



STATE OF NEVADA  
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December 11, 2015

**Via First Class Mail**

Fred Voltz  
1805 North Carson Street, #231  
Carson City, Nevada 89701

Re: Open Meeting Law Complaint No. 13897-147, Public Utilities Commission

Dear Mr. Voltz;

This Open Meeting Law (OML) complaint alleges that P.U.C. General Counsel, Carolyn Tanner violated the OML's "clear and complete" rule (NRS 241.020(2)(d)(1)) because her presentation to the P.U.C. under an agenda item titled "Legislative Briefing" did not indicate specific legislative bills that would be discussed before the Board. You've alleged Supreme Court case law supports your view that full disclosure under the "clear and complete" rule means that "Legislative Briefing" agenda item must include the specific bills to be discussed.

This office has jurisdiction to investigate OML complaints and seek civil remedies against public bodies, including injunctive relief, to require compliance with the OML, or to prevent violations of the OML. A criminal misdemeanor and a monetary penalty are also authorized relief against individuals in any court of competent jurisdiction. NRS 241.037; NRS 241.040.

We don't agree with the complaint's allegation that the "clear and complete" rule requires that the public body must provide a list of legislative bills to be discussed during the public meeting. In *Schmidt v. Washoe County and Washoe County Board of County Commissioners*, 123 Nev. 128, 159 P.3d 1099 (2007), the Court decided an issue regarding whether an agenda item on the BOCC's agenda was clear and complete. The agenda item stated, "**Legislative Update—this item may be discussed at Monday's Caucus Meeting and/or Tuesday's Board Meeting and may involve discussion by [WCBCC] and direction to staff on various bill draft requests (BDR's).**" The agenda also informed the public that a list of specific bills for which staff would seek direction from the WCBCC would be posted online on the County's website

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after 6:00 p.m. on Friday before the Monday Caucus meeting. The Court found that WCBCC had provided a list of specific BDR's on the County's website three days before the Caucus. It concluded that Washoe County Commission had met the "clear and complete" rule.

The Commission met the clear and complete rule because it managed to post the list of BDR's in time to meet the OML's three day posting requirement. It complied with the OML, not because the OML requires that the list of legislative bills be included in the agenda item, but because the Court found the Washoe County Commission complied with its agenda item, which informed the public that it would post a list of BDR's before the meeting. The OML does not require that a list of legislative bills be posted to meet the OML "clear and complete" rule, but if a public body informs the public that it will post a list of bills, it must do so to comply with its own agenda item.


In *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003), the Nevada Supreme Court analyzed Nevada Open Meeting Law "clear and complete" rule and concluded that the "germane standard" was not compatible with the "clear and complete" rule. The Court said the germane standard allowed public bodies to exceed the scope of a properly noticed agenda statement (i.e. the clear and complete rule).

The *Sandoval* decision only prohibits a public body from exceeding the scope of a properly stated agenda topic. A properly stated agenda must list the "topics" to be discussed. PUCN's agenda item complied with the OML because the topic to be discussed indicated that General Counsel would discuss a Legislative Agenda. The agenda item did not indicate that a list of bills would be published before the meeting. Nothing more is necessary; there is no requirement that PUCN's agenda list individual legislative bills.

Agenda item "Legislative Briefing" did not violate the OML clear and complete rule; there is no violation. We are closing our file.

Sincerely,  
ADAM PAUL LAXALT  
Attorney General

By:

  
GEORGE H. TAYLOR  
Senior Deputy Attorney General  
Bureau of Government Affairs  
Open Meeting Law

Cc: Carolyn Tanner, Esq.  
Alaina C. Burtenshaw, Chairman  
Rebecca Wagner, Commissioner  
David Noble, Commissioner