

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Third Session
March 8, 2005**

The Committee on Judiciary was called to order at 8:11 a.m., on Tuesday, March 8, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 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. Bernie Anderson, Chairman
Mr. William Horne, Vice Chairman
Ms. Francis Allen
Mrs. Sharron Angle
Ms. Barbara Buckley
Mr. John C. Carpenter
Mr. Marcus Conklin
Ms. Susan Gerhardt
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson
Mr. John Ocegüera
Ms. Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Peggy Pierce, Assembly District No. 3, Clark County
(part)
Assemblyman David Parks, Assembly District No. 41, Clark County (part)

STAFF MEMBERS PRESENT:

René Yeckley, Committee Counsel
Allison Combs, Committee Policy Analyst
Judy Maddock, Committee Secretary

OTHERS PRESENT:

Fred Haas, Police Officer, Las Vegas Metropolitan Police Department, Nevada
Ben Graham, Legislative Representative, Nevada District Attorneys Association
Renee Parker, Esq., Chief Deputy, Office of the Secretary of State, State of Nevada
John Auer, Reverend, Reno First United Methodist Church, Reno, Nevada
John Wagner, Burke Consortium of Carson City, Nevada
Lucille Lusk, Chairman, Nevada Concerned Citizens, Las Vegas, Nevada
Steve Sanson, Media Spokesperson, Veterans in Politics, Carson City, Nevada
Barbara Clark, Legislative Liaison, Nevada PTA [Parent Teacher Association], Las Vegas, Nevada
Janine Hansen, State President, Nevada Eagle Forum
Lynn Chapman, State Vice President, Nevada Eagle Forum
V. Robert Payant, Executive Director, Nevada Catholic Conference; and representing the Religious Alliance in Nevada (RAIN), Reno, Nevada
Larry Struve, Legislative Advocate, Religious Alliance in Nevada, Reno, Nevada
Al Kramer, Chairman, Citizens for Affordable Homes, Inc., Carson City, Nevada

Chairman Anderson:

[Meeting called to order. Roll called.]

I see quite a few people who want to talk about A.B. 119 and I see only a few who are here concerned about A.B. 121, which are the two bills that are on the agenda for today. Assembly Bill 121 was requested by Ms. Pierce. I see that quite a few of the members of this Committee have agreed to be on this piece of legislation, including myself.

[Opened the hearing on A.B. 121.]

Assembly Bill 121: Revises provisions governing permits to carry concealed firearms. (BDR 15-317)

Assemblywoman Peggy Pierce, representing Assembly District No. 3, Clark County:

Today I bring before you A.B. 121. This bill deals with amending the current CCW [carrying a concealed weapon] statute in the following manner. It gives a sheriff additional authority, which does not exist in the current CCW statute, to revoke a CCW permit, or deny an application if a person has been convicted during the past five years of being under the influence of alcohol or drugs while in possession of a firearm. By adding the requirements of NRS [*Nevada Revised Statutes*] 202.257 to the existing language of the current CCW statute, it provides for the methods to determine if the subject was under the influence of alcohol or drugs, while in possession of a firearm.

This amendment allows a sheriff to ensure public safety by rejecting those individuals from receiving or maintaining a CCW permit if they violate the conditions of NRS 202.257. At the table with me are representatives of the Las Vegas Metropolitan Police Department who are here to provide the Committee with further information.

Fred Haas, Police Officer, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:

NRS 202.3657 stipulates that evidence of habitual use is presumed by a conviction under NRS 484.379 which is driving under the influence of alcohol or controlled substance. It does not indicate that it also includes possessing a firearm while under the influence of alcohol outside of their vehicle. NRS 202.257 would add that in the "presumed level of intoxication as a habitual use." By passing this amendment, the sheriff can ensure some public safety by denying the permit if somebody is carrying a firearm out in the street intoxicated. It will remove their CCW. It is not going to remove the right to carry a firearm or use a firearm, just limit their ability to carry a concealed weapon for a period of five years from their conviction.

Chairman Anderson:

Then they would have to make a reapplication after the five years to get the restoration of their CCW?

Fred Haas:

Yes, that is correct.

Chairman Anderson:

Then they would have to meet all the other requirements, the background, the safety training for a firearm, and all that?

Fred Haas:

Yes, that is correct.

Chairman Anderson:

Most of the members of this Committee, except for Mr. Carpenter and Ms. Buckley, were not with us in 1995 when we did this CCW [carrying a concealed weapon] statute. You might want to recount the requirements that we have for folks who are doing a CCW, so they can understand why we have already set up a relatively high standard.

Fred Haas:

Right now, the standards are that you must be 21 years of age or older, not prohibited from possessing a firearm pursuant to NRS 202.360, demonstrate familiarity with a firearm by presenting a certificate or other documentation to the sheriff that shows he has successfully completed a course in firearm safety approved by the sheriff and the state, and successfully completed a course offered by a federal or state law enforcement agency at a community college, university, or national organization that certifies instructors in firearm safety.

They shall be denied if they have an outstanding warrant for their arrest, have been judicially declared incompetent or insane, have been voluntarily or involuntarily admitted to a mental health facility in the immediately preceding five years, and have habitually used intoxicating liquors or controlled substances to the extent that his normal faculties are impaired. "For the purpose of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance" under NRS 484.379 which is the DUI [driving under the influence] Law, or NRS 458.290 through 458.350, which are the mental health issues.

Chairman Anderson:

Are you the officer who actually does this in Clark County?

