it is to be considered at a public meeting, theoretically, it could end up on a consent calendar, and that is different than having a public hearing.

If we could clarify or make an adjustment to make it clear that you are to have a hearing because that is different than just considering it in a meeting.

MR. CHERRY:
You are absolutely correct of the intent. The intent was to require the public meeting so that members of the public could come and give testimony on the record or lodge an objection if one is a property owner because one has the right to protest the assessment. That is the goal of the bill and in keeping with what the original law required.

MR. GOCHNOUR:
The reason we made this change, in part, is because public hearing has specific connotations, and those connotations include that one has to pass a resolution. Setting a public hearing, the time and day is determined, it is set for more than 20 days out, the required publication is done, and the public has been notified by certified mail. I see your point about a public meeting of the governing body versus a consent agenda item versus what would be agendized as a public hearing.

This could be clarified through language. We would certainly be willing to work with you to provide clarifying language. The City of Henderson's process would be that if it receives any comment at all, if anybody comes to the meeting, that item will be pulled from any consent agenda and considered separately allowing the public to have their say on the item. I do not know if that satisfies your concerns about how this might be.

The other option would be to consider this as a new business item so that it is a separate item with its own separate agenda and not considered jointly part of a consent agenda. I am open to any suggestions that allow us to have it at a single meeting which is the intent. I think you recognize that as well.

SENATOR DALY:
There might be a couple of ways to address it. You said you can put it on as new business, which has a different connotation than a hearing. If there are no objections, I do not understand why it could not be put on a consent agenda.

Let us think about it and make sure it is clear. I understand the intent but if that is not what the words say, we should be clear on the intent and make the words match.

SENATOR KRASNER:
When I met with you, Mr. Cherry, you were unclear what the bill would apply to. You said it would apply to any city or county government, and you included city council and county commissioners. But you said you were not sure if this would apply to the board of trustees of a general improvement district (GID) or a township. Did you find that answer?

MR. CHERRY:
I understand it as any county, city or town, so it excludes a GID. Mr. Gochnour testified to that in the Assembly. Am I correct in my interpretation?

MR. GOCHNOUR:
I heard the question, and I do not have the statute with me, but it has to apply to governmental bodies that have the ability to enforce liens and assessments against real property. Counties and incorporated cities have that ability. I am not certain about a township level. I do not believe a township would because that would usually be done at the county level. A district like a water district or an irrigation district or something like that would not have the ability to do anything that is not specific to the statute. This particular change would not apply to those kinds of specific projects.

HEIDI CHLARSON (Counsel):
Nevada Revised Statutes 271 relates to local improvements. It provides certain authorities to governing bodies of a public body. *Nevada Revised Statutes* 271.115 defines governing body to mean "the city council, city commission, board of county commissioners, board of trustees, board of directors, board of supervisors or other legislative body of the public body." Then we have to look at the definition of public body for purposes of this chapter. That is defined in NRS 271.185 as a public body "means the State of Nevada, or any agency, instrumentality, or corporation thereof, or any municipality, school district, NRS other type district, or any other subdivision of the State, excluding the Federal Government."

Senator Krasner, your question was whether this would apply to a GID. It is possible that a GID would be under the definition of a public body, not specifically for purposes of the bill. But under the general authority of what this chapter provides, if a GID had a neighborhood improvement district, this could possibly apply to it as well.

SENATOR KRASNER:
Would this reduce the public's ability to participate in this process by having only one hearing?

MR. CHERRY:
It would not because we keep the requirement in place to notify all of the property owners. That is done either through mail or if someone provides a request in writing, via email. In addition, because it would be required that this be done at a public hearing that must adhere to the open meeting law, it would be agendized. Those agendas are published. It is the practice at the City of Henderson that if one requests to be on the list, they would be emailed or sent via regular mail. One would be able to avail oneself of that information and participate in the public meeting. They are given a 21-day advance notice.

People can also submit their comments in writing which are entered as backup information as part of the record provided to the mayor and the council for their consideration when they are reviewing any agenda item. We are offering the public multiple opportunities to participate, whether they can attend in person or not.

Obviously, as elected officials, the mayor and the council hear from their constituents all the time. If somebody informed the mayor and council of one's position, that information would be included in the backup material as well. If someone logged a phone call or email, those things are entered and shared with the members of the governing body of the City. This is the City of Henderson's practice.

