

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

**Seventy-ninth Session
April 19, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:19 p.m. on Wednesday, April 19, 2017, in Room 2135 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 David R. Parks, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator Joseph P. Hardy
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Assemblyman Edgar Flores, Assembly District No. 28

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Wendy Simons, Deputy Director of Wellness, Department of Veterans Services
Kevin Burns, Chair, United Veterans Legislative Council
Scott F. Gilles, City of Reno
Holly Welborn, ACLU
Stacey Shinn, Progressive Leadership Alliance of Nevada
Andrew Diss, Chair, City of Reno Charter Committee
Wayne Thorley, Deputy for Elections, Office of the Secretary of State
Paul Moradkhan, Las Vegas Metro Chamber of Commerce

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Erika Castro, Progressive Leadership Alliance of Nevada; The Nevada Immigrant Coalition
Gail Anderson, Deputy for Southern Nevada, Office of the Secretary of State

CHAIR PARKS:

We will open the hearing with Assembly Bill (A.B.) 19.

ASSEMBLY BILL 19: Revises the reporting requirements for certain information relating to veterans. (BDR 37-125)

WENDY SIMONS (Deputy Director of Wellness, Department of Veterans Services):
I have submitted formal written testimony on A.B. 19 ([Exhibit C](#)).

The bill will reduce the reporting frequency and streamline the reporting method, so that information is more valuable and useful. It will also expand data reporting and require the Department of Veterans Services to report certain data to the Interagency Council on Veterans Affairs.

This clarifying language will allow our veterans' commissions and committees to spend more time researching and evaluating the needs of our veterans. It will still provide those important reports to the Governor and the Legislature at the right time to make a difference.

SENATOR GOICOCHEA:

The bill refers to "license." Does that mean driver's license and/or hunting license?

Ms. SIMONS:

Yes, that is correct.

KEVIN BURNS (Chair, United Veterans Legislative Council):

We support Deputy Director Simons and what she is trying to do in section 1 of the bill. The expansion in section 1, subsection 2 will help us gather much of the data we have been looking for in order to develop programs in conjunction with Director Katherine Miller, Department of Veterans Services. We will get some serious numbers, which will help us next Session when we come to the Legislature to ask for things.

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CHAIR PARKS:

Having no further testimony, I will close the hearing on A.B. 19.

SENATOR HARDY MOVED TO DO PASS A.B. 19.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:

We will open the hearing on the next bill, A.B. 36.

ASSEMBLY BILL 36: Revises the Charter of the City of Reno. (BDR S-448)

SCOTT F. GILLES (City of Reno):

The City of Reno Charter Committee was established by A.B. No. 9 of the 77th Session. The Charter Committee has seven members appointed by the Reno City Council and six members appointed by the Legislature. Depending on which party is in the majority in the Legislature, the Majority Party appoints two members from each House and the Minority Party appoints one member from each House. This Charter Committee acted under appointments made by a Republican Majority. It met 11 times from late December 2015 through July 2016, including some joint meetings with the Reno City Council. The Charter Committee had comprehensive and robust discussions on various issues and potential changes to the Charter. It heard from Reno staff and department heads.

I want to make clear that the Charter Committee operated on the majority vote basis. Only issues that were passed by a majority vote of the Charter Committee were included in its recommendations presented to the Reno City Council. The Reno City Council provided feedback to the Charter Committee. The Charter Committee came back with its final recommendations for changes in the Charter. Ultimately, the Reno City Council voted to use one of its two bill draft requests (BDR) to implement the bulk of the changes recommended by the Charter Committee.

The first significant change in the Charter that we want to accomplish with this bill is changing our voting system from a hybrid voting system in which we vote for council members who represent wards. Just the registered voters of the ward vote for the council member who represents them in the primary. However, the City of Reno at large votes for the council members in the general election. The change will make it ward-only voting in both the primary and general elections. The reason for this change is to give ward members direct influence on who is elected to represent them. This will result in a council member who better represents his or her ward. The Charter Committee recommended the change, and the Reno City Council adopted it for inclusion in this bill.

A case out of Arizona prompted discussions on this issue. The case has gone back and forth in the federal courts. Originally, a three-judge panel on the U.S. Court of Appeals for the Ninth Circuit in Arizona ruled that hybrid-voting systems are unconstitutional under the Equal Protection Clause of the Fourteenth Amendment. Two days after we submitted the BDR, the full U.S. Court of Appeals for the Ninth Circuit ruled that hybrid voting systems are allowed, and a city should be allowed to run its elections that way if it deems fit. It was petitioned to the Supreme Court of the United States and on March 20, the U.S. Supreme Court denied the petition.