Fred Haas:

No.

Chairman Anderson:

What I am trying to get the Committee to understand is that prior to the CCW this was a decision that was entirely in the hands of the sheriff. Now we have set a standard that has to be met so that the public has greater opportunity to

meet a known standard. That was what we were doing here. What we were concerned with was that somebody was going to go, "Don't mess with me, I am carrying a weapon." After you have had a few drinks, it might add to that bravado, that "I am carrying." I just want to make sure that the Committee understands how this all came to be. By raising the standard, we will be able to say that if somebody has a drinking problem, who might also have been able to get a CCW, you are now going to be able to at least for awhile, keep them from not potentially harming someone because of their drinking problem, even if they are not in a motor vehicle.

Assemblyman Horne:

Mr. Haas, if someone has a CCW and he keeps getting arrested for public drunkenness, disorderly conduct, et cetera, but each time he is arrested he never has his firearm on him, will you be able to exercise this and take their permit away?

Ben Graham, Legislative Representative, Nevada District Attorneys Association:

The Chairman saw my notes before he made his statement—to make certain that the statute is not overbroad and not vague so that the standards are clear so that you will have a constitutional guideline. I think that the way this is written, it is restrictive and it only talks about conviction. The fact that I might have a CCW permit and leave it at home and then conduct myself in a manner that is not appropriate would not fall under this restriction. You would need to have had a conviction. That is the way this speaks. It speaks on convictions, not just being out on the street.

Assemblyman Horne:

I am convicted, and each time I go out drinking with my buddies I am now getting in a fight, but I am unarmed. I have a CCW, but I am unarmed. I was convicted maybe a few months ago, then I come out and do it again. This guy has a drinking problem. He never has his firearm with him. I am just checking to make sure whether or not this is going to kick in for the habitual drinker, but it seems like he has had this conduct without his firearm.

Ben Graham:

This particular provision does not, but I think that Officer Haas has some elucidation as well.

Fred Haas:

Nevada Revised Statutes 202.257 is about possession of a firearm while under the influence of a controlled substance, which states that you have to have a concentration of alcohol of 0.10 or higher, be in possession of a firearm, and be convicted of that, to lose your CCW under this new provision.

Assemblywoman Angle:

My question has to do with where it says, "conviction or treatment." Is that right? All our bill says is the blue language which refers to the law, but the Legislative Digest is where I am at.

Ben Graham:

The only addition to the law is being convicted while having the firearm in your possession. All we are adding is six words and a few numbers. Everything else is existing law.

Assemblywoman Angle:

So, the person has been convicted of driving under the influence or has been assigned by the court to a program of treatment as referred to in the Legislative Digest, line 6. Does that not have anything to do with this bill?

Chairman Anderson:

Ms. Angle, I think you will find a response from Legal.

René Yeckley, Committee Counsel, Legislative Counsel Bureau:

I think that the language that you are referring to in the Legislative Digest is a reference to existing law and it is in what is now the new subparagraph 3, on page 2, line 42. There is a presumption where there is a person within the immediately preceding five years that has been committed for treatment, pursuant to NRS 458.290 to 458.350, inclusive. That is what the Legislative Digest is referring to when they are referring to the treatment.

Assemblywoman Angle:

Just to clarify, the current law says that it is a conviction or an assignment to treatment, so both things can apply here?

René Yeckley:

Yes. That is the current law, with this presumption.

Fred Haas:

I also represent the Nevada Sheriffs' and Chiefs' Association. They are also in support of this bill.

Chairman Anderson:

Are there any other questions relative to the impact of A.B. 121 on the CCW [carrying a concealed weapon]?

Assemblyman Carpenter:

The way I understand it is, if you are convicted of being drunk and having a firearm, you can lose your right to carry a concealed weapon for five years after that conviction?

Ben Graham:

Yes, I believe that is accurate under current law. That is mentioned on page 2, about line 30 through 39.

Assemblyman Carpenter:

You do not think that we have to have any language that specifically mentions that? The other one says that if you are convicted within five years. Does it automatically mean that you lose your right to a concealed weapon for five years after the conviction?

Chairman Anderson:

If I am to understand Mr. Graham, I believe that he said that if we are looking at line 39, that would be the current definition of using liquor or a controlled substance during the immediately preceding five years. That is what we are currently doing. This merely clarifies that particular requirement. Is that correct, Mr. Graham?

Ben Graham:

Yes, I believe that is under the current line 39.

Chairman Anderson:

And it is a presumption and I draw your attention to the word "presumption" in the current statute at line 37.

Assemblyman Carpenter:

Maybe we could have Legal look at that to make sure that if you do it right now under "convicted," you could lose your right to carry the concealed weapon for five years. It looks to me like it is a little vague.

Chairman Anderson:

Mr. Haas, Mr. Graham, and Ms. Pierce are the only ones who had indicated a desire to speak on A.B. 121. Is there anyone else that has a desire to speak on A.B. 121? Mr. Gillins from Las Vegas Metropolitan Police Department is down in the south but he did indicate his support. We have the Las Vegas Metropolitan Police Department Chief and the Nevada Sheriffs' and Chiefs' Association, Mr. Olsen, in support along with Mr. Adams and Mr. Dreher from PLAN [Progressive Leadership Alliance of Nevada] who are all in support of the legislation.

[Closed the hearing on [A.B. 121](#) and opened the hearing on [A.B. 119](#).]