To answer your question, Senators, we have kept within the spirit of what the law requires, which is to give the public an opportunity to participate. Since the City of Henderson created its NID, it found that after the creation process when it came to adopting the new assessment roll each year, it did not have much public participation. No one has come forward to lodge a protest and there was not much public comment. That is why it seemed reasonable to ask for this streamlining to take place. None of the requirements as local governments to notify the public or to have the public meeting have been removed. We are asking for the opportunity to streamline this through A.B. 60.

One of the benefits would be the cost savings passed along to NID residents because they would no longer be paying for the cost of the publication in a newspaper of record or the certified mailing that takes place now under the law.

LEONARDO BENAVIDES (City of North Las Vegas):
Even though the City of North Las Vegas does not have any NIDs, it appreciates having this additional option available while also making sure it still has the public input process. The City of North Las Vegas supports A.B. 60.

CHAIR FLORES:
We will close the hearing on A.B. 60 and open the hearing on A.B. 97.

ASSEMBLY BILL 97 (1st Reprint): Revises provisions relating to government administration. (BDR 22-526)

ASSEMBLYWOMAN MELISSA HARDY (Assembly District No. 22):
I introduced this bill at the request of the Air-Conditioning, Heating and Refrigeration Institute. It became necessary due to the passage of the American Innovation and Manufacturing (AIM) Act by the U.S. Congress. The AIM Act provides authority to the U.S. Environmental Protection Agency (EPA) to regulate the production and consumption of hydrofluorocarbons (HFC). Hydrofluorocarbons are chemicals typically used as refrigerants, solvents, propellants and fire suppressants among other applications.

The AIM Act specifically directs the EPA to phase out the supply of HFCs which are harmful to the environment and authorizes the EPA to restrict the use of HFCs as we transition to HFC substitutes which are better for the environment. Unfortunately, these HFC replacements are not permitted under Nevada codes. Assembly Bill 97 intends to address that problem.

WARREN HARDY (Air-Conditioning, Heating and Refrigeration Institute):
This is one of those situations where we get caught up in what is happening in Washington, D.C. In 2020, Congress adopted the AIM Act which directs the EPA to require the discontinued use or phaseout of HFCs. It has impacted every state. A similar effort is going on in every state in the union. Maine, Vermont, Tennessee, Texas, Missouri, Colorado, Oregon, Arizona, New York and Washington are addressing this, and some have passed laws.

Normally, I would argue that these types of things should be done at the local government level when we talk about codes. Unfortunately, there is not enough time to do that. Therefore, this bill says that any provision in codes notwithstanding, local governments cannot prohibit the use of newer, more efficient, more environmentally friendly refrigerants. The industry is moving

wholesale to these. However, there is still stock left of the old stuff being sold. The industry has taken this charge seriously and is moving completely away from these HFC refrigeration systems.

Section 1, subsections 2 and 3 of the bill are amendments adopted at the request of the Southern Nevada Water Authority. I have learned this Session that water is a refrigerant. This bill may have caused the Southern Nevada Water Authority and local governments to prohibit the use of evaporative coolers. That is not the bill's intent. Language was added to clarify that evaporative coolers are not impacted by this legislation.

This bill will bring the State into compliance with what the federal government and the EPA are doing. It will allow people to continue selling these products and homeowners to continue to take advantage of this.

I have submitted written testimony (Exhibit F) on A.B. 97.

KATHY FLANAGAN (Southern Nevada Water Authority):
The Southern Nevada Water Authority supports A.B. 97.

MR. BENAVIDES:
The City of North Las Vegas supports A.B. 97. The revision to this bill is appreciated because evaporative cooling and water conservation is important to Nevada.

CHAIR FLORES:
The Committee has received a letter of support (Exhibit G) from the Henderson Chamber of Commerce.

We will close the hearing on A.B. 97 and open the hearing on A.B. 366.

ASSEMBLY BILL 366: Revises provisions governing the Keep Nevada Working Task Force. (BDR 18-1056)

ASSEMBLYMAN REUBEN D'SILVA (Assembly District No. 28):
Assemblywoman Selena Torres sponsored A.B. No. 376 of the 81st Session as a comprehensive bill to support the immigrant community. However, for the purposes of this bill presentation, I will focus on the provisions of the 2021 legislation that created the Keep Nevada Working Task Force within the

Office of the Lieutenant Governor. The Task Force was charged with developing strategies to support current and future industries across Nevada and conducting research on ways to strengthen career pathways for immigrants.

