

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session
May 11, 2005**

The Committee on Commerce and Labor was called to order at 2:18 p.m., on Wednesday, May 11, 2005. Vice Chairman John Ocegüera presided in Room 4100 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:

Ms. Barbara Buckley, Chairwoman
Mr. John Ocegüera, Vice Chairman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Diane Thornton, Committee Policy Analyst
Russell Guindon, Deputy Fiscal Analyst
Keith Norberg, Deputy Fiscal Analyst
Gregory Sharpy, Committee Attaché

OTHERS PRESENT:

Lorraine Hunt, Lieutenant Governor, State of Nevada
Pilar Maria Weiss, Political Director, Culinary Workers Union Local 226,
Las Vegas, Nevada
Bill Uffelman, President and CEO, Nevada Bankers Association
Robin Holabird, Deputy Director, Nevada Film Office
Edgar Roberts, Administrator, Motor Carrier Division, Nevada Department
of Motor Vehicles
Steve Holloway, Executive Vice President, Associated General
Contractors of Nevada, Las Vegas, Nevada
Richard L. Peel, Legislative Advocate, representing Sheet Metal and Air
Conditioning Contractors' National Association; National Electrical
Contractors Association; and Mechanical Contractors Association
Peter Krueger, Legislative Advocate, representing Sheet Metal and Air
Conditioning Contractors' National Association; National Electrical
Contractors Association; and Mechanical Contractors Association
Renny Ashleman, Legislative Advocate, representing Southern Nevada
Home Builders Association
Len Nevin, Vice President, Nevada Subcontractors Association
Jack Jeffrey, Legislative Advocate, representing the Southern Nevada
Building and Construction Trades Council
Mike Holmes, Owner and President, Holmes Construction Company,
Sparks, Nevada
Margi Grein, Executive Officer, Nevada State Contractors Board
Dennis Haney, Counsel, Nevada State Contractors Board
Joe Lamarca, Owner, Euphoria Salons and Day Spas, Las Vegas, Nevada
Mike Sullivan, Legislative Advocate, representing Euphoria Salons and
Day Spas, Las Vegas, Nevada
Annie Curtis, Board Member, Nevada Board of Cosmetology
Gwen Braimoh, Owner and Director of Instruction, Expertise School of
Beauty, Las Vegas, Nevada
Don Soderberg, Commissioner, Public Utilities Commission of Nevada
Adriana Escobar-Chanos, Chief Deputy Attorney General, Bureau of
Consumer Protection, Attorney General's Office, State of Nevada

Rose McKinney-James, Legislative Advocate, representing Ridgewood Renewable Power, LLC, Las Vegas, Nevada
Daniel Gulino, Senior Vice President and General Counsel, Ridgewood Renewable Power, LLC, Las Vegas, Nevada
Judy Stokey, Legislative Advocate, representing Nevada Power and Sierra Pacific Power
Mary Simmons, Vice President of External Affairs, Sierra Pacific Power

Vice Chairman Ocegüera:

[Meeting called to order. Roll called.] We will open the hearing on Senate Bill 255.

Senate Bill 255: Revises provisions governing acquisition of branches of certain financial institutions. (BDR 55-1229)

Pilar Maria Weiss, Political Director, Culinary Workers Union Local 226, Las Vegas, Nevada:

I would like to briefly present S.B. 255, which would allow for the entrance of a very unique financial institution into the state of Nevada. S.B. 255 makes a narrow change to Nevada's interstate branching laws, so that the Amalgamated Bank can enter Nevada through branch acquisition.

I will address some specifics about Amalgamated Bank's structure and mission in a moment, but I would like to preface by saying that Amalgamated Bank is owned by the culinary union's parent union, Unite Here. Amalgamated is a standard commercial bank open to any banking customer and is not limited to Culinary members. It is a unique institution with a mission to specifically serve lower income and non-English-speaking customers. The change that S.B. 255 would make to the NRS is incredibly narrow, applying only to Amalgamated Bank and their unique situation in relation to federal law. The bill was carefully crafted to prevent any impact on Nevada's banking regulation.

The Culinary Union represents over 50,000 members in both Las Vegas and Reno. Many of our members are lower-income and immigrant workers. We have found over the years that many of our members do not use financial institutions for a variety of reasons, including a lack of familiarity and trust with banks. Many of our members choose to use their mattresses as their main vehicle for savings. I do not have to explain to the Committee members, who have heard so much about the difficulties with check cashing and payday loans and what this means for people's personal savings, why this is important. We want to see our members, as well as other workers in Nevada, have some level of security

for their hard-earned money, whether it is for their children's college educations, sending money back to their home countries, or trying to attain home ownership. We would like to see lower/middle-income workers take up financial planning services that they feel comfortable with, rather than stay outside of the system.

[Pilar Weiss, continued.] Nevada has a highly competitive banking environment with a strong mix of both local and national banks and credit unions. We feel that by bringing Amalgamated Bank to Nevada, we will be able to add one more option that specifically caters to workers who have traditionally stayed away from financial institutions.

Amalgamated Bank is an FDIC-insured [Federal Deposit Insurance Corporation], commercial bank chartered in New York under New York law. It was established in 1923 by the Amalgamated Clothing Workers of America, primarily to meet the banking needs of lower-income working men and women, needs that were then not being adequately met by the existing commercial banks that were available. With over \$5 billion in assets at this point, the bank's primary customer base consists of lower- and moderate-income persons, small businesses, and labor organizations. The bank currently has 12 branches located in New York, New Jersey, Washington, D.C., and southern California. Through a series of mergers, the bank is today owned by the Culinary Union's parent union, Unite Here.

As I stated before, one of the primary purposes for the desire for Amalgamated Bank to enter the market is to follow our historic mission and to offer financial services and products to those who have thus far not been able to obtain such services on an easily accessible basis. We think bringing more consumers into the banking market will benefit the entire community. There will be more money to be invested into the local economy, more people with financial literacy, and more savings.

Currently, under NRS 666.405, "An out-of-state depository institution or holding company may enter Nevada by either establishing a Nevada charter or by acquiring or merging with a Nevada depository institution or holding company." There is one exception to this rule, as outlined in NRS 666.410, in rural counties; an out-of-state bank may enter Nevada via branching. In the rurals, an out-of-state bank is able to either establish a de novo branch or acquire a Nevada bank branch without merging with a bank or otherwise acquiring the entire bank. The Amalgamated Bank is caught in a catch-22 of sorts. Section 4 of the 1957 Federal Bank Holding Company Act [12 USC 1841 et seq.] prohibited labor unions from owning banks, but grandfathered in banks that existed before 1957, and this included the Amalgamated Bank. Due to the

restrictions of the Bank Holding Company Act, and specifically Section 4, we have limited flexibility through our grandfather exemption with respect to interstate expansion. As a result, Amalgamated may only enter other states via interstate branching. In Nevada, interstate branching acquisitions are only available for an out-of-state bank that enters a county of less than 100,000. The population that we feel would be best served by Amalgamated Bank is unfortunately not in rural Nevada.

