



Testimony in Opposition re: Senate Bill 224 – Assembly Government Affairs Committee
Monday, May 6, 2019
9:00am

My name is Robert Fellner and I am the policy director for the Nevada Policy Research Institute. We oppose SB224 because it would make government less transparent and less accountable by making secret the names of those receiving tax-funded public pensions. Because the public is responsible for paying down the entirety of PERS \$13 billion deficit, there is tremendous public interest in disclosing the limited, non-sensitive information of name and payout data, which is why [so many other states](#) already do so.

This also explains why there is broad, bipartisan opposition to the government secrecy proposed by SB224.

Last month, for example, Democrat Senator Marilyn Dondero Loop, who is a PERS retiree herself and thus directly affected by this bill, joined Majority Leader Nicole Cannizzaro and every Senate Republican in voting against this bill on the floor of the Senate. When asked about her opposition to SB224, Majority Leader Cannizzaro cited the need to keep this data public, telling [the Review-Journal](#) “Obviously I think that information is important.”

Former Governor Brian Sandoval expressed a similar sentiment when he vetoed a near-identical version of this bill last session, [cautioning that](#), “The public’s right to know cannot be compromised absent a compelling case that such limits are justified and in the public interest.”

This commitment to defending the public’s right to know, and promoting increased government transparency, has long been championed by Nevada elected officials from both parties at all levels of government.

Earlier this year, [Congresswoman Dina Titus](#) wrote about the importance of working to “bring about the level of transparency, accountability and stewardship that the American people expect” from their government.

Few have fought more heroically for transparency than Governor Steve Sisolak — particularly during his time as a Clark County commissioner. In 2010, then-commissioner Sisolak braved [death threats](#) while pushing for [an investigation](#) into possible firefighter sick leave abuse, which ultimately led to changes that [saved taxpayers millions of dollars](#).

While SB224 is limited to PERS data, making secret *non-sensitive* pension information would nonetheless severely undermine this longstanding, bipartisan commitment to protecting the public’s right to know. As the Nevada Press Association [warned](#), the worst part of SB224 is the dangerous precedent it sets, which would almost certainly lead to further government secrecy and a continued erosion of the public’s right to know.



Proponents claim secrecy is needed because making names and pension amounts public would lead to harm. But four separate Nevada courts, including two state Supreme Court decisions, found no evidence to support this claim.

In 2018, the Nevada Supreme Court explained that name and pension data was “limited in scope and helps promote government transparency and accountability,” and again found no evidence to suggest the disclosure of such limited information would lead to harm.

It should not be surprising that all four Nevada courts rejected the speculative claim of harm, given that public pension data for millions of retirees in 20 states is readily available online, with no evidence of harm.

The claim of harm was also refuted by the Identify Theft Resource Center, a top national non-profit organization dedicated to preventing identify theft, who [reportedly told the RGJ](#) that name and pension payout data, “is not considered to be sensitive personal identifying information.”

The PERS Board itself echoed this view when they voted to support a version of this bill last session that would have kept names public. Then-PERS Board Chair Mark Vincent reportedly told [the Las Vegas Review-Journal](#) that he sees “value” in keeping names public.

In light of the above, and given the significant expense PERS imposes on the taxpaying public, we think the argument for transparency is clear.

Others are free to disagree with this policy view, of course. But we should all agree that it is fundamentally wrong to argue for any law, let alone one that makes government less transparent, based on misinformation and deception.

Unfortunately, this is precisely what proponents of SB224 have done to gain support for the bill. Instead of explaining why names should be made secret, proponents have instead employed a bait-and-switch tactic by talking about making confidential things like home addresses, that we all agree should be confidential, while barely mentioning the bill’s real impact, which is to make names secret.

RPEN lobbyist Marlene Lockard’s testimony before the Senate Government Affairs Committee is a perfect example of this bait-and-switch tactic. Lockard never once mentioned that SB224 would make names secret. Instead, Lockard misled the Legislature by falsely claiming that SB224 is needed to counteract a court ruling that purportedly made information such as home addresses, passports and birth certificates public. In reality, no court has ever issued such an order; something LCB Director Rick Combs recently confirmed when we asked him to investigate this false claim.

Yet, the damage from this deception has already been done. Several of those who testified or made a public comment in support of the bill, for example, did so under the false impression that the bill was needed to make their home address or other sensitive information confidential.

To be clear, we would gladly support a bill that reaffirms and ensures the confidentiality of all those pieces of personal information cited by RPEN and the bill sponsor. In fact, the Nevada Press Association proposed an amendment that would have done just that, reaffirming **every single data point** mentioned by Ms. Lockard remained confidential, while simply keeping the limited information of name and pension-related data available to the public.



That amendment, however, was never adopted — indicating that the true intent of SB224 is to make names secret.

The refusal to keep limited, non-sensitive information public is a direct assault on the public's right to know, according to one of Nevada's most respected and experienced reporters, Channel 8 political analyst and Las Vegas Review-Journal politics and government editor Steve Sebelius, who previously [wrote that](#):

“If [Senator] Ratti's bill can't be amended to ensure the public has oversight over supposedly public servants, and has access to names and basic information about public retirees, then it must be killed in the Legislature or vetoed by the governor. The Public Records Law contains too much secrecy as it is.”

PERS staff, and even [PERS Board Members like Yolanda King and Kathy Sisolak](#), have repeatedly stated that they are mostly seeking clarification of existing law. The NPA's amendment does just that, while also protecting the public's right to the limited, non-sensitive information of name and payout data.

This legislative session began with a [promise from Governor Sisolak](#) to “work with legislative leadership...to ensure our state government operates with the high standards of transparency and integrity that Nevadans deserve.”

SB224, both in process and substance, is a direct affront to both of those mandates. This committee should follow the lead set forth by Governor Sisolak, Senate Majority Leader Cannizzaro and the entire Senate Republican Caucus and vote no on SB224.

Thank you for your time and I am happy to answer any questions that you may have.