[Assembly Bill 119](#): Requires certain nonprofit corporations that solicit contributions to register with Secretary of State. (BDR 7-556)

Assemblyman David Parks, Assembly District No. 41, Clark County (part):
[Mr. Parks read his testimony from [Exhibit B](#).]

Assembly Bill 119 is intended to provide a tool for persons making charitable contributions. For someone to take the time to sit down and learn about an individual charity before donating can go a long way toward making sure that the nonprofit organization and its cause match the giver's intentions. However, researching charities can be overwhelming when you consider that there are more than 700,000 federally recognized nonprofit organizations in this country.

Every year many millions of dollars are lost to deceptive individuals posing as legitimate charities preying upon the giving nature of individuals and businesses. It is often difficult to discern between legitimate and unscrupulous solicitations without needed information to make sound judgments regarding whether or not to give.

Unfortunately, this kind of crime usually goes unpunished, primarily because it is not reported. Moreover, the victims—more often than not—do not know that they have been victimized. And that is what is important about [A.B. 119](#). Its goal is to separate the wheat from the chaff.

There are basically three types of charities:

Legitimate Charities – These charities provide needed goods or services to the community and maintain a high percentage of funding dedicated to the actual cause they champion.

- Legal, but Unethical Charities – These charities meet the minimum requirements for a charity, but provide minimal goods and services to the community. Their percentage of funding dedicated to the cause they advocate is usually small compared to their administrative costs.

- Fraudulent Charities – These are criminals posing as charities with no legal basis whatsoever.

[Assemblyman Parks, continued.] Legitimate charities provide high levels of service for the people they serve. A.B. 119 would require that all 501(c)(3) [Internal Revenue Code of 1986] organizations, soliciting contributions from the public in Nevada, make certain documents available to the public through registration with the Secretary of State's office.

Registration with the Secretary of State would not imply any endorsement of the organization. Registration documents would include a general information data sheet with pertinent information and a copy of the most current Internal Revenue Service (IRS) Form 990.

Currently, all charities with gross revenue or assets of \$25,000 or more must annually file an IRS Form 990 financial report with the Internal Revenue Service. It is envisioned, in A.B. 119, that the Secretary of State's office will make these filings available to the public via the Internet in a PDF [portable document format] file.

Assembly Bill 119 is being modeled after statutes in at least 17 other states. States that have statutes similar to what is being requested in A.B. 119 include Arizona, Colorado, Florida, Georgia, Illinois, Kansas, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Vermont, Virginia, Washington, and West Virginia.

I should also indicate that the Secretary of State has requested BDR 7-1068 that seeks to do what A.B. 119 does, and I believe that the Secretary of State's Office was able to find additional states in its research of this subject. The Secretary of State's bill also seeks to regulate professional fundraisers.

My primary objective is to make this reporting as informative as possible for contributors while not being onerous for either the legitimate nonprofit or the Secretary of State's office.

Assembly Bill 119's intent is to separate legitimate nonprofit organizations from those that are nothing short of fraudulent rip-offs.

[Assemblyman Parks, continued.] Several years ago, I followed one organization, using a Nevada name and a Reno address, which solicited funds while providing no services in Nevada for the contributions it received. The organization was based in Boca Raton, Florida and has been sued by attorneys general in a number of states. Each time it was sued, the organization simply pulls up stakes in that state and moves to another state. This is the kind of activity that A.B. 119 would help to prevent.

I hope that you will support A.B. 119. I strongly believe that legitimate nonprofits deserve some form of a "seal of approval."

Some state legislatures, including California, exempt nonprofit schools, school organizations, hospitals, and churches from filing these reports. I would not be opposed to amending A.B. 119 to include these exemptions.

I would also like to state that I firmly believe that the passage of this bill is something every legitimate nonprofit should support as it means larger contributions to them if they are not competing with unethical or fraudulent operations.

Chairman Anderson:

To indicate again, you would think that the bill would be strengthened by exempting the churches and schools and those mimicked in the other states. I hesitate to use our state to the west of us as the primary model, knowing the inherent danger of doing so. The other states that have adopted this legislation, have they exempted schools and churches?

Assemblyman Parks:

I do believe that most of them have exemptions especially to get around the First Amendment protections. I did ask Legal if they could provide me some insight into that and at this point I do not have anything in writing, realizing how busy they are with other tasks. I am sure that that can be developed.

Chairman Anderson:

I am sure that the wait list will go down dramatically if those amendments are adopted. Are there any questions for Mr. Parks relative to the intent of the legislation that he has requested?

Assemblywoman Buckley:

I have a disclosure. I would like to disclose that I work for a nonprofit organization, a 501(c)(3) and I have been advised by legal that this bill does not

affect me any differently than anyone else. I wanted to make that disclosure on the record.

[Assemblywoman Buckley, continued.] I, too, have seen some of the nonprofits that have 70 percent administrative overhead. That is such a small return compared to legitimate nonprofits and that causes me great concern. In your research of any other states, did you find that they had a way to combat that? Did they use investigations or disclosures to identify an entity that has a 70 percent administrative rate and combat it with sunshine and disclosure as a way to get at these bad actors? Has any state tried anything like that?

Assemblyman Parks:

I know that some states do have investigative arms that do look at the nonprofits. If I might ask the Chairman to have Renee Parker from the Secretary of State's office speak, she might be a little bit better qualified to respond to that question. I think that there are investigative arms of different state agencies that can do that type of activity.