[Pilar Weiss, continued.] We worked with your Legal staff to identify that, rather than the de novo exception that exists in NRS 666.410, the more appropriate avenue would be to allow Amalgamated the branch acquisition exception in that same section. S.B. 255 adds a new exception to NRS 666.410 so that there would now be two subsections. Section 1 would allow out-of-state banks to enter rural counties, either via branch acquisition or the establishment of a de novo branch. Section 2 would add that bank holding companies who own or control the bank under the exemption in Section 4 of the Federal Bank Holding Act would be allowed to acquire an existing Nevada branch. Subsection 2 would only allow branch acquisition and would not allow the de novo branching that exists in subsection 1 for rural counties. It is critical to note that there is only one bank that falls under this federal Section 4 exemption, and that is Amalgamated. We worked very carefully with your Legal staff, as well as the bank and credit union industries, to ensure that the new exemption was as narrow as possible.

This exemption will not create a new flood of banks, but, rather, addresses the very unique situation where we have the federal and state regulation combining to create a bloc specifically for Amalgamated. That is the crux of the bill.

Assemblyman Seale:

Are you and the banking community comfortable that there is not a precedent being set in a way that would allow other unforeseen activities at this time?

Pilar Weiss:

We feel very comfortable. The amendment and the bill speak very specifically to Section 4 of the Federal Bank Holding Act. We are very confident that there would be no way to allow any other bank in.

Assemblyman Seale:

The wording in Section 4 speaks directly to Amalgamated?

Pilar Weiss:

It goes specifically to labor-owned banks, and Amalgamated is the only one that exists in the country at this point.

Assemblyman Sherer:

Do you have any idea where you are going to put this bank?

Pilar Weiss:

I zeroed in on a branch, but our mission is very clear that we want to serve those who don't currently have access to banking services. I imagine we would be somewhere in the central, inner-city part of Las Vegas and expand from there should we choose. We would make that decision at another time.

Bill Uffelman, President and CEO, Nevada Bankers Association:

We are pleased to welcome them to Nevada. I was looking for membership opportunities.

Vice Chairman Ocegüera:

We will close the hearing on S.B. 255. We will open the hearing on S.B. 493.

Senate Bill 493 (1st Reprint): Provides certain tax incentives for registered motion picture companies. (BDR 18-354)

Lorraine Hunt, Lieutenant Governor, State of Nevada:

I am here today as Chair of the Nevada Commission on Economic Development, overseeing the Nevada Film Office ([Exhibit B](#)). I am here to urge your support of S.B. 493, a State and Senate package to retain and attract more motion picture productions to our state. In our economic diversification efforts, we need to constantly look to the future for new economic development opportunities for Nevada. The motion picture multimedia industry is definitely one of our most lucrative targeted industries. Its high-tech component and entertainment component is a perfect fit for Nevada. As I have said in the past, I believe Nevada can be a major exporter of products of entertainment to the world. In 2004, motion picture production companies spent \$116 million in our state. In fact, production companies have spent more than \$100 million in Nevada in each of the last five years. We have been very aggressive in our efforts to attract this industry. Nevada continues to be a powerful player in overall media production and location shooting; however, we have seen a shift of motion pictures away from Nevada. We have more than filled that void with television programming of all kinds to keep our revenues over the \$100 million mark each year. But whereas feature film work used to represent 60 percent of all our revenues, it now represents only 15 percent or less. That means we have an opportunity to substantially boost our total revenues if we can regain and reattract feature films to shoot at length in Nevada.

We must continue improve and accelerate Nevada's standing in a field where we already excel. It is not time to be satisfied with what is, but, rather, it is time to boost our state to what it can be. Competition for movie production revenue is fierce. More than 300 registered film commissions around the world aggressively compete to attract major motion picture productions. In the United States, 36 states have adopted tax incentives to entice production companies to make movies in their states. I am sorry to say that Nevada has none.

Nevada needs to step up to the plate now to give our state a fighting chance at major movie revenues in the future. Major motion pictures could have huge economic impacts. Major productions can pump up to \$85,000 a day into our local economies. We cannot let this opportunity slip through our fingers. Increasing film attracts new businesses to our state permanently. Many of these businesses are the high-tech, diverse companies that we target to help diversify our economy. There is also the free advertising that we get from these movies that play around the world in theatres, videos, DVDs, and television. This free advertising is worth millions, maybe billions of dollars to our state.

S.B. 493 proposes two incentives for major motion picture companies choosing Nevada as a production location: abating sales tax on material used in productions, and abating special use licensing fees and taxes for the various large trucks used in motion picture production. These incentives will make us a player with the 36 other states who already offer incentives while we compete for a piece of this multi-billion-dollar industry. These incentives will also produce a significant return on our investment, far beyond the abatement credits. Nevada must be proactive and diligent to maintain and protect a share of the market we already have. We need to let the industry know that we are indeed film friendly and business friendly.

Robin Holabird, Deputy Director, Nevada Film Office:

We want to emphasize the importance of incentive programs. Last month we were at one of the major location trade shows in Los Angeles. The first question people ask is what incentives we have. Charlie Geocaris, Director of the Nevada Film Office, and I have become very good at coming up with many benefits of filming in Nevada. It is a wonderful place to film with good bang for the buck, but we do not have any specific incentives for the film industry. We heard many stories about three of the states that have just entered in to some very impressive incentive programs: New York, Louisiana, and New Mexico. The Elvis two-part miniseries, which takes place mostly in Tennessee and often in Las Vegas, is a prime example. It was filmed entirely in Louisiana because of the incentive programs that they have there.

Incentives can make a huge difference in bringing films to your community. They keep the conversation rolling when we are able to answer that we are seriously looking for the film industry with these incentive programs, as well as the other advantages we have. Eventually, we will hope to land these projects.

Assemblywoman Giunchigliani:

I think this is another good piece of legislation. I was looking at the fiscal note, so we may need it to go to Ways and Means, but it appears that it is room tax money, the \$493,000, that would be utilized for the abatement.

Lorraine Hunt:

We changed that in Committee, so now we are only asking for the sales tax abatement on purchases made for the production companies and the truck tax. Even these two incentives would provide many benefits.

Assemblyman Sherer:

Would this also apply for the television shows?

Robin Holabird:

It specifically mentions motion pictures, but in the case of big production companies that are both motion picture and television production companies, it could be applied to television programming.

Assemblyman Anderson:

Do we have any film corporations that are permanently located here because of the different programs that are permanently filmed here?

Robin Holabird:

Not of the scale you are talking about. We have small production companies that are primarily involved in advertising. This bill would affect the companies that are coming into the state to bring in projects that are not based here.

Assemblyman Anderson:

Would those kinds of companies be able to get this abatement on the field tax by saying that they are part of the production company?

Robin Holabird:

This actually affects the vehicles as they come into the state. It does not affect them while they are in the state purchasing gas. They pay gasoline tax and those sorts of things. It is the entry and exit from the state. There are different fees and taxes associated with that.