I bring this up to give you some background because I know this was discussed during the City of Sparks charter bill hearing. The result is that the U.S. Court of Appeals for the Ninth Circuit has not held that our hybrid system is unconstitutional and the U.S. Supreme Court will not be hearing that case. However, the point I want to make is that this is a policy request by the City of Reno in addition to what might have been dictated by caselaw. The Charter Committee recommended it, and the Reno City Council voted that this is what it wants.

The second change is replacing the City's at-large ward for a sixth ward. The Reno City Council is made up of seven members, a mayor, an at-large member and five council members, each of whom represents a specific ward. This would exchange the at-large ward for the sixth ward. However, it would not be effective until 2024. There are two reasons why the change was pushed out to 2024. First, following the 2020 census, the City of Reno would be required to redraw its existing five ward lines. It was determined that it made sense to wait until then to go through the process of redistricting the wards and create the

sixth ward at the same time. Second, making it effective for the 2024 election will not move the at-large member out of his or her seat midterm. The timing is that the lines would be redrawn in 2021 and then for the 2024 election, the nominees would declare for the six new districts.

The third major piece of the bill is section 8 which would require the Reno City Council to adopt an ordinance that would require it to report campaign finance contributions in nonelection years. This is a sea change for local government. No other local government has this type of reporting in nonelection years.

In election years, candidates for public office would still file the same five reports with the Secretary of State's Office. In nonelection years, the City of Reno would require, by ordinance, that the Mayor and each City Council member report campaign contributions received over the course of that year at some frequency yet to be determined. This does not remove any reporting required by the Secretary of State's Office. The contribution reports in nonelection years would not have to be filed with the Secretary of State's Office. They would be filed internally with the City Clerk's office. The concept from the Charter Committee was to require more reporting of contributions during the year in which policy decisions are made. Nothing is set in stone as to how frequent that would be. There were discussions about monthly reports or maybe even quarterly reports. That is not set in the bill.

The last three changes clarify some ambiguities in the Charter. In section 1 of the bill, we are trying to remove a potential ambiguity and clarify that there are not multiple definitions in the Charter for "appointive employee." That section refers to lists in two sections of the Charter with an "or" between them. There is confusion as to whether that creates two different standards and definitions for an "appointive employee." The two subsections referenced in the bill, Charter section 1.090, subsections 4 and 5, work in conjunction with each other and are not two separate standards. We cleaned up that section to clarify that there are not two definitions for "appointive employee."

Section 6 of the bill attempts to remove another ambiguity regarding the City Manager's appointing authority. This section in the Charter lists four officers that the City Manager may appoint. There is language in there about the City Manager appointing, without limitation, four officers and any other staff that the City Manager deems necessary to run the City. A separate section in the Charter lists the City Manager's authority, standards and limitations for

appointing officers. We thought it best to strike this section to remove any confusion that the City Manager might be limited to appointing just those four positions.

Section 7 of the bill attempts to clarify the typical limits placed on council members regarding hiring, firing, direction and suspension of employees. This is a standard charter provision in this State. City council members do not have that kind of authority over all of the general employees. The Reno City Council can only appoint and fire the City Clerk and the City Manager. However, the way this section was codified coming out of the Seventy-eighth Session, the limitation applied only to appointive employees, which is a small portion of all of the City of Reno employees. It does not include the executive officer, the appointive officers and regular civil service employees. That section needed to be broadened to include all employees, so there is no confusion about Reno City Council members' authority to deal with those types of employees.

SENATOR GOICOECHEA:

The bill does just what I have been saying I would like to see done. The only real rough spot in it is the fact that ward voting was on the ballot. Can you tell me when? I know it failed.

MR. GILLES:

The issue of ward-only voting was an advisory question on the ballot in 2012. The question, which ultimately retained the ward-only voting hybrid system, passed by a 75 percent margin. I do not want to get into a debate over whether the question was properly worded so voters could understand what they were voting for. That has been debated here in prior sessions. The voters approved the hybrid system by a 75 percent margin.

SENATOR GOICOECHEA:

It is causing some debate in our caucus among some of the Legislators representing Reno. I do not know about the other side. That is my concern, and I do not know if there is some way we could require a ratification vote. Your Charter Committee went through all the right moves. It was the right way to deal with it. The only real sticking point is that four or five years ago, there was a ballot question the voters rejected. That concerns me.

SENATOR RATTI:

I have a personal opinion having lived through the process wherein the ballot question was poorly worded. I know that has been debated in these halls many times. I certainly have had the same conversations for many years.