The Task Force was further charged with supporting the efforts of business and others to provide workforce stability and recommend approaches to attract and retain immigrant business owners. One of the provisions of the 2021 legislation required the Task Force to submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission on or before July 1, 2022, and on or before July 1 of each subsequent year.

While the Task Force is required to meet at least once each quarter, it held five meetings in 2022: March 15, May 2, June 29, September 30 and December 14. It held its first meeting of 2023 on March 27. The Task Force set forth various recommendations in its annual report dated July 1, 2022.

During my short time as a Legislator, I have learned that it often takes several sessions to continue to build upon the foundation provided by our predecessors or in this case, Assemblywoman Torres.

Assembly Bill 366 moves the Keep Nevada Working Task Force from the Office of the Lieutenant Governor to the Office of the Secretary of State and revises its membership. The bill increases the number of Task Force members from nine to ten. The nine members of the Task Force consist of the Lieutenant Governor or his designee, seven members appointed by the Lieutenant Governor and one member appointed jointly by the Governor and the Governor's Office for New Americans. The bill reconstitutes the Task Force with one member being the Secretary of State or his designee, eight members appointed by the Secretary of State and one member appointed by the Lieutenant Governor.

Section 9 of this bill allows the members of the Task Force who are serving on July 1, 2023, to continue serving until the Secretary of State appoints members. Nothing prohibits the Secretary of State from appointing an existing member if the person meets the qualifications for appointment set forth in A.B. 366.

The duties of the Task Force remain the same. However, subsection 2 of section 6 authorizes the Task Force to create subcommittees for any purpose

consistent with the duties of the Task Force. This would be a new authority for the Task Force.

MAGGIE SALAS CRESPO (Deputy for Southern Nevada, Office of the Secretary of State):
The Secretary of State (SOS) supports the moving of the Keep Nevada Working Task Force. The SOS has been working with the Office of the Lieutenant Governor and Assemblyman D'Silva to ensure a smooth transition.

The Task Force was charged with developing strategies to support current and future industries across Nevada, supporting the efforts of businesses and others to provide work for stability and recommending approaches to attract and retain immigrant business owners.

The SOS is the first stop for business registration which is a responsibility it takes seriously. Secretary of State Francisco Aguilar has directed his office to provide any support to small businesses that it can, especially those coming from underserved populations. Housing the Task Force within SOS will allow it to learn more about the needs of the immigrant workforce and business community to better serve them and guide them through the process to starting or growing their businesses. The SOS hopes to earn your support for this bill.

RUDY PAMINTUAN (Chief of Staff, Office of the Lieutenant Governor):
The Secretary of State and the Lieutenant Governor have a great working relationship and have discussed A.B. 366 at great length. With the State of Nevada back open with growth and opportunity abounding, the Lieutenant Governor and Secretary of State agree that all Nevadans should have fair and equal access, especially new Americans and immigrants ensuring that no Nevadan is left behind.

Because the Office of the Secretary of State has greater resources and more personnel to focus on the important work of this Task Force, Lieutenant Governor Stavros Anthony supports A.B. 366. His office looks forward to working with the Office of the Secretary of State to ensure a smooth and strong transition.

SENATOR DALY:
Section 5 says a chair and vice chair will be elected. My first thought was that the Secretary of State or his designee should be the chair. I do not know if

anybody cares, but it seems it would be easier to designate the chair and then elect a vice chair. If no one wants to do that, fine. It was just a suggestion.

Section 4, subsection 3, paragraph (c) states a representative from a labor organization with a Statewide presence will be appointed. That language seemed odd to me. How has that been interpreted? Statewide presence is different than Statewide jurisdiction. Are you looking for someone with Statewide jurisdiction? Statewide presence was confusing to me.

ASSEMBLYMAN D'SILVA:
I definitely see the nuance there. If the Office of the Secretary of State and the Office of the Lieutenant Governor are willing, we can work on the language to make it clearer. The labor representative on the Task Force is Vince Saavedra. The Building Trades Unions has both a northern and southern component. If that is the case, then as long as someone has some kind of ability to interact with the State at large, that may suffice as a qualification to serve on the Task Force.

MS. SALAS CRESPO:
The intent is to ensure someone represents labor workers throughout the State, not just in one region, for equal representation on the Task Force. However, we will look into it to make sure that language is interpreted correctly. If we need to make changes, we will make them.

SENATOR DALY:
That is where the language does not exactly meet up with intent. Mr. Saavedra represents the Southern Nevada Building Trades. He has a jurisdiction in the Nevada Building Trades as assigned territory. Several unions are Statewide. You will probably need to refine the language a little because the Southern Nevada Building Trades does not represent anybody in northern Nevada and vice versa. That is why the language "Statewide presence" was confusing. The normal term is not used.