Edgar Roberts, Administrator, Motor Carrier Division, Nevada Department of Motor Vehicles:

The Department has no position on S.B. 493; however, the Department has submitted a fiscal amount reflecting the added expenses that the DMV would incur should the bill pass. S.B. 493 exempts those vehicles registered with the motion picture company from licensing as a special fee user and obtaining a 24-hour trip permit at a cost of \$30 each to operate on Nevada's roadways. The Department has submitted a fiscal note in the amount of \$86,119 in FY2006, \$38,023 in FY2007, and \$76,047 in the future biennium.

Passage of this bill will involve the development of a program on the Department's application to record and track these vehicles. Our technology groups have estimated 1,400 hours of programming. Development and testing time will be required at a one-time cost of \$48,095 in FY2006. Removing the requirements for these companies to purchase 24-hour temporary trip permits would cost the State Highway Fund \$37,800 in FY2006, \$37,800 in FY2007, and \$75,600 in the future biennium. Additional costs to the Department include form revisions and associated mailing costs in the amount of \$223 in FY2006 and FY2007, and \$447 in the future biennium. I am here to request that the expenses incurred by the DMV are included in our budget through an appropriation, should S.B. 493 pass.

Vice Chairman Ocegüera:

What was the total of all of that?

Edgar Roberts:

In future the biennium it is \$76,047.

Assemblyman Anderson:

If they were making a trip across the State, would they be receiving a benefit?

Edgar Roberts:

A 24-hour permit is required if the company is not apportioned to travel within the state of Nevada on all vehicles over 26,000 pounds.

Assemblyman Anderson:

If somebody is going from California to Arizona and they require a 24-hour trip permit, would we give them a tax incentive so they would not have to pay?

Edgar Roberts:

If the company was a motion picture company coming through Nevada, they would be exempt from the 24-hour permit.

Assemblyman Anderson:

I am not concerned with the people coming here who actually shoot their film. I am concerned about giving somebody a tax break for driving through the state. I want them to stop here and spend their money with us.

Edgar Roberts:

As the bill states, if a film company in California is driving through Nevada but not filming in Nevada, they would be required to purchase that 24-hour permit.

Assemblyman Sherer:

I thought you said \$76,000 per biennium on two different issues, or is it \$76,000 just once?

Edgar Roberts:

The effect on the future biennium is \$76,047 total.

Vice Chairman Ocegüera:

Carole Vilardo [President of the Nevada Taxpayers Association] is signed in as opposing the bill, but she is not present currently. We will close the hearing on S. B. 493 and open the hearing on S. B. 300.

Senate Bill 300 (1st Reprint): Revises provisions governing regulation of contractors. (BDR 54-1061)

Steve Holloway, Executive Vice President, Associated General Contractors of Nevada, Las Vegas, Nevada (AGC):

We are here in support of S.B. 300. This bill was a year or more in the making and has involved input from nearly every development-related association in the state of Nevada. It is a consensus bill; no one spoke in opposition to it on the Senate side. We do have a consensus amendment to offer on this side ([Exhibit C](#)).

This bill addresses NRS 624.606 through NRS 624.630. We refer to that as the Prompt Pay Act [5 CFR 1315], which was enacted by this Legislature in 1999. This is the first time that we have been back to change it in any way. After six years, we felt that it was time to clarify and clean up the statute in certain respects. I would also like to say that the Prompt Pay Act does not include agreements between a prime contractor and a person who owns a single-family residence for the performance of qualified services with respect to that residence. This Act does not apply to an agreement between a public body and a prime contractor for the performance of work and labor on a public work. We

are dealing with strictly private works, both developments that are commercial and residential in nature.

[Steve Holloway, continued.] NRS 624.606 through NRS 624.630 first sets forth a process wherein an owner is required to pay the prime contractor in an orderly and timely manner. It then sets forth a procedure whereby a prime contractor may stop work and terminate the contract with the owner if she is not paid for work that has been satisfactorily completed. Secondly, the Prompt Pay Act sets forth an identical process wherein a prime contractor is required to pay his subcontractors in an orderly and timely manner. It further allows the subcontractor to stop work and terminate the contracts if they are not paid. Having said this, I am going to turn this over to one of our legal experts, Richard Peel, to briefly outline what S.B. 300 does to this statute.

Richard Peel, Legislative Advocate, representing the Sheet Metal and Air Conditioning Contractors National Association; National Electrical Contractors Association; and Mechanical Contractors Association:

Sections 2 to 4 define an owner, prime contractor, and what a work of improvement is for purposes of the Right to Stop Work statute. Section 6 modifies the definition of a higher-tiered subcontractor to a higher-tiered contractor and clarifies the same. Section 7 clarifies the definition of lower-tiered subcontractor. Sections 8 and 12 confirm that retention to be withheld from a prime contractor, or from a lower-tiered subcontractor, cannot exceed 10 percent of the payment that is required to be made. Sections 8 and 12 also provide that, as a result of changes made to mechanics in statute in 2003, the proper form to use to waive and release mechanics' rights is the form set forth in NRS 108.2457, subsection 4. Sections 8 and 12 confirm that a prime contractor and lower-tiered subcontractor have the right to correct any condition described in a notice of withholding. Sections 9 and 13 allow prime contractors and lower-tiered subcontractors to stop work if they believe, in good faith, that a notice of withholding they receive is factually inaccurate. Sections 11 and 14 confirm that a provision in a contract is against public policy, and is void and unenforceable, if the provision relieves an owner or higher-tier contractor of any obligation or liability imposed by the Right to Stop Work statute, or requires a prime contractor or lower-tiered subcontractor to waive or release an extension of time for delays incurred or for damages, delay, or impacts for which the prime contractor or lower-tiered subcontractor were not responsible. Sections 9 and 13 also confirm that a contractor or subcontractor may stop work if a change order is not issued within 30 days of the date that the change order request is submitted. It does provide the higher-tiered party the opportunity of objecting to the change order.

[Richard Peel, continued.] We also have some general changes that take place in the statute. In general, we have modified the definitions of "contract" and "subcontract" and we refer to them as agreement. We also have other cleanup throughout the bill. We have consolidated all references to interest to be paid in monies due and owing in Section 15. We have increased the rate of interest from 2 percent over prime to 4 percent over prime. If a contractor provides for a higher rate, it is whatever is set forth in the contract.

Before you is an amendment to the first reprint of S.B. 300 ([Exhibit C](#)). The amendment basically attempts to clarify what we are trying to get done, by way of the first reprint. I would say that about 85 percent to 90 percent of it is simply clarification and taking care of any ambiguities that exist.

Assemblywoman Giunchigliani:

In statute, we currently have the terminology "higher tier" and "lower tier." Are we just breaking that out between "contractor" and "subcontractor?"

Richard Peel:

We have basically changed the definition. We found that the prior definitions, referring to a higher-tiered subcontractor and lower-tiered subcontractor were changed to a higher-tiered contractor and lower-tiered subcontractor. We just cleaned up the definition of a lower-tiered subcontractor after that. Those are set forth in NRS 624.607 and 624.608.

Assemblywoman Giunchigliani:

This is really trying to decipher between an owner and a contractor and the relationship therein. Does it have to do with an owner wanting to build a house, or if an owner wants to contract with a prime contractor or a lower-tiered subcontractor?

Richard Peel:

There are two different groups that are exempted from the auspices of this particular bill: public works, or an owner.