Renee Parker, Esq., Chief Deputy, Office of the Secretary of State, State of Nevada:

We did a survey of all of the states, and most of the states have legislation similar to what Assemblyman Parks is proposing, or they go further with disclosure requirements and investigative authority. Many times it is with the Attorney General, and, in other states, it is with the Secretary of State. In our bill, we actually put in investigative authority and civil penalties if they did not register, and the ability to look at exactly what you are discussing. That is the reason that we brought our bill. We saw some charities where there is \$1.4 million in receipts, and \$1.3 million went to the expenses for the charity, salaries, et cetera. One hundred thousand dollars went to the actual charitable cause. I have a list here. I don't have copies, but I can run back and make some copies and bring them to you of what the requirements in the other states are.

There are only a few states that do not have any requirements at all, and they generally have the disclosure requirement as part of the registration, along with the financial statement, the investigative authority, and the civil penalties.

Assemblywoman Buckley:

Did any of those states only require filing if your administrative overhead was more than 20 percent, or some number?

Renee Parker:

I do not recall that they required a filing based on that, but we had a provision in our bill that was similar to one of the states—actually it was prescribed by

will of the Secretary of State—if you had receipts lower than a certain threshold. We have come up with some amount—if you had receipts less than \$25,000, or whatever that threshold was. I can't remember what they were in some of the states, and none of the expenses went to paying salaries, so it was a true account. You did not pay an administrative staff; the money went to the charitable cause. There were different thresholds like that in the other states. I do not recall any that went to that percentage difference between the revenues. We could certainly come up with something like that. I can look again. Most of them were based on a certain threshold of receipts.

Chairman Anderson:

I assume that you are going to be speaking on some issues from the Secretary of State's Office anyway.

Assemblyman Parks:

On page 3, line 20, there is some reference to a charitable corporation on or before the fifteenth day of the fifth calendar month after the close of the fiscal year. That reference comes from generally accepted accounting principles. That might be a rather stringent timeline as most everyone knows that nonprofits getting their financial audits done usually take second place to the corporate entities that pay the big bucks for their audit statements. Having served on several nonprofit boards and in dealing with their financial reports, I know that meeting that timeline could be quite stringent.

Chairman Anderson:

[Chairman reminds speakers not to testify on bills that are not in front of Committee.]

Renee Parker:

We fully support this legislation. As I stated earlier, we had similar concerns to Assemblyman Parks with some of the charities. There is actually one state, I cannot remember what state it was, that posted a list of angels and scrooges. They do post the list based on that threshold that Assemblywoman Buckley was discussing, and how much of that goes actually to the charitable cause and how much of the money is used to support the administrative services of the charity.

The majority of the states, other than four or five states, have some form of charitable registration. Our office agrees with Assemblyman Parks. Our purpose is not to inflict any onerous requirements on any of the legitimate charities; it is mainly to get the information out there so persons who are trying to determine whether they should contribute to a specific cause have all the information available to make an informed decision. I think that some of the things that we had discussed, or additions, or things to consider in the future as part of this bill

were: having some investigative authority under a certain criteria, and having the ability to impose a penalty if they do not register. Many of the states also have filing fees for registration. Those are some of the things that we have considered as alternatives or additions.

[Renee Parker, continued.] We agree with Assemblyman Parks' bill, and we fully support it. The only things we see as additions for you to consider are potentially a filing fee, potentially authorizing investigative authority, or expanding or even decreasing the scope to ensure that the legitimate charities do not feel too burdened, but that all the information is out there for the public to make informed decisions.

Chairman Anderson:

One of the questions that comes up in the many emails that I have received, and I am sure members of this Committee received on this particular question, revolve around the disclosure of who the actual donors are, the donor list. We are very mindful as legislators from the disclosure requirement that comes when we run for public office—who is contributing—because they then become the ready list for later candidates to utilize as to who they might be sending their letters to.

Charitable organizations are equally concerned that, in disclosing who their contributors are and the amount of contribution, they are exposing the people who really want to be kept as a silent contributor to a charity, and they do not want their donation to become the target of other people. Have you looked at a way of protecting the list of people who are going to be there in the disclosure?

Renee Parker:

Yes. We had some more concerns. The intent here is not to capture the donor information, the intent is the activities of the charity and the issue that Assemblywoman Buckley was discussing. I think that in IRS Form 990, they do capture the donor information, but the way we had discussed it was that you could make that an exception to the public records statute if they file. If they choose, under Assemblyman Parks' bill, to file IRS Form 990 in lieu of the prescribed form, then you can make that confidential information under the state law. The donor list does not become a public record. We would not provide that as public information.

Chairman Anderson:

I hope that we can proceed with the bill but make sure that we take care of that particular aspect. Is the Secretary of State's bill draft potentially going to the other chamber or do you have any idea when it is coming forward?

Renee Parker:

I have no idea. I am sorry. I have not received a copy back yet to review. I do not know.

Chairman Anderson:

Is the Secretary of State's office anticipating amending Mr. Parks' bill relative to their needs and thus we have one vehicle that is going to carry the full weight of the discussion?

Renee Parker:

At this time I do not think we are proposing to amend Assemblyman Parks' bill. His bill is a good start for the state and I know that there are concerns that will be raised here. You may want to look at some other options. You may want to look at what Assemblywoman Buckley was discussing. I can work with Assemblyman Parks to see to what extent he might want to add some of the provisions that we have. We have not gotten that far yet because our bill did not come out. That would be easier than having to do a conference committee at the end. We can certainly work together to discuss that after we hear all the rest of the concerns.