ASSEMBLYMAN D'SILVA:
We will definitely work with all stakeholders to revisit that language.

SENATOR DALY:
Keeping the Southern Nevada Building Trades representative is fine. You need to change the wording a little.

SENATOR KRASNER:
Why was it decided to move the Keep Nevada Working Task Force to the Office of the Secretary of State?

ASSEMBLYMAN D'SILVA:
The simple reason is that the Office of the Lieutenant Governor does not have the personnel to maintain and operate the Task Force. The Office of the Secretary of State has more staff.

The Lieutenant Governor sought to remove the Task Force from his office and send it to the Secretary of State's Office where it could be better staffed.

MR. PAMINTUAN:
In addition to presiding over the State Senate, the Lieutenant Governor also chairs tourism, transportation, outdoor recreation and many other boards and commissions. The Office of the Lieutenant Governor only has a couple of full-time employees. It has its hands full. Given the importance of this issue and new Americans and immigrants, if the Office of the Secretary of State has personnel to dedicate to this effort and the resources, the Office of the Lieutenant Governor would be more than happy to work with the SOS. The SOS has had discussions prior to this bill being submitted and worked through that process. There will be a strong transition, and the Office looks forward to working with the SOS as the Task Force continues its great work.

BETHANY KHAN (Culinary Union Local 226):
I am a first-generation daughter of immigrants and a member of the Keep Nevada Working Task Force.

The Culinary Union supports A.B. 366. The Culinary Union is Nevada's largest immigrant organization and union. It represents 60,000 workers who come from 178 countries and speak over 40 different languages. The Culinary Union has been fighting and winning for working families in Nevada for 88 years and is deeply committed to ensuring that new Americans have a voice in the political process and in Nevada.

Since the Keep Nevada Working Task Force was created last Session, Task Force members, including me, have been working to protect and advocate for immigrants in Nevada. Looking forward, the Task Force is committed to

study and provide recommendations on how Nevada can better support workforce development of immigrant communities.

The Culinary Union which is a founding member of the Nevada Immigrant Coalition urges the Nevada Legislature to pass A.B. 366.

ALMA LOZOYA:
I am a porter on the Las Vegas Strip and have been a Culinary Union member for two years. I support A.B. 366.

My parents are immigrants, and I am the youngest of six siblings. Ever since I can remember, my parents have worked minimum wage jobs nearly seven days a week. They work hard so my siblings and I could have more opportunities and the best life possible, one they never had. As a daughter of immigrants, our voices are important to Nevada. I am proud that the Union helped create Keep Nevada Working Task Force. Immigrants are essential to Nevada.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):
The Progressive Leadership Alliance (PLAN) of Nevada supports A.B. 366. The PLAN was part of the passage of A.B. No. 376 of the 81st Session and the creation of the Keep Nevadans Working Task Force to develop strategies with businesses, labor organizations and immigrant advocacy groups to support Nevada's workforce. Assembly Bill 366 will facilitate the further development of the Task Force and urges your support.

DEANNA HUA TRAN (Nevada Immigrant Coalition):
The Coalition is grateful for the Keep Nevada Working Task Force's diligence toward the promotion and creation of policies that protect and support the immigrant refugee communities. The Coalition looks forward to continuing the support of the protective efforts of the Keep Nevada Working Task Force as it transitions to the Office of Secretary of State to continue the success of integration and economic development for all immigrant communities. The Coalition urges the Committee to support A.B. 366.

ASSEMBLYMAN D'SILVA:
I urge the Committee's support of this bill.

CHAIR FLORES:
We will close the hearing on A.B. 366. The meeting of the Senate Committee on Government Affairs is adjourned at 6:26 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Edgar Flores, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Introduced on Minute Report Page No.**	**Witness / Entity**	**Description**
	A	1		Agenda
	B	1		Attendance Roster
A.B. 52	C	12	Eva Romero	Letter of Opposition
A.B. 52	D	13	Senator Edgar Flores	Letter of Opposition from Reva Crump
A.B. 52	E	15	Jenny Brekhus / Reno City Council	Conceptual Amendment
A.B. 97	F	23	Warren Hardy / Air-Conditioning, Heating and Refrigeration Institute	Written Testimony
A.B. 97	G	23	Emily Osterberg / Henderson Chamber of Commerce	Letter of Support