Assemblywoman Giunchigliani:

We had a bill this session that dealt with a general contractor, which was different from a developer. This will not have an impact on that.

Peter Krueger, Legislative Advocate, representing Sheet Metal and Air Conditioning Contractors' National Association; National Electrical Contractors Association; and Mechanical Contractors Association:

We are very much in support of the bill.

Renny Ashleman, Legislative Advocate, representing Southern Nevada Home Builders Association:

We support the bill. We introduced the term "impact claims," which is something that we have had trouble getting recognized on occasion. We agree that they should be recognized. These claims generally involve a dispute over the time of performance of a contractor's or subcontractor's work as a result of delays, suspension, or an acceleration of disputes over lost productivity. Thus, impact damages are those that flow from an impact claim. One of the desired effects of this is that it should end a lot of the construction industry litigation which occurs over oral change orders. In any job, you will find that there is something that needs to change because of problems with the job specifications. Frequently, the superintendent will tell the subcontractor that they want to do things a different way. People do not want to stop the job, so they routinely do them. This provides a mechanism whereby such change orders must be submitted in writing to whomever is higher up in the chain. At that point, the order must be recognized or rejected in writing at a time it is fresh in everybody's mind. As an arbitrator and mediator, I believe that this will assist us materially in disposing of all the litigation we have. If it does not get rid of it, it will at least clarify the issues and give everybody a chance to put their evidence together.

I have been asked by Clark County to make a point. In Section 14, NRS 624.628 is not listed as one of the sections that the public works bodies are automatically exempted from. The reason for that is that there is a lower-tiered contract section, and we did not see the necessity. We want to point out that we do not feel that NRS 624.628 applies to public works.

Assemblywoman Giunchigliani:

Why do you not want it to apply to public works?

Renny Ashleman:

Essentially, they do not want it to apply. Previously, the bill had fewer benefits for an owner than it currently does. After they see the bill enacted, they may decide that they want to be included. Be that as it may, it requires a good deal of paperwork. Public bodies are already inundated in their public works paperwork. I think it is sort of a visceral reaction. Previously, there were not many benefits for the owner in this.

Assemblywoman Giunchigliani:

What was it that the local government wanted to pass on?

Renny Ashleman:

We specifically name the sections that they are not covered by, because there is more to this area of the law than just the Prompt Pay area.

Len Nevin, Vice President, Nevada Subcontractors Association:

We fully support this bill.

Jack Jeffrey, Legislative Advocate, representing the Southern Nevada Building and Construction Trades Council:

Our members depend on the health of the industry and the prompt payment of contractors so that they may be paid in a like manner. We are in support of the bill.

Mike Holmes, Owner and President, Holmes Construction Company, Sparks, Nevada:

I have been a licensed contractor in the custom home market since 1989. I am here today to offer testimony regarding S.B. 300, which can improve the changes to NRS 624 concerning a residential contractor's right to stop work for nonpayment, specifically those who are in the custom homebuilder market ([Exhibit D](#) and [Exhibit E](#)).

The present law excludes residential contractors, which is the niche that I participate in. I have been involved in litigation where the owners of projects that I have completed have used this to cause more harm towards me as enacted by the Contractors Board and the Civil Procedures for Remedy. In saying so, once they refused to pay my 10 to 15 percent upon final completion of a residence, they have proceeded to open a Contractors Board complaint, at which time the Contractors Board has pursued me for disciplinary actions even though I have breach termination clauses in my contracts. In two of the three situations that I am referencing, the termination relates to two to four months prior to any action by the Contractors Board being brought against me for alleged defects, such as loose roof tiles, door bell, et cetera. I would consider these things very minor. The money involved is significant because of the trickle-down effect to the subcontractors and suppliers, along with the Prompt Pay laws that are unenforceable. It has put me in a double jeopardy position, and I am just now coming out of that, after I have been forced to do some very unorthodox remedies. None of these are liens, but I have actually borrowed up to \$700,000 to purchase a house where I was owed \$150,000. I think it is important that you should consider this for the residential contracting industry. I am not speaking in regard to the custom or production end of the business, but the little guy is exposed here in regard to the procedures that are available to the Contractors Board and the judiciary.

Margi Grein, Executive Officer, Nevada State Contractors Board:

Our concerns with the bill are with Sections 2, 3, and 4, which add new definitions to NRS 624. We believe these may conflict with existing statutes. If the sponsors of the bill intended for this to be added to the Prompt Pay and Right to Stop Work sections, they should put those three sections into NRS 624.606, rather than all of NRS 624. The term "owner" would conflict with the owner as defined in the Recovery Fund, although the bill does not specifically apply to residential construction. Having those definitions in the entire statute could cause us some problems.

There are also sections where owners are dealing with residential pool/spa contractors. There are also specific requirements that contractors have for that. Also, the definition of "prime contractor" conflicts with the definition of "contractor" under NRS 624.020, as well as the definition of "prime contractor" under NRS 338.010, which is the public works statute. We have the obligation to issue bidder preference certificates. When "prime contractor" is defined one way in our statute and another way in our regulations, it causes us some concern.

Dennis Haney, Counsel, Nevada State Contractors Board:

The Nevada State Contractors Board licenses general contractors, both general engineering and general building, as well as specialty contractors. They do not license prime contractors as such. If we could move these definitions into the sections to which Mr. Peel testified, it would solve most of the issues that we have. We do not have any substantive issues, because the Board does not take positions on those types of matters. It is just to make sure that the Board's licensing authority is maintained properly.

Steve Holloway:

We have no problem with the preceding remarks under NRS 624.606.

Vice Chairman Oceguela:

We will close the hearing on S.B. 300, and we will open the hearing on S.B. 333.

[Senate Bill 333 \(1st Reprint\)](#): Revises provisions governing practice of cosmetology and related professions. (BDR 54-764)

Joe Lamarca, Owner, Euphoria Salons and Day Spas, Las Vegas, Nevada:

The three items that we propose to be added to S.B. 333 were originally in the bill, but somewhere along the way they were taken out. I think there was a lot of misunderstanding when the bill was heard.

Vice Chairman Ocegüera:

Can we talk about the bill before we discuss what has happened?

Joe Lamarca:

The bill is a cosmetology bill. It relates to change in some of the cosmetology laws that govern cosmetology schools. The changes in front of you are an attempt to meet some of the issues that were outlined in the original bill. They were dropped, and we now have three amendments that would make the bill whole.

Vice Chairman Ocegüera:

What happened in the Senate?

Mike Sullivan, Legislative Advocate, representing Euphoria Salons and Day Spas, Las Vegas, Nevada:

When we presented the bill, Mr. Lamarca was not able to attend. This bill was written by him, and a lot of the things that were outlined were unable to be clearly articulated due to his absence. I think there was some discussion in some of the things that we could not articulate as well as he could have. I testified on the bill also, but now that he is here, I think we can resolve the current issues.