We talked about the court case. While the United States Supreme Court chose not to hear this case, it was built upon an argument of a disproportionate share of influence for a group of voters. Other cases have been more prefaced on a violation of the Voting Rights Act. I feel strongly about ward-only voting. This influenced the Charter Committee in the City of Reno.

In the City of Sparks, we saw a clear case of what happens when we do not address ward-only voting, particularly for communities of color. We had a qualified candidate from a Hispanic background who dramatically won in the primary. It was not by a small margin. It was a three-way race, and she got over 50 percent of vote. She won in the three wards in the general election; however, two of the wards were able to dictate to one ward who its representative would be. These were majority-minority population wards. From what I have read, it is only a matter of time before the Voting Rights Act is upheld. I do not want to see the City of Reno in the position of having to defend a lawsuit.

I will not speak for the Charter Committee because I know that the Chair of the Charter Committee is here. Nevertheless, that weighed heavily on the Charter Committee members. I understand that some of my colleagues from the north have some heartburn over the vote of the people. We cannot afford to let this stay in place any longer. We are putting cities at a significant risk of liability. We are not doing the right thing. At the end of the day, majority-minority wards should have a person of color representing them when that is what the individuals in their ward want.

I was heavily involved in that race. I do not throw racial overtones around lightly. I know how many doors were slammed in that candidate's face based on her race and ethnicity. We have to move forward on this; therefore, I will definitely be supporting this bill.

MR. GILLES:

To follow up on that, our city attorneys have also identified that this could be a legal problem through another avenue down the road. For that reason and

wanting to correct the policy they believe is wrong in our Charter, this bill comes at the request of the Reno City Council. It wants to make the change regardless of any pending litigation out there. This is the right thing to do. This is the way wards should be represented in elections in the City of Reno.

HOLLY WELBORN (ACLU):

Senator Ratti just took my testimony right off my page. I echo everything that she just said. However, I want to stress that when we were considering ward-only voting, there was a vote of the people. I had several conversations with people about how that ballot initiative was written and the complexity of explaining how the hybrid system works. Sometimes, they stated it was easier to just check that box and keep it the same because they did not want to go through that process.

The legal ramifications under section 2 of the Voting Rights Act of 1965 are very real when we look at Oscar Delgado's seat, the makeup of that ward and how much the City of Reno is diversifying. If no changes are put in place, the City will be open to suits under section 2.

The City of Sparks is open to a section 2 suit. We have the grounds to pursue something in the event that its City Charter bill does not pass. Therefore, I want to stress the importance of that. We support this legislation and moving to a ward-only voting system.

STACEY SHINN (Progressive Leadership Alliance of Nevada):

We support two provisions within A.B. 36, which are moving to the ward-only voting system for council members and creating a sixth ward instead of retaining the at-large seat. We have been involved in this process for a long time. We supported ward-only legislation in 2011 and 2013, and we had two members on the advisory committee for the City of Reno's ballot question.

A citywide campaign creates economic disadvantages and racial inequitable challenges for candidates to win in citywide contests. For this reason, we included ward-only voting legislation in our racial equity report card. We applaud the City of Reno for moving forward with these efforts. We are excited that it has chosen to implement good democratic policy.

ANDREW DISS (Chair, City of Reno Charter Committee):

If there was a theme for this year's Charter Committee, it was about transparency. That is reflected in some of the wording about the campaign finance changes we want to make. This was a consensus bill between the Charter Committee and the City of Reno. The City of Reno did not accept all of the recommendations made by the Charter Committee. However, the bill before you is a reflection upon what we were able to agree.

Another piece of transparency proposed to the City of Reno was lobbyist registration for local government. Because the City of Reno felt strongly about that, it adopted an ordinance addressing it. At this time, you have to be registered and wear a badge in order to represent a client and testify at a Reno City Council meeting. It is similar to the process here at the Legislature. That is a reflection of the working relationship between the City of Reno and the Charter Committee and noticing ideas the City liked which the Charter Committee presented.

Another key element of transparency is the campaign finance reporting piece of the bill. We have a campaign finance reporting system that is centered on the Legislature. That process works for the timeline of the Session. However, the Charter Committee has strong feelings about a local government, which meets every two weeks and can go an entire year without reporting from where campaign checks are coming. It made the Charter Committee uncomfortable. That is why that provision is included in the bill.