Assemblyman Parks:

If I might just bring to your attention on page 3, line 12, it does call for a Form 990 with all schedules except the schedules of donors. I did specifically exclude the donors.

Chairman Anderson:

Thank you again for pointing that out. I have 27 emails in opposition to this bill and 1 in favor, most of which, I think, are going to be brought up by those folks that are in attendance today.

Reverend John Auer, Reno First United Methodist Church, Reno, Nevada:

I am here on behalf and in direction of the congregation I serve, First United Methodist Church, Reno, to offer a friendly amendment to a bill that we otherwise support fully. It reads as follows ([Exhibit C](#)):

Charitable organizations so registered with the Secretary of State under section 501(c)(3) of the Internal Revenue Service as not-for-profits and/or religious not-for-profits shall not be subject to taxes and/or special assessments by county, city, or local governments of any kind whatsoever; effective July 1, 2004.

If I may, I would like to amplify that amendment briefly. We are a downtown congregation in the city of Reno and proud and glad to be there. We have been

in the current location since 1926 and as a congregation since 1868. We have no other source of revenue but our own membership. We are not there to make a profit, we are not there to enhance property values. We were among six churches and religiously-based not-for-profits in the past month to be assessed for the train trench project on allegations of noise abatement and convenience. We have people that would have crawled to church if they had had to. We can out-preach any train that we have met so far. We have also been assessed for beautification of our downtown community. We have been assessed for added police protection. We are subject to being assessed for flood control because we are located right on the river. All of these assessments serve good purposes, and we benefit by being part of a stronger community. But, either we are not-for-profit and religious not-for-profits, or we are not; if we are, then all religious not-for-profits and other not-for-profits should be assessed on an even and equal basis.

Chairman Anderson:

My concerns are relative to the bill itself and whether this is outside the scope of the authority of this Committee and more properly placed in Commerce and Labor, Growth and Infrastructure, or even Government Affairs, which are taking up the questions of taxation, rather than the question of registration. I understand your concerns but I am afraid this may, because of the reference to city and local government, more properly belong in Government Affairs, where Mr. Parks happens to be the Chairman. It is not as if your sermon is falling on deaf ears, it is just that this is not the scope of this particular Committee.

Reverend John Auer:

May I check with you my perception that we need to be able to attach ourselves to a piece of existing or pending legislation since the deadline is past for new legislation. Is there a piece of legislation before those committees that we might attach ourselves to.

Chairman Anderson:

I am not currently aware of the holdings that are in the Government Affairs Committee. I am only in passing aware as a member of the other two committees. I think that is a good search question. Are you a member of RAIN [Religious Alliance in Nevada]? I believe that they have access to some information that might be of use to you.

Reverend John Auer:

I appreciate this opportunity to be heard. Other than that, we are in full support and happy to be held accountable along with every other religious not-for-profit for what we are and what we do.

Chairman Anderson:

You do fill out these forms for the federal government and are currently doing that?

Reverend John Auer:

Yes.

Assemblyman Conklin:

I need to disclose. Legal has reigned in on me as well. I am the service chairman of the board for a nonprofit organization in southern Nevada. I have been advised that I need to disclose. I am not affected any differently than anyone else, and I am able to vote on this matter.

Chairman Anderson:

I am not currently on any of those boards, and I am happy that I am not. It just happens to be in this particular cycle that I am not on any board or housing corporation.

Assemblyman Horne:

I serve on a nonprofit board in Las Vegas as well. It does not affect me any more than anyone else.

Assemblyman Ocegueda:

Me, too.

Assemblyman Manendo:

Me, too.

Assemblywoman Ohrenschall:

I have in the past, but I am not on one at the moment.

Assemblywoman Angle:

I am on a 501(c)(3).

Chairman Anderson:

I think that is only the nature of this other thing that we do. We are only too happy to serve on them. I have always felt that it was a civic responsibility that we applaud anybody that does take their free time to serve on these kinds of boards. Anyone else speaking in favor of the legislation, before I move to the opposition?

John Wagner, Burke Consortium of Carson City:

After hearing the testimony by Mr. Parks, he wants to exclude certain organizations, and that makes the bill more palatable to me. I also would like to include, of course, the scouting groups as well. We had a little Girl Scout come sell us some cookies last week, and I would hate to think that she is going to have to go through and jump through the hoops. I do have some concerns about people who actually donate to these organizations, their names being made public. I think that it could be an embarrassment to them if someone gets scammed. I do not think that they would want their names known and that they were taken for a ride. I recognize the merits of what is trying to be done in this bill, but I have some concerns. I think that it is becoming more and more palatable as the amendments come up.

Lucille Lusk, Chairman, Nevada Concerned Citizens, Las Vegas, Nevada:

We are here to oppose A.B. 119 as it is written. Should certain amendments be attached, that might possibly change that. Not knowing what will be done, I would like to address some points. The utilization of the 501(c)(3) does include many legitimate non-profits, scouts and many churches, if adopted as written. In our view, it does not capture the scams as the crooks would not register. That is just one of the realities of those who have no respect for the law. It was stated that those who are legitimate should deserve some seal of approval. I understand that. But, if that is the motivation, if that is the purpose, then registration should be voluntary so people could look at the list and make a decision that if the person who is soliciting chose not to register, they could choose not to donate to them.