Joe Lamarca:

As the cosmetology industry has changed over the years, the laws in Nevada have not kept pace with what is actually going on in the industry. In this bill, we are attempting to bring the law up to the reality of the work situation. For example, nowhere in the bill does it talk about spas, but spas are the new wave of cosmetology business. This bill attempts to address some of these issues. In addition, it talks about generally increasing the standards and hours that a student must be in school before they touch the public. There are many items like this. We are trying to tighten it up so that it may be more reflective of what is actually going on in the business world.

The first amendment in the mock-up ([Exhibit F](#)) does away with the one-year work experience requirement before a person can be a student teacher in preparation for being a teacher. It appears that cosmetology is the only vocation in the state of Nevada that requires somebody to work for a year before they can be a student teacher. This requirement does not apply to teachers in public

schools or doctors before they teach, but for some reason, it was made for cosmetologists. Our real issue is that we have a very hard time recruiting people to be teachers, because you have to be a student teacher. You have to work for a year, go back to school to be a student teacher, and then you can be a teacher. Our intent is that once you graduate and get a license, we would like to allow the person to enroll in the student teacher program without the one-year hiatus.

The second proposal is that the cosmetology school business is big business. Tuition per student is \$16,000 a year at my school. We have 340 students. If my school were to go bankrupt, there would be students who could not get a reimbursement for tuition that they had paid in advance because the Cosmetology Board only requires that a school post a \$10,000 bond. If you were in a vocational school, culinary school, or a computer school licensed by any other board in the state of Nevada, you would have to post a \$750,000 bond. My fear is that someone will come in and open a school that goes bankrupt, which would taint the entire cosmetology community. This is a way to prevent that from happening, because a \$750,000 bond should cover tuitions that were paid even if the school was unable to complete the program. It would also bring cosmetology schools into the twenty-first century.

In addition, recognizing that the spa industry has taken over the cosmetology industry, I propose that a cosmetology school should be authorized to teach massage therapy while simultaneously teaching someone to do aesthetics or hair. That massage school should be licensed by the Cosmetology Board so a student can enroll in a school and take cosmetology and massage together without having to go to Euphoria Institute for Cosmetology, and then enroll in a massage therapy school. The trend for employees in the industry is to hire people who can do a variety of different jobs and hold a variety of different licenses. This way, a person who has a massage license and an aesthetics license can do the services that the client asks for at the time. This allows them to earn more money. Those are the three mock-up amendments.

Assemblywoman Giunchigliani:

The first change is in Section 4, page 2, which deletes having one year of experience as a cosmetologist. This would allow them to go directly into student teaching. The second change is on page 4, where the bonding is. You are asking to move the \$500,000 back to the original \$750,000 for bonding purposes? [Mr. Lamarca answered in the affirmative.] What was Dahan?

Joe Lamarca:

That was a massage school, but fortunately they had a bond, and they quit mid-year, so I am assuming that the Commission on Post-Secondary Education

was able to place the students in another school and give the school the tuition from the bond.

Assemblywoman Giunchigliani:

Is that common in the industry?

Joe Lamarca:

From what I understand, every school licensed by the Commission on Post-Secondary Education has to post a \$750,000 bond. When I was licensed for my massage school, I had to post a \$750,000 bond.

Assemblywoman Giunchigliani:

But the cosmetology schools only have to post a \$10,000 bond?

Joe Lamarca:

Yes, and that does not even cover one student's tuition.

Assemblywoman Giunchigliani:

We had a dual licensure bill that we passed. We wanted to make sure that people didn't have to go to two different places to get the same license and they could do the instruction internally. We passed that bill with the intent that you do not have to do it twice. I think that is what you are trying to do here.

Joe Lamarca:

I am trying to make it so that there are not two different governing entities over the school, and that a student can go to one school to get both licenses. Once they graduate from my school, they still need to be licensed by the Las Vegas Metropolitan Police Department or by the City of Henderson, Nevada. I am only going to give them the 715 hours. When they graduate on the cosmetology side, I give them the 1,800 hours, and they then must get licensed by the Cosmetology Board. None of this affects licensing, only the hours to get the license.

Assemblywoman Giunchigliani:

Where does the Cosmetology Board stand on this?

Joe Lamarca:

From what I understand, they are in Las Vegas and do not oppose any of these three amendments.

Assemblywoman Giunchigliani:

I should probably disclose that I know Mr. Lamarca and he used to work for me. I did happen to run into David Austin, the Chairman of the Cosmetology Board, and he conveyed to me that they were fine with this.

Vice Chairman Ocegüera:

I am looking on page 4, Section 7. You wanted to move the amount to \$750,000?

Joe Lamarca:

Yes. That was an error.

Vice Chairman Ocegüera:

None of the 1,800 hours you apply to a cosmetology license would apply to a massage license? They are two separate things?

Joe Lamarca:

That is correct. I think it is 736 hours for a national license for massage. You would have to do that and the 1,800 hours for cosmetology, but you could do these in the same day. I could run a 4-hour cosmetology program and a 4-hour massage program in the same day. They would then get their massage hours before they get the 1,800 cosmetology hours.

Vice Chairman Ocegüera:

In total, they would end up doing 2,516 hours? [Mr. Lamarca answered in the affirmative.]

Assemblywoman Gansert:

We had another bill about the hours required for our students. I am looking at page 5, Section 10, and we asked if the Board could bring back some evidence as to whether we really need to increase the hours by 20 percent. You mentioned that you charge each student \$16,000, so the concern is whether there will be a change in the service or the amount if we were to change the hours.

Joe Lamarca:

That does not change. The change from 250 hours to 300 hours applies to the amount of time they must render before touching a human being. It will stay at 1,800 hours. There is a salon in the school called the practice clinic, and people come in and allow those students to cut their hair. The change is that before a student can cut your hair, they would have to undergo 300 hours instead of the previous 250 hours. It does not change the total number of hours or the tuition.

It is only an internal requirement before we let the student touch a human being. From experience, I am trying to increase that number.

Assemblyman Hettrick:

I probably agree with a lot of what you said, but at the same time, in Section 7, the jump from a \$10,000 bond to a \$750,000 bond seems to resemble some sort of protectionism. This also relates to Section 8, saying that you need at least three licensed instructors instead of two to have a school. It makes it much more difficult for somebody else to get in the business.

Joe Lamarca:

I believe that class size reduction makes better teaching. To companies that are financially solvent and stable, the \$750,000 bond is not an impediment. I am opening a third school in northwest Las Vegas in seven months and I am going to have to pay the \$36,000 for the \$750,000 bond. I just do not want the embarrassment of a school going bankrupt. It will make it more difficult to recruit students in the future, because so many of them never got their money refunded.

Assemblywoman Giunchigliani:

I want to confirm that the Commission for Post-Secondary Education licenses and requires bonds?

Joe Lamarca:

Yes. For example, if I applied for a massage school license, they would give me a license contingent on my getting the \$750,000 bond. They require all private schools that they license to post that amount of money for bond.

Assemblywoman Giunchigliani:

They have a different standard than the Cosmetology Board. The \$10,000 refers only to the Cosmetology Board. Have they commented on the bonding issue?

Joe Lamarca:

It would grandfather those schools that are presently licensed; only those schools that are licensed after July 1, 2005. The schools that are already licensed have been in business for at least four to five years, making them financially solvent.