There has been much talk about ward-only voting. To address your concerns, Senator Goicoechea, this arose from the Charter Committee itself. No elected representatives came to the Charter Committee to push this idea. Possible Voting Rights Act of 1965 violations were discussed. The City Attorney's Office was concerned about it. However, the heart of the issue for the Charter Committee was that city council and local government is the government closest to the people. It is easier for candidates to run for election in their wards, go door to door and meet their constituents face to face if their campaigning is limited to a smaller geographic region rather than citywide. The Mayor does that. Everyone does that. Under this proposal, the Mayor would still be the one doing that. It is important to differentiate those roles through this bill. I do not know if that helps, but I hope it makes you more comfortable about the thinking of the Charter Committee.

SENATOR GOICOECHEA:

I am comfortable with the procedure. The only real sticking point is the fact that five years ago there was a ballot question. It makes me uncomfortable when the voters said no. I realize now that you went through every appropriate move. I am a local government person, and I believe local governments are the closest to the people.

It came through your Charter Committee, which is the right way to approach it. The only thing that gives me qualms is the fact that I wish you had not had that ballot question five years ago.

WAYNE THORLEY (Deputy for Elections, Office of the Secretary of State):
We are neutral on the election provisions in the bill.

VICE CHAIR MANENDO:

We will close the hearing on A.B. 36, and open the hearing on A.B. 148.

ASSEMBLY BILL 148: Increases the penalty for notaries public and document preparation services that fraudulently provide legal services or advice.
(BDR 19-756)

ASSEMBLYMAN EDGAR FLORES (Assembly District No. 28):

What is the issue? For example, someone asks for help from a document preparation service regarding a divorce and a child custody battle. In that hypothetical, the document preparation service is supposed to explain the forms only. It cannot offer legal advice because anything regulated under document preparation services means that they are not attorneys. If a document preparation service offers legal advice it can get into trouble. There are many avenues for that. The Secretary of State (SOS) has various ways to pursue them. However, the issue is that we do not have much enforcement power. The SOS is overwhelmed with these cases, and it does not have the teeth we want. That is one problem.

The other problem is that most of this is treated as a misdemeanor; therefore, law enforcement does get involved. Unfortunately, even when there is an appetite to go after these bad actors, many of the victims do not speak up. Even if we have all the resources in place, the victims do not speak up.

Sometimes, irreparable harm occurs. That is the heart of this bill. Irreparable harm occurs when money cannot make a person whole. As in the previous example, someone goes to one of these document preparation services, which pretends to be lawyers. Unfortunately, that person loses custody of his or her kids because this service provider said it would prepare the paperwork and go to court, which it did not do. It becomes a nightmare. That example shows irreparable harm. I do not care how much money you give someone, the fact is that the person lost custody of the children because someone took advantage of him or her.

When someone pretends to be an attorney who is not supposed to give legal advice, irreparable harm happens, I want that treated as a Category D felony rather than a gross misdemeanor. I want to be clear that the Category D felony language is triggered only when irreparable harm occurs. Otherwise, it is as a gross misdemeanor.

Page 4, lines 27 through 29 of the bill, say, "If the offense results in irreparable harm to the client, is guilty of a category D felony" What is a Category D felony? A Category D felony results in one to four years in prison, a maximum \$5,000 fine and is discretionary whether probation must be given.

Here is the reason why I went with a Category D felony instead of a Category E felony. A Category E felony is essentially the same thing as a Category D felony with one to four years in prison and a maximum \$5,000 fine. However, a Category E felony mandates probation. I want to give discretion to the judge.

Now I am going to tell a personal story about my clients. I have clients who were all victimized by the same person pretending to be an attorney. This person told them that she had connections with U.S. Immigration Services, and she could ensure that their paperwork would be taken care of. They went to her, and she took advantage of them. She took their money, never showed up in court and they all got deported. Fortunately, I found out what happened from their families, and I was able to help them. However, what about all the others who were harmed by this person, were deported unnecessarily and are not saying anything?

The reason I want it to be a Category D as opposed to a Category E felony is that I want the judge to have discretion. Depending on the circumstances of the case, the judge should be able to deny probation, so the person will not

disappear. That happened in the scenario I just explained. The woman doing this was caught. Law enforcement had her in custody. She paid bail and then disappeared. For that reason, it is important to keep it at a Category D felony.

I want to preempt some questions that may come. Is it illegal to practice law without a license? Yes, it violates the provisions of *Nevada Revised Statutes* (NRS) 7.285; however, it is a misdemeanor. Is it illegal for a document preparation service provider or a notary public to pretend to be an attorney? Yes, under NRS 240A.120, all of it is illegal. All I am doing is changing the gross misdemeanor to a Category D felony when there is irreparable harm.

VICE CHAIR MANENDO:

It certainly seems that your intent is to tell people we really mean it and to get the attention of law enforcement.