In looking at page 3, lines 38 and 39, it says that all information filed pursuant to this section, except for residential addresses and telephone numbers of persons and schedules of donors, are public records. I understand that schedules of donors are not to be included and that is much appreciated because that is one of the greatest of fears, should that ever take place that a creation of a list of church members would be publicized. Even with the schedule of donors being excluded, there is a list of quite a number of people that must be included. The names of the officers, directors, trustees, executive personnel, for example, would be listed.

There is a considerable concern from those of us who have past histories with religious organizations that have been subject to persecution at one time or another of listing names associated with religious organizations. Even though the address is not listed, in this day of the Internet and information overload, my name is sufficient, not only to find out where I live but where my children and grandchildren go to school, and just about everything there is about me.

[Lucille Lusk, continued.] Already the specter has been raised of imposing filing fees related to this. Those filing fees are not, as best I can tell, included in this bill as written. Charitable organizations, many smaller ones especially, really struggle when you operate solely upon the goodwill of individuals donating. Where money goes out to is a real concern. I would close with repeating a question that was asked earlier by one of your members. Is there any other way to get at the egregious conduct that some scammers undertake? I implore you to find it.

Steve Sanson, Media Spokesman, Veterans in Politics, Carson City, Nevada:

We are a 501(c)(3). We are convinced that this is a bill to generate revenue for the Secretary of State. These required annual statement filings will require a filing fee as does everything else that gets filed. While we cannot find within the bill any fee dollar amounts, it is reasonable to assume there were bill fees required with the thousands of nonprofit organizations filed in Nevada. This will generate a budget beyond most legislators' imaginations. We see this as nothing but a money maker, and maybe some of our legislators cannot or will not see what this bill really does. It gives huge amounts of money each year to the Secretary of State. We oppose this bill based on these grounds stated.

Barbara Teal Clark, Legislative Liaison, Nevada PTA [Parent Teacher Association], Las Vegas, Nevada:

Nevada PTA has spoken with Assemblyman Parks regarding this bill and realizes who he is trying to get to and the issues he is trying to address. We don't have a problem with it. However, the language of this bill has consequences on charitable organizations such as PTA. As you are probably aware, Nevada PTA is a 501(c)(3) that provides an umbrella to all of the local PTA units throughout this state. PTA is an all-volunteer organization, other than one paid staff person in Clark County in our office. We are talking about moms and dads and teachers and grandparents who most likely work full-time who are volunteering to help be leadership at PTAs and do fundraising and advocacy.

Our first concern is Section 3, number 1, the last sentence that states each chapter, branch, or affiliate of a charitable organization may register separately. If that means that all of our PTAs within the state would have to register, again, this is very burdensome to a group of people that are just volunteering and who may not have the skill level or the ability to do the registration. As to filing the financial report, many of our PTAs do not raise more than \$25,000, so they do not file a Form 990, and what you are looking at is a budget that expresses the expenses and the revenues, probably one that is very crude or rudimentary in some of the PTAs.

[Barbara Teal Clark, continued.] Section 3, number 3(b) says that, if the charitable corporation does not maintain an office in the state, it must make a registration statement that includes the name, address, and telephone number of the person who is in custody of the financial records. The state association has an office, but each local PTA does not. Those financial records are held by the treasurer, probably in their homes. What we are doing is releasing the names of those individuals and their addresses.

The Parent Teacher Association is a volunteer organization, and our turnover is annually, if not more than annually, and having to submit the requirements to any changes on an annual basis is also burdensome. Releasing the residential addresses and telephone numbers of volunteers is an issue. Also, if the information is going to be listed on the website, this, I believe, opens somewhat of a Pandora's Box.

When you list what PTAs fundraise, it opens the discussion of equity and adequacy, not only for PTAs but for the school sites and school districts. It opens up public scrutiny and comparisons and the issues to be addressed by the school district. If School A raises \$100,000 for a teacher, turf, or enhanced technology, the school districts have an obligation to address the equity and advocacy issues inherent in this if another school can only raise \$2,000 and does not get that type of icing for their cake.

Finally, the bill itself, we believe, is inequitable, particularly in the arena of school-related organizations fundraising for schools and students. PTA is a nonprofit 501(c)(3); we abide by the rules. But many organizations are not, such as PTOs [Parent Teacher Organizations]. Many do file, but many do not. Band groups and booster clubs do exactly the same thing that we do at the school site. They raise monies for that school, but they have never gone through the process. So, what this bill, in essence, does is penalizes those that do follow the law and file, and those that never have filed get away with not having to do it, because the bill strictly addresses those that have a 501(c)(3) status.

If you are looking at that, our state office would be more than happy to do that, but there are many implications when you go farther down into the local PTA level that I believe are burdensome and troublesome.

Chairman Anderson:

Did you hear Mr. Parks indicate that it was his intention to entertain an amendment relative to churches and schools and other groups that might fit underneath an exemption?

Barbara Clark:

I am not sure whether that would apply to PTA because PTAs are autonomous, nonprofit groups. It is not a group like a band group within the school. If you can exclude us, we would be very happy. That is the bottom line.

Chairman Anderson:

And I notice that it is a "may" and not a "shall," and I know that that hurts your argument, but it is still a "may" and not a "shall." Ms. Parker, since you are from the Secretary of State's Office and deal with these on a regular basis, can you clarify for the Committee the information which might be there?