Assemblyman Hettrick:

How many cosmetology schools have failed in the last four to five years?

Joe Lamarca:

None that I know of, but there is one major massage school in Las Vegas that did, but they had the bond and were able to place the students at the other schools.

Assemblyman Anderson:

Would you have been able to pay this bond when you first started your program? [Mr. Lamarca answered in the affirmative.]

Assemblyman Parks:

Did the Senate just get the original bill wrong?

Joe Lamarca:

I think there was a lot of confusion about where the Cosmetology Board stood on these issues and the rationale behind them. Unfortunately, I had to be out of the country at the time.

Assemblyman Hettrick:

When the bill was presented in the Senate, did it contain Section 9, subsections 4 and 5 (a) and (b)? Did they take it out because you were not there, or did they ever hear this?

Joe Lamarca:

Yes, this was in the bill.

Annie Curtis, Board Member, Nevada Board of Cosmetology:

In Section 1, the Board would like to include the deleted phrase that says, "without charge and without advertising his services." In Section 2, we would like the deleted subsection 3, "Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member on the Board," to remain. In regard to the bond, it is my understanding that they were in agreement on the \$500,000 and not the \$750,000 bond. They would also like a clause that allows for the grandfathering of existing schools changing location. Mr. Lamarca touched on that when he discussed existing schools of five years.

Joe Lamarca:

I do not think Annie has the full bill in front of her, because the "Demonstrator of Cosmetics" and the "Composition of Cosmetology Board" is no longer in S.B. 333. This has already been taken care of. Furthermore, the Board is in agreement with the \$750,000 bond, not the \$500,000 bond. I spoke to your Chairman about that, and we have an agreement that the Board, by regulation, is going to say that the schools that are transferring licenses will be exempt

from the \$750,000 bond. An existing school would not be a new school. I think her concerns are either non-existent or have been met. Ms. Curtis is referring to the mock-up, but in S.B. 333, the "Demonstrator of Cosmetics" language is not included. You will also see that the "Composition of the Board" is not in S.B. 333.

Assemblywoman Giunchigliani:

I am looking at what came from the Senate and the mock-up. Both delete the "not more than one Board member..." Are you saying that it does not exist because it was deleted? [Mr. Lamarca answered in the affirmative.] It is simply legalese. The Board does not want that language contained in the bill. We will make sure by the deletion language that it does not appear in the bill.

Gwen Braimoh, Owner and Director of Instruction, Expertise School of Beauty, Las Vegas, Nevada:

I am here on behalf of the bond issue. It sounds like it has been taken care of. My concern was that we are changing location at the end of the year. We have to make a new application to the Board in August. I wanted to make sure that the existing schools will be grandfathered in.

Joe Lamarca:

Yes, because the Board interprets your situation as not applying for a new license, but transferring a license from one address to another address. That is not a new license, and that is how the State Cosmetology Board will interpret this.

Gwen Braimoh:

Our other concern is in NRS 644.395, Section 2. It discusses the relicensed instructors present during an operation per 25 students. I know we do have plans for a night class, and we may not have 25 students enrolled for nights. Does that mean that we still have to have the three instructors present, or is this a ratio situation?

Joe Lamarca:

I think that would be interpreted as all day classes. You would need three instructors for the day. You would have your morning session, your afternoon session, and your evening session. As long as you have three instructors present together, you would not need three instructors for eight students.

Assemblywoman Gansert:

That is not the way that I read this. I read this as saying that three licensed instructors must be present at any time.

Joe Lamarca:

I think if you have 50 students, then you need 3 licensed instructors. It says, "Each school of cosmetology shall maintain a staff of at least 3 licensed instructors and one additional licensed instructor for each 25 enrolled students, or major portion thereof, over 50 students...must have at least three licensed teaching instructors...while the school is open." I interpret that as meaning that the school is open from 9:00 a.m. to 9:00 p.m., and you're in compliance as long as you have 3 instructors on during that period of time.

Chairwoman Buckley:

It does not say that, so that will need to be clarified. We will close the hearing on S.B. 333 and open the hearing on S.B. 256.

Senate Bill 256 (1st Reprint): Revises certain provisions relating to regulation of public utilities. (BDR 58-655)

Don Soderberg, Commissioner, Public Utilities Commission of Nevada (PUCN):

S.B. 256 is the Commission's bill that proposes to do two principal things. First, it extends the amount of time that the Commission would have to process and decide on an energy rate case to 240 days. That is an increase over the current 180 days that is in statute. Secondly, it would amend A.B. 661 of the 71st Session, where you mandated that the northern and southern divisions of Nevada's primary electric utility would file general rate cases every two years. We have found that when they are filed every two years on the same year, it creates incredible highs and lows in our work flow, the workflow in the Consumer Advocate's Office, and the utility itself. This bill would actually create alternating years, where the southern division would go one year and the northern division would go another year. That, coupled with the annual deferred energy rate cases that would remain filed on yearly bases, would prevent us from having four major cases within the Commission at any one time. It would help spread our workload over the two years. This would make us more efficient. These two provisions would allow us to look at these cases in even greater detail than we are doing now.

The Commission's bill was vetted last fall into an informal group that Senator Townsend put together. It included me, a representative of our primary electric utility, consumer advocates, and others. We had a lot of ideas, and there were things that came from that group that were added to this bill prior to its introduction, and I will walk you through those additions. First of all, in Section 1, we would be proposing to raise the mandatory hearing consumer session process from a \$50,000 case to a \$100,000 case. That is a refinement.

As things grow, a static number becomes smaller and smaller. We propose that it be moved up to \$100,000. Secondly, in Section 4, subsection 9, page 8, there were members of the working group who felt the Commission should be able, in some instances, to look at rate design in a deferred energy case. Currently, the Commission looks at rate design in general rate cases. Rate design is actually where we decide which group of customers should pay certain costs based on the costs that they create. The Commission does not currently have the ability to look at that for a preferred energy case. There were proponents of us actually doing so. Through some compromise, the provision that you have before you in Section 4, subsection 9, is something that would allow the Commission to take a look at this, but not bind the Commission to actually make such a determination.

Chairwoman Buckley:

Let's say the costs of power that a utility purchases goes down. Instead of a residential homeowner getting the benefit of that decrease, the rate design could be interpreted as causing residential homeowner bills to increase. Is this affecting the subsidy issue? I do not want to see that happen.

Don Soderberg:

This provision would allow certain parties to argue that the Commission should do this. It does not mandate that we would do this, but yes, I think you are right. It is conceivable, if we had a substantial decrease in the BTER [base tariff energy rate] portion of the rate, which is the forward-looking energy cost, that this commission or future commissions could change the rate design to try and attack some subsidies. It could actually create a rate increase for some customers.

