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3/17/03	Nevada Public	Purchasing Study Commission
Name	Title	Organization
Adams, Cheryl		Carson City Purchasing
Aiazzi, Jim		Carlin
Allred, Darin		University Medical Center
Ashby, Bob		UNLV Purchasing
Balentine, John, C.P.M. C.P.P.	Purchasing Manager	Washoe County
Bales, Steve		Pershing County
Bochanis, Mari	Project Attorney	Southern Nevada Water Authority
Boyd, Jerry		Clark County Health District
Buxton, Tim		Incline Village GID
Carruthers, Lucille, C.P.M.	Quality Assurance Admin	City of Las Vegas
Chambers, Justine		Carson City Development Services
Colton, Stan, C.P.M.	Capital Development Dir.	Henderson District Public Library
Ennes, Richard	Business Manager	Clark County School District
Gibeault, Bob		Clark County Housing Authority
Gifford, Mike, C.P.M. P.H.M.	Purchasing Agent	Las Vegas Housing Authority
Gill, Dan		Las Vegas Valley Water District
Grace, Tammy	Purchasing Manager	Churchill County School District
Harvey, Fred		UNR Purchasing
Holland, Jack, C.P.M. C.P.P.B.		Clark County Community College
Huff, Mary, C.P.M.	Purchasing Manager	Las Vegas Valley Water District
Humphrey, Joyce	Manager of Purchasing	Airport Authority Of Washoe County
Injayan, Tony		State of Nevada Purchasing
James, Fred		Las Vegas CC Library District
Johnson, Paul		White Pine School District
Jones, Yolanda, C.P.M.	Purchasing Administrator	Clark County McCarran Int'l Airport Purchasing
Kalt, Alan		Churchill County Administration
Keenan, Jim	Purchasing Manager	Douglas County Purchasing
Kenney, Robert L.		Boulder City
Kester, Rick		Douglas County School District
Korinek, Mark	Supv. Material Services	Carson City School District
Kuckenmeister, M		State of Nevada Purchasing
Leatham, Delmar	Ass't General Manager	Overton Power Dist #5
Levie, Jim		White Pine School District
Lee, David	Admin Purch & Licensing	City of Henderson
Lott, Patty		White Pine County
Maher, Michael		Nye County
Malewski, Amy	Purchasing Assistant	Reno Housing Authority
Manner, Jim		Lincoln County School District
McKeand, Linda, C.P.M.	Purchasing Supervisor	Washoe County School District
McNulty, Gerry		North Las Vegas Housing Authority
Meara, Donna	Purchasing Administrator	Clark County Purchasing
Melville, Chris, C.A.E.	Dir Community Develop.	West Wendover
Moell, Bill	Administrator	State of Nevada Purchasing
Moran, Ray, C.P.M.	Director of Purchasing	UCCSN - Business center North
Mulcahy, James	Purchasing Administrator	Clark County Purchasing
Nacos, Thomas R., CDT	Contracts Coordinator	Clark County School District
Neal, Barbara, C.P.M.	Sr. Purchasing Analyst	Clark County Water Reclamation District

ASSEMBLY COMMERCE & LABOR

DATE: 3/17 ROOM: 4100 EXHIBIT C

SUBMITTED BY: Jim Keenan

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Olivas, Ted, C.P.M.	Ass't Director of Finance	Clark County
Park, Jim, C.P.M. C.P.O.	Town Manager	Town of Gardnerville
Pedrick, Laurie	Purchasing Manager	City of Reno
Pickens, Amy		RSCVA
Prather, Chris		Clark County McCarran Int'l Airport Plan/Construct
Ramsey, Robin, C.P.M.	Senior Buyer	Airport Authority Of Washoe County
Rainey, Kathy	Purch/Contracts Manager	City of Las Vegas
Rau, Marie		Douglas County School District
Rawlinson, Dwight		City of North Las Vegas
Rector, Ronnie	Administrative Manager	Incline Village GID Public Works
Renfroe, Ted		Truckee-Carson Irrigation District
Renshaw, Dick		Boulder City Civil Engineering
Rothwell, Frank, C.P.M.	Purch/Contracts Manager	City of Sparks
Rowley, Craig, C.P.M.	Dir Materials Management	Las Vegas Conv/Visitors Authority
Rundle, Ron		Lyon County School District
Sanderson, Dale		Washoe County School District Plant Facilities
Shipman, Madelyn	Attorney	Washoe County District Attorney
Simmons, John		City of Henderson
Smith, Charles		Humboldt County School District
Smith, Fred	Construction Manager	Clark County School District
Stratton, Tom		West Wendover
Sullens, Mike		Washoe County Purchasing
Supp, Jolene		Wells
Tollen, Brambly	Dir Purchasing & Whsing	Clark County School District
Trujillo, Kathy		Mineral County School District
Valdez, Karen	Purchasing Analyst	City of Henderson
Whitaker, Mikie		Incline Village GID
Wilkinson, Ann	Attorney	State Attorney General
Wren, Dora		Pershing County
Zander, Jeff		Elko County School District

**NEVADA PUBLIC PURCHASING STUDY COMMISSION**  
**(NRS 332.215)**  
Consisting of  
**Northern Nevada Consortium for Cooperative Purchasing**  
And  
**Public Purchasing Professionals Association**

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March 17, 2003

We are pleased to introduce you to The Nevada Public Purchasing Study Commission. We are a non-profit, un-funded, state-wide commission established by The Legislature under NRS Chapter 332.215 **"...to study practices in governmental purchasing and laws related thereto and ... make recommendations with respect to those laws to the next regular session of the legislature."**

Our members work in public purchasing and related fields for various state and local municipalities. Their only goals are the successful service of their governing bodies to the citizens of Nevada and the best possible professional recommendations to The Legislature. As individuals, we work for our employers. As a group, we believe we work for The Legislature, typically the Senate and Assembly Government Affairs Committees. We see our role as your professional public purchasing advisors.