SENATOR GOICOECHEA:

I am confused by the mechanics of the bill. Section 1, subsection 4, says, "A notary public who is found guilty in a criminal prosecution of violating subsection 1 or 2 is guilty of a category D felony... ." I understand your intent in section 3, subsection 1 when irreparable harm is caused. However, as I read the bill, in section 1, subsection 4, if a notary public does not have a sign posted, then the notary public is guilty. The way it is worded is confusing. It almost says that if there is no sign posted, then the notary public is guilty of a Category D felony.

ASSEMBLYMAN FLORES:

That is not the intent. The reference to subsection 1 or 2 in section 1, subsection 4, refers to section 3, subsection 1, paragraph (b), subparagraphs (1) and (2) on page 4 where it says, "If the offense results in irreparable harm... ." I will reach out to Counsel to make sure that is exactly the way it works mechanically. If that is not the way it is drafted, when we have an opportunity to come back, I will submit a conceptual amendment. However, my understanding and the intent was that it only applies to section 3, subsection 1, paragraph (b), subparagraphs (1) and (2) on page 4 of the bill, and only if the offense results in irreparable harm to the client.

SENATOR GOICOECHEA:

Thank you, Mr. Flores. Sometimes I misread this stuff, but I will defer to Counsel.

HEIDI CHLARSON (Counsel):

I am happy to work with Assemblyman Flores if his intent is somehow misinterpreted in the bill. However, section 3 of the bill does not relate to notaries; it relates to the document preparation services. That is the provision that includes the language about irreparable harm.

Section 1 of the bill relates to notary publics only and how they advertise. That section does not include an irreparable harm provision. Under section 1, in existing law, if a notary advertises in a way that violates the statute, then the notary is guilty of a crime. There does not have to be any injury to someone because of the false advertising.

ASSEMBLYMAN FLORES:

The correct way to fix it is to strike the notary language. If I understand you correctly, irreparable harm will not result from any of these advertising scenarios. Someone advertising as a lawyer or notario when he or she is not should not trigger a Category D felony. It is only meant to be triggered when a document preparation service provider pretends to be an attorney and causes irreparable harm to someone.

The way to fix it may be striking it from that statute. That is not the intent. I will work with you.

SENATOR RATTI:

Is the term "irreparable harm" a term of art in law that means something?

ASSEMBLYMAN FLORES:

Much caselaw would trigger how the judge instructs a jury. In other words, if someone were charged with a Category D felony in a trial, the judge would instruct the jury on irreparable harm. The jury would decide based on that instruction.

There is no actual definition of irreparable harm in NRS. It would be guided by caselaw.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

The Chamber supports A.B. 148. We supported it in the Committee of origin in the Assembly.

Assemblyman Flores spoke to the Las Vegas Metro Chamber of Commerce about six or seven months ago. We understand his concern from a policy perspective and the impact it has on the community he represents within his district.

ERIKA CASTRO (Progressive Leadership Alliance of Nevada; The Nevada Immigrant Coalition):

Personally and on behalf of the organizations I represent, I support A.B. 148. This bill will strengthen the rules and regulations for notary public and document preparation service agencies. Assembly Bill 148 will increase accountability of these practices and prevent further negligence.

In many Latin American countries, notarios are able to practice law, which is why the immigrant community turns to these agencies for legal advice. Often, they are unable to afford an attorney or can be intimidated by them. Notaries offer their work at a smaller cost and are more familiar to the Latino community. Because of this, people looking for help are taken advantage of or given wrong information that puts them in danger. Notarios can be misleading and misrepresent their clients. We support A.B. 148 to ensure that our communities are protected from fraudulent behavior and misleading legal advice.

GAIL ANDERSON (Deputy for Southern Nevada, Office of the Secretary of State):
I oversee the document preparation services program for the Office of the Secretary of State. I support A.B. 148 as Assemblyman Flores expressed his intent today and in particular for this change to NRS 240A for the document preparation services program. We appreciate Assemblyman Flores' work with this program and his interest in helping us as we enforce the law that was created in NRS 240A and address the issues that come up regarding these practices.

ASSEMBLYMAN FLORES:

Thank you, Senator Goicoechea. Because this was drafted so quickly, this slipped through our fingers. The people we are helping are trying to do everything by the law. They are trying to get legal assistance, go to court and do this to the best of their ability with the resources they have. Unfortunately, they fall victim.

I appreciate the Committee's support on this bill.

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VICE CHAIR MANENDO:

We will close the hearing on A.B. 148. Having no further business to come before the Committee, we are adjourned at 2:09 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
A.B. 19	C	1	Wendy Simons / Department of Veterans Services	Written Testimony