The last section I wanted to walk you through is Section 5, subsection 4. We found, through our consumer sessions and outreach to electricity customers, that everybody is unhappy when rates increase. We also found that so many rate cases in the system cause a lot of concern to customers. We feel that in most instances, the way that power markets are regarding volatile fuel prices, we need to have deferred energy cases every year for both of the major utilities; however, we were looking to create a way where if we had a very small swing, we could avoid a hypothetical increase. This provision attempts to do this. It was passed around by the group, and it went from a simple concept to something that is much more complicated. Essentially, in Section 5, subsection 4, if the deferred balance, either negative or positive, were to be 2.5 percent of revenue, the utility could forego filing that case. We do not know if that is going to happen very often, or at all, but it was put in here to find a mechanism that decreases the number of cases. I understand that the Consumer Advocate

may have a couple of amendments that she has shared with me prior to the hearing, and another group may have another proposed amendment.

Assemblyman Conklin:

In Section 2, there are two parts where we have changed the operating revenue from \$50,000 to \$100,000. Is that what you are talking about when it comes to a rate case? The way I read this, it says you do not have to file with the Commission or you don't have to include a consumer session if the company is going to make less than \$50,000.

Don Soderberg:

Your understanding is correct.

Assemblyman Conklin:

On page 6, Section 4, subsection 2(a) and (b), what is a "PAR carrier"?

Don Soderberg:

A PAR carrier is an acronym for Plan for Alternative Regulation that we do with telephone companies. This bill was not designed to affect how we process telephone cases. When this bill was being heard before the Senate, our two major telephone companies felt that they could inadvertently get included in this. It was not our feeling that it was the intent. We included the specific language to pull them out of the 240-day requirement. When we do have general rate cases for our two large telephone companies, which are very infrequent, we would be processing those in 180 days.

Assemblyman Conklin:

What makes it necessary for you to have 240 days instead of 180 days?

Don Soderberg:

We find that general rate cases are becoming more complex. Since we have reinstituted traditional regulation and had general rate cases since the 2001 Session, we find that we are always running it very close. The feedback from our staff and other parties is that we would like to have more time to do discovery. We would like the time so that we can get deeper into the numbers. Right now, with the requirement of 180 days, we find ourselves filling in the blanks. If I have to set a procedural schedule, I have to make the decision as to whether I should have the parties rush their job, or have the Commission its job, which might be a 300- to 400-page order. This is why we would like to add an extra two months to the process. It is my understanding that the utilities involved have no problem with it. They understand the complexity has changed over the last two decades.

Assemblyman Conklin:

I understand that the cases are becoming more complex, and we need more time to examine them; however, we are going to include the consumer less often in the rate case evaluation. In Section 2, if we increase this amount from \$50,000 to \$100,000, how many cases will be affected by this that the consumer will not be involved in?

Don Soderberg:

We have gone back and taken a look at this provision, and we have not seen any cases over the last year that would fall between \$50,000 and \$100,000. When this was written over a year ago, it seemed like a good idea at the time. Nobody raised any questions about this in the Senate hearing. It was my understanding that three Senators raised concern with this on the Senate Floor. If I had known about it at the time, I would have agreed to amend that out. It is not a principal part of this bill. The section that you are referring to will not affect us in one way or another; we thought it was a technical cleanup.

Adriana Escobar-Chanos, Chief Deputy Attorney General, Bureau of Consumer Protection (BCP), Attorney General's Office, State of Nevada:

I have some concerns with S.B. 256, with respect to Sections 2 and 3, concerning increasing the amount from \$50,000 to \$100,000. That would require a consumer session. The BCP feels that this is reasonable. As a former commissioner, I have not seen many cases that are under \$50,000. It is something that we can support, or go with \$50,000, whichever is your will. With respect to the 180 to 240 days, the BCP supports this change. These cases can be extremely complex. They impact the consumers, and this would allow for a more thorough investigation. With respect to Section 4, subsection 3, concerning changing the filing dates for the general rate cases, the BCP supports staggering the cases to reduce the overlap. It will help the workload problems and allow for a consistent flow.

I would like to discuss page 8, Section 4, subsection 9. This is concerning deferred energy cases and rate design. There is an allocation of cost among classes of rate pairs in these fuel and purchase power balancing account cases. This section would require the Commission to consider this rate design, and we believe that this is not a good idea for the consumer. Normally, the rate design is done in a rate case every two years, and from what I have seen in the last four years, the deferred energy cases have concentrated on prudence issues. If you add a rate design to that, there is a chance that they would become more litigious, and it would also increase the cost when it is generally done in the rate case. Our proposed amendment would be to delete Section 4, subsection 9.

[Adriana Escobar-Chanos, continued.] With respect to Section 5, subsection 3(a) and (b), we are in support of this. I think that this timing is fine. On page 10, we have a concern with Section 5, subsection 4. Right now we have a requirement to file deferred energy cases every year. This gives them the ability to update the account and bring things up to date; however, this leaves the decision solely up to the company, and we could run into some problems. A cap may be a good way to go, but there could be some problems. Let's say that Nevada Power chose to not file its annual deferred case if the amount is less than 2.5 percent of revenue. In the case of Nevada Power, the 2.5 percent of the revenues dated September 30, 2004, would be approximately \$39.8 million. If the case is less than \$5.8 million, they would not be required to file a case. Similarly, with respect to Sierra Pacific Power's revenues ending September 30, 2004, the amount would be \$25.6 million. Anything below that would not have to be filed. The concern of mine, with respect to the consumers, is that the \$25 million is a 9 percent compounding rate. That would equal approximately \$2.25 million a year in additional costs to the consumers for the carrying charge. That is without grossing the taxes.

Another issue in the prudence review. I think it is important to be able to review the way that a company is purchasing electricity and gas on a yearly basis. If we postpone a prudence review too long, it could become a problem. I know we are no longer in the energy crisis, but hopefully it is something we have learned from over the past few years. There is a proposed bill, S.B. 238, where quarterly adjustments are being implemented. Part of the reason for that is to defer the 9 percent carrying costs for natural gas customers. Reducing regulatory oversight and the possibility of increasing cost to rate payers is a problem, and we would recommend deleting Section 5.

Assemblyman Conklin:

When you say delete Section 5, there are two parts in this bill. There is subsection 4, where I am in agreement with you, but on page 9, you have subsection 3(a) and (b). Did you want that to be left in?

Adriana Escobar-Chanos:

Yes. We support the staggering in the sections that you were referring to, but we would delete Section 5, subsection 4.

Assemblyman Conklin:

Is the 9 percent compounded monthly, daily, or what?

Don Soderberg:

I would have to get someone else to answer that question for me. These sums do increase and create substantial numbers over time. The compounding of

carrying charges can sometimes be a key component in rates. It is not a small number.

Assemblywoman Gansert:

For clarification purposes, you are in agreement with the staggering, but are disagreeing with everything else.

Adriana Escobar-Chanos:

We would propose to delete Section 5, subsection 4, but we can support everything else in that section. Also, with respect to Section 4, we would like to delete subsection 9.

Rose McKinney-James, Legislative Advocate, representing Ridgewood Renewable Power, LLC, Las Vegas, Nevada:

The documents we gave you include the proposed amendment ([Exhibit G](#)). In addition, there is a letter from the Commission on Economic Development ([Exhibit H](#)), and finally, there is a pamphlet of information relative to the activities of Ridgewood ([Exhibit I](#)).