The total purchasing budget of state and local municipalities is the second-largest single expense of that organization after personnel costs. In some instances, actual purchasing-related expenditures have exceeded staffing costs in a fiscal year. That makes the purchasing function critical; especially in this period of revenue shortfalls when it is easier to reduce "discretionary" purchasing expenditures than "fixed" personnel costs.

Our membership consists of more than 75 public employees in over 50 of these state and local municipalities. Over 20% of our members hold professional certifications in purchasing and related fields. A roster is attached for your information. We meet monthly by video teleconferencing and any information or recommendations presented to you are the consensus of the group.

Our group has submitted one BDR for this session; a non-controversial "clean-up" of NRS Chapter 338, sponsored by Assemblyman Parks. Additionally we monitor and study all purchasing-related bills that may come before you. Attached is a list of BDR's with potential public purchasing interest that we are tracking. Obviously this list will change as they become bills and we review their entire text.

Our criteria for review consist of the following:

- The best interests of the Nevada taxpayers through The Legislature and our state and local municipalities.
- Good procurement practices and legal sufficiency of contracting.
- Efficiency and effectiveness of the procurement actions of state and local municipalities.
- The highest standards of procurement ethics.

- Minimization of procurement costs.

We look forward to working with you during this 2003 legislative session and we are also at your service when The Legislature is not in session. Please feel free to call on us at any time to assist you with any purchasing-related issue that you or one of your constituents may have.

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Bill Number AB 176

**Executive Summary**

**March 17, 2003**

Makes various provisions governing prevailing wages. (BDR 28-972)

**Purpose:** relating to public works; requiring the Labor Commissioner to survey certain additional employers to establish the prevailing rates of wages; and providing that certain workmen are deemed to be employed on public works.

**Justification against the bill:** this bill has several flaws and contradictions that call into question its applicability, practicality and legal sufficiency.

1. The preamble to the bill requires "...the Labor Commissioner to survey certain additional employers..." who are those employers? What do they do?
2. One of the classes of workmen in this bill is one who "Repairs or maintains heavy equipment used for construction activities at the site of a public work." What kind of heavy equipment? Where is the equipment repaired or maintained. How do we know if, when or where a particular piece will be used on a specific public works project? How about certain mining equipment? Do we include repair shops and automobile dealer garages, etc.? A person who maintains the defined type of equipment may also maintain and repair many other kinds of heavy equipment. How does the Labor Commissioner and subsequently the local government, make a distinction; especially if we must subsequently investigate prevailing wage violations?
3. These persons are called "mechanics" and just because they may work on equipment one day at a construction site does not make them construction workers. In fact, we wonder if construction unions would admit them into membership as construction workers.
4. The preamble also states: "...providing that certain workmen are deemed to be employed on public works." What does "deemed" mean in this bill? Are they employed on a public works project or not? If a public works contract is not yet awarded and perhaps never is, how can it be said they worked on a public works project as defined in NRS Chapter 338?
5. Soil testing and surveying are non-construction functions performed well in advance of any public works project and may never result in the award of a public works contract. Further, those two functions are not found anywhere in the definition of a public work in NRS Chapter 338.
6. Non-governmental inspections of the work are independent technical inspections and, in order to preserve objectivity, must remain independent of any governmental influence, including wage determinations.
7. Soil testing, surveying and inspections are functions of architects and engineers and technical engineering firms. These professions are licensed and, for local government projects, are de-

defined as independent contractors who are awarded their work under professional services agreements. These agreements are exempt from competitive bidding under NRS Chapter 332.115 (1)(b).

8. There is good reason for this exemption. We are procuring their individual, unique, creative non-comparable expertise in design and independent testing. As independent contractors, the law prohibits us from telling them what to do or how to do it and that includes telling them how much to pay someone.
9. Under federal law, if you solicit quotes from professional services providers, you are prohibited from discussing fees (wages) until after you have chosen your professional contractor. There is a reason for this: since one is non comparable to another, we cannot compare fees or wages either nor are they the basis of awarding the contract.
10. This bill therefore contradicts established law regarding professional service contracts, the definition of independent contractor and the intent to maintain independence and objectivity.
11. Why, in this bill (Section 2, paragraph 3), is the Labor Commissioner excluded from defining the circumstances under which these "new" categories of "workmen" are employed at the site of a public work and necessary in the execution of the contract? Could it be because they don't fit those criteria and therefore could not otherwise logically be considered as working on a public works project?

**Conclusion:** this bill represents both "bad law" and poor procurement practices and would only add administrative costs to local governments without benefiting public works projects.

**Recommendation:** this bill not be promulgated into law.

Respectfully yours,

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