Renee Parker:

We actually have some language somewhere else that we created. I just spoke to Assemblyman Parks and discussed what I think would solve a lot of the problem that some people here have that goes to that issue that you discussed earlier. It would be a friendly amendment, you could amend the bill to say, "any organization raising less than \$25,000" being the threshold for the Form 990. If they have to file that, this should not be an onerous requirement. Raising less than that threshold in any accounting year, when all the activities of the organization including all fundraising activities are carried on by persons who are unpaid for their services, would cover the PTA. No part of the organizations' assets or income inures to the benefit or is paid to an officer or a member of an organization, would probably exclude most of the people here that have concerns. I think that was our intent and Assemblyman Parks' intent was not to capture these organizations. That works. Mr. Chairman, I can give you that in writing.

Chairman Anderson:

We knew that was going to happen, Ms. Parker.

Janine Hansen, State President, Nevada Eagle Forum:

I also serve as a philanthropic development officer for a national 501(c)(3), the National Heritage Foundation. Their information is located on the Web at <www.NHF.org>. One of the reasons that I work with National Heritage Foundation is because of the difficulty for small organizations who want to do charitable work to comply with all of the rules and regulations. What National Heritage Foundation provides is an umbrella 501(c)(3). They have 8,500 foundation projects under their umbrella at this time. What they do is file with the IRS, take care of the legal work, and do a lot of the accounting, which allows small 501(c)(3) organizations to operate.

One of the barriers to trying to do charitable work today is all of the forms, filings, and reports that an organization has to make. This is particularly true for

those organizations that fall under the threshold of the \$25,000, as required by the IRS. Many of those organizations, as we have heard before, are all volunteer ones, and they do not have anyone to do the accounting, the legal work, and the filing for them. This is another burden on them. It appears to me that in government there is no end to regulation, and freedom does have some risks when people have to decide who to give their money to. I always try to research that myself, but as I looked on the Web last night, they do have information available on everyone who are filed as 501(c)(3)s available through the federal government, as well as through private organizations that interpret that information.

[Janine Hansen, continued.] Once again, with most regulations, only the honest will comply or register, not those who are the problems. Under the federal government, churches, church schools, and missions are exempt. They do not even have to file as 501(c)(3)s. I am concerned that those who choose not to file as 501(c)(3)s may be branded as illegitimate when they are perfectly legitimate under our *Constitution* and have the freedom to do so at this time. So, that is another problem. If you will notice on page 3, line 9, it specifically says, "This is not to be taken as any kind of endorsement from the Secretary of State." Even filing does not provide any kind of legitimacy, and those that do not file may be considered to be illegitimate.

There is always a cost, not only to the proposed filing fees and civil penalties that are possible for volunteers who are trying to comply, but also the cost of trying to register itself in terms of getting the accounting work together. We heard earlier that the PTAs may have very rudimentary accounting. That is what I find with many of the small organizations that I work with who are registered under the umbrella. The thing that helps them is that they have a national organization which files for them so they do not have to do all of that, because it would be beyond their capacity. If they had to do it themselves, they just might give up on the charitable project.

Some people even have foundations for their own families so that they can give charitably to different things under that umbrella. This would tend to have a chilling effect on many charitable organizations or individuals who may seek to do this if they knew they had to register. My concern with this is that I do not see how this resolves the problem that Mr. Parks brought up in the first place, because illegitimate organizations will not be filing. I think that it will create great burdens on individual organizations and will stifle charitable giving and create more costs.

Many of these organizations are barely meeting their cost. One more cost, to get an accountant or an attorney to help them, or the time taken away from

their own jobs, will be a significant burden on them. We encourage you to continue to recognize the work that is done by many charitable organizations. National Heritage Foundation itself pays over \$20,000 that they raise through charitable organizations to comply with filing in other states that require it. That money is donated by individuals who hope it will go to their charitable purpose. Instead, it goes to filing fees, to registration, to accounting, to individual states that require more registration and does not go to the charitable work for which it was meant.

Lynn Chapman, State Vice-President, Nevada Eagle Forum:

I would like to bring up the fact that we have home schoolers that would probably not be exempt because they are not part of a state, et cetera. I would be very concerned. I am a chairman of an organization, but I would be very concerned about having to do all this paperwork for a very small organization of home schoolers. I am also with the American Legion Auxiliary. I would be very concerned about having to try to do all the paperwork for that. I think that what this ends up doing is punishing the legitimate people, and I do not think that it is a good idea. I think, with penalties and filing fees, it will stop people from wanting to volunteer, and I think it would stop people from giving. Those are my concerns.

V. Robert Payant, Executive Director, Nevada Catholic Conference, representing the Religious Alliance in Nevada, Reno, Nevada:

[Mr. Payant referred to [Exhibit D](#) during his testimony.] I will probably be considered neutral as we certainly do not favor scam organizations. There are two reasons that we feel that A.B. 119 requires major change; one of them was indicated by Mr. Parks this morning, and we agree with him. That would be the exemption of religious groups from the registration requirements provided in A.B. 119. The reasons would be: the breadth of the requirements that are made in A.B. 119, and the burden that would be placed on church and religious organizations. Accommodations to religious beliefs are commonly made. A good example is the Form 990, about which you have heard this morning and is referenced in the text of the proposed statute.

Religious organizations are exempt from filing Form 990 with the federal government, so 501(c)(3) organizations that are churches are exempt from doing that. This exemption is a broad one. It provides the following: An interchurch organization or local units of a church, a convention or an association of churches, an integrated auxiliary of a church such as a men's or women's organization, and others. There is a model for an exemption that could be made of this rule. The burden that is placed on the church organizations would be substantial depending on the government's form of the organizations.