We have made every effort to identify and chat with all of the stakeholders that might have an interest in this measure. I am pleased to indicate that we have been able to accommodate some of the concerns of the stakeholders, including the utilities, who have indicated that they will be taking a neutral position on this bill. I am unaware of any opposition to the proposed amendment at this point.

Daniel Gulino, Senior Vice President and General Counsel, Ridgewood Renewable Power, LLC, Las Vegas, Nevada:

We are a developer of independent renewable power projects, mostly involving biomass, which is with sustainable forest fuel, landfill gas, and hydroelectric. We do actually have some cogeneration facilities in California. We own, operate, and manage over 250 megawatts of smaller renewable projects. We are active in the development of renewable portfolio standards in various states. We were heavily involved in the RPS [renewable portfolio standard] statute in Massachusetts, Connecticut, Maine, New York, New Jersey, Rhode Island, and California. We are interested in expanding our development activities in states that have a renewable portfolio standard that we think is solid and allows for the development of renewable projects. That brought us to the Nevada statute, and we have noticed some difficulties for out-of-state developers. We have some projects in California that could participate, one of which is existing. We do have rights to certain biomass that we could bid into the RPS, but we find certain aspects of the current statute difficult to comply with if you are an out-of-state developer.

[Dan Gulino, continued.] As we walk through it, you will notice that the deleted portion of the amendment is the current law now. In order to qualify for the RPS as a renewable energy system, you must transmit and deliver your energy over a dedicated power line that is connected directly to an electric service provider, or over a power line that is shared by only one other non-renewable generator, which is likewise connected to an electric service provider in the state. In (b), this language maintains an interconnection for facilities that are likely to be located in Nevada. It also would allow developers from outside of the state to directly interconnect if you are nearby the border and can connect with Nevada Power or Sierra Pacific. It would economically allow you to do so. It also allows you to participate in the RPS if you can schedule and deliver your power via existing power lines in the state you happen to be located in; this is called the contract path method of delivery.

Many of the RPSs that exist in the northeast are designed to be new renewable RPSs. Nevada allows existing facilities into the RPS, regardless of how old the facility is. Paragraph (c) would change the RPS to be a new renewable RPS, which means in order to participate, you would have to be a new facility with new emissions standards and new generating equipment. Everything would have to be up to date and efficient. There are some grandfathering provisions here. Anyone who has made any attempt to qualify under existing law would be grandfathered in. Also, anyone who is currently providing renewable energy would be grandfathered in.

We believe the amendment will help the RPS, as I read recently in the April 1 compliance filing that both Nevada Power and Sierra Pacific were unable to comply with their requirements despite their best efforts. This amendment would open a broader supply of developers to bid into the RPS. It in no way guarantees a contract; it just allows us an opportunity to bid on an equal footing. I believe it will make the RPS in Nevada stronger and allow for a broader fuel diversity, resource diversity, and greater participation.

Judy Stokey, Legislative Advocate, representing Nevada Power and Sierra Pacific Power:

With me today, I have the Vice President of External Affairs for Sierra Pacific Power, Mary Simmons. I wanted to go on the record as saying that we do support S.B. 256 as written. This was a consensus document that a large group of parties worked on to finalize.

Mary Simmons, Vice President of External Affairs, Sierra Pacific Power:

As Judy said, we do support the bill as written. The first issue is in regard to the \$50,000 to \$100,000 change for consumer sessions. We are not aware of

any cases where that would impact the major utilities, so we are neutral on that.

[Mary Simmons, continued.] The second issue brought up by the Consumer Advocate was about whether a filing would have to be made if the change was less than 2.5 percent of revenues collected for fuel purchased power. We are supporting that part of the bill, because it will allow us and others to look out and stabilize rates. For example, if we had a balance building up over a specific time period, but we saw that we would over collect through the next four to six months, we would still be required to ask for a rate increase even though those would offset. We would have to come back and ask for a rate decrease. We thought we would be able to look at all of it together and decide whether it was appropriate to come in and ask the customers to have an increase when we saw that something in the future would level out the rate.

We are neutral on the renewable amendment that Rose McKinney-James just mentioned. We think that is a policy issue for the State, and we are not taking a position on that. There may be some cost impacts, but we feel the State should make a policy decision.

Don Soderberg:

The amendment that was brought forward by Ridgewood Renewable Energy is a policy decision, so we are neutral. I think it would be remiss to not indicate that it is a major change in policy from where you set out to have the RPS. The RPS was designed to develop renewable energy within our state borders. This amendment would go with a contract path. A contract path is essentially a theoretical term. You do not have to be able to sell the kilowatts to somebody to have a contract with them. With this amendment, we believe that it would make renewable projects available to qualify under the RPS anywhere in the western United States. That may or may not be a good thing. Quite frankly, this is a policy issue so we do not have a position on it.

With regard to the Consumer Advocate's amendment to Section 5, subsection 4, this is something that started out as a simple concept, but when you have a lot of great minds around, it becomes complicated. At one time, this provision was to be a flat \$25 million. We figured if there was a \$25 million balance one way or the other, it probably was not worth doing a rate case. When it was put to a percentage, the number would grow as revenue grows. The Consumer Advocate testified that it would currently be about \$35.8 million. The Consumer Advocate also pointed out to me before the hearing that this also flies in the face of a policy that I set out, which is that we should do anything to avoid the interest charges on balances. The interest charges themselves add to the consumer's rates. With regard to that deletion, I would have to say that we are

neutral, but I do understand where the Consumer Advocate is coming from. I do not think it goes to the meat of the bill, though.

[Don Soderberg, continued.] With regard to the proposal to delete Section 4, subsection 9, on rate design, this was something that was brought in on a consensus of a group of people. It was not my proposal, and I do not feel secure championing it. If the people who are proposing this to the Committee want to come and testify, it might be of more use. If enacted, it is something that can be used by the Commission in certain instances, and there could probably be some very good benefits to it. But, in the hypothetical that was provided to us by Chairwoman Buckley, it also may have the ability to do some things that may not be good policy.

Chairwoman Buckley:

We will close the hearing on S.B. 256. [Meeting adjourned at 4:18 p.m.]

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblywoman Barbara Buckley, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 11, 2005

Time of Meeting: 2:00 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
SB 493	B	Lorraine Hunt, Lieutenant Governor; Chairwoman, Nevada Commission for Economic Development	Testimony on SB 493
SB 300	C	Steve Holloway, Richard Peel, Renny Ashleman, Associated General Contractors	Proposed Amendments to SB 300
SB 300	D	Mike Holmes, Holmes Construction Company, Inc	Testimony on SB 300
SB 300	E	Mike Homes, Holmes Construction Company, Inc	Proposed amendments to SB 300
SB 333	F	Joe Lamarca, Euphoria Salon and Day Spa	Proposed amendments to SB 333
SB 256	G	Rose McKinney-James, Daniel Gulino, Ridgewood Renewable Power	Proposed amendment to SB 256
SB 256	H	Rose McKinney-James, Daniel Gulino, Ridgewood Renewable Power	Amendment from the Nevada Commission on Economic Development
SB 256	I	Rose McKinney-James, Daniel Gulino, Ridgewood Renewable Power	Pamphlet on Ridgewood Renewable Power