[Robert Payant, continued.] Our statute in Nevada provides for what are called "corporations sole," but the statute does provide that the alternative, where each organization within a church body could register separately, would be a truly onerous task. Each of the Catholic dioceses in this state has approximately 35 churches. Each of the churches have various subgroups. The requirements would be extremely difficult.

We would urge that there be an amendment to the bill, on page 2 of the proposal, at line 7. These words could be added "except for such corporations exempt from filing Form 990." For those that would not be exempt under 990, we recommend amending page 3, line 9, and striking the words "in the discretion of the Secretary of State." That would then give the corporations required to file the option of either using the Secretary of State's form, the new form that is proposed here, or the Form 990.

Larry Struve, Legislative Advocate, representing Religious Alliance in Nevada, Reno, Nevada:

I do not need to repeat what you have heard from Dean Payant, but I wanted to underscore the importance of the amendment that Assemblyman David Parks recommends that you put into this bill. For the judicatories that we represent in the Legislature, the amendment that you are considering is nothing less than preserving the religious freedom of these churches. It is a recognition of the policy and the federal tax laws as Dean Payant has indicated. They are exempt from filing a Form 990. It is up to each individual church body, whether they choose to file as a 501(c)(3). The federal government has recognized the separation of church and state in this very sensitive area.

Many churches that are in our judicatories do engage in substantial fundraising to build new sanctuaries, to raise endowment funds, to support ministries in their church, to do a variety of activities directly related to the church purposes for which they exist. Anything in a statute that is going to directly affect the internal religious support and sustenance of a religious organization could be subject to a collateral attack once the bill is enacted. That is why we strongly support Assemblyman Parks' effort to write into this bill an amendment to exempt church organizations from the registration requirements that are proposed. We will be willing to work with the sponsor of the bill and anyone else as these amendments are processed, but we want it very clear on the record that we do not support a bill that would infringe on religious freedom of exercise.

Al Kramer, Chairman of the Board, Citizens for Affordable Homes, Inc., Carson City, Nevada:

We are the largest provider of self-help building of homes in Nevada. This year we will build probably 50 homes for low-income families. I would have to say that in our nonprofit organization probably 100 percent of what we raise is administrative money. What we do is provide technical assistance and the idea that 70 percent of your money or more goes to salaries is not always bad. We fund ourselves 99 percent with grants. People who provide grants are knowledgeable givers. They are not a venerable citizen, so-to-speak, who needs to go someplace to find out where to give. They are giving their grant based on the application you have and the scope of what their funding is used for.

I would suggest that soliciting for grants is not the same as soliciting for charitable donations. I think that there is a disconnect there. I think a definition of soliciting needs to be involved here as to what soliciting is? Is that by mail and just asking citizens for money? Is that television asking for money? I think that separating that from writing for grants would be necessary. If you did do that, I would suggest a threshold to say that if your organization arrives at more than \$5,000 in solicited money, they probably ought to be reporting. We solicit, you might say, from selling raffle tickets to a playhouse that goes in the Nevada Day Parade. We might raise \$2,000 a year soliciting. We ask our board members to contribute to the organization. We solicit to our board members. Is that the type of soliciting that you are talking about? I would think that there would be a lot of organizations that you will find that solicit that might be exempt from doing this.

Chairman Anderson:

Mr. Kramer, we thank you for coming forward and bringing another issue that we have not had an opportunity to listen to before and how it might be affected by this legislation.

Let me bring the bill back to Committee. Mr. Parks, is it your intention to seek an amendment to address several of the issues that have been presented here? We also note the ones that have been presented by Dean Payant and several other groups and concerns.

Mr. Parks, did you wish me to appoint a subcommittee, or do you wish to work on it on your own?

Assemblyman Parks:

I think that, in the interest of moving things forward, I would be happy to take all the comments that were made today as well as, hopefully, being able to

work with the Secretary of State's office and present an amendment that will be agreeable to most parties.

Chairman Anderson:

Please consult with Ms. Ohrenschall from my Committee in the event that it would come to a work session so that, when the issue comes up, she is knowledgeable about how the amendment would impact us?

Assemblyman Parks:

Certainly.

Chairman Anderson:

Please contact Mr. Parks directly through his office to provide information so that he and Legal can deal with the amendments that have already been suggested by the various groups. If you would, Ms Combs, spend a few moments looking for a potential solution that was raised by the parties not in the purview of this Committee.

An issue was brought to our attention that may be in the purview of a couple of the other committees here in the Legislature, and we need to send this information on to them. I would ask that we do so. [The meeting adjourned at 9:42 a.m.]

RESPECTFULLY SUBMITTED:

RESPECTFULLY SUBMITTED:

Judy Maddock
Recording Attaché

Nancy Haywood
Transcribing Attaché

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Judiciary Committee

Date: March 8, 2005 **Time of Meeting:** 8:11 a.m.

Bill #	Exhibit ID	Witness	Dept.	Description
	A			Agenda
<u>A.B. 119</u>	B	David Parks, Assemblyman representing District No. 41, Clark County, Nevada		Testimony in support of <u>A.B. 119</u>
<u>A.B. 119</u>	C	John Auer, Reverend, Reno First United Methodist Church		Proposed Amendment to <u>A.B. 119</u>
<u>A.B. 119</u>	D	Robert Payant, Executive Director, Nevada Catholic Conference		Statement on <u>A.B. 119</u>