

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

**Seventy-third Session  
May 9, 2005**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:02 p.m. on Monday, May 9, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Warren B. Hardy II, Chair  
Senator Sandra J. Tiffany, Vice Chair  
Senator William J. Raggio  
Senator Randolph J. Townsend  
Senator Dina Titus  
Senator Terry Care  
Senator John Lee

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Chris Giunchigliani, Assembly District No. 9  
Assemblyman William C. Horne, Assembly District No. 34  
Assemblyman Bob McCleary, Assembly District No. 11  
Assemblyman John Ocegüera, Assembly District No. 16  
Assemblyman David R. Parks, Assembly District No. 41

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Kim Marsh Guinasso, Committee Counsel  
Olivia Lodato, Committee Secretary  
Candice Nye, Assistant to Committee Manager  
Catherine T. Barstad, Committee Secretary

**OTHERS PRESENT:**

David Kersh, Carpenters/Contractors Cooperation Committee, Incorporated  
Jim Sala, Southwest Regional Council of Carpenters  
Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,  
Department of Business and Industry  
Myron Martin, President, Las Vegas Performing Arts Center  
Don Snyder, Chairman, Las Vegas Performing Arts Center  
Robert Forbuss, Las Vegas Performing Arts Center  
Ted J. Olivas, City of Las Vegas; Commission to Study Governmental  
Purchasing  
Robert E. Shriver, Executive Director, Division of Economic Development,  
Commission on Economic Development  
Joe L. Johnson, Toiyabe Chapter Sierra Club  
Irene E. Porter, Southern Nevada Home Builders Association  
Andy Gabriel, National Association of Industrial and Office Properties  
Gary E. Milliken, Associated General Contractors, Las Vegas Chapter  
Buffy J. Dreiling, Nevada Association of Realtors  
Kimberly McDonald, City of North Las Vegas  
Terri B. Barber, City of Henderson  
David S. Ziegler, Director of Regional Planning, Truckee Meadows Regional  
Planning Agency  
John Madole, Associated General Contractors, Nevada Chapter  
Dan Musgrove, Clark County  
Charles (Chuck) W. Fulkerson, Executive Director, Office of Executive Director  
for Veterans' Services, Office of Veterans' Services  
David Olshan, Nevada Fair Housing Center, Incorporated  
Nicole J. Lamboley, City of Reno  
Randall C. Robison, Associated Builders and Contractors  
Justine Chambers, City of Carson City; Commission to Study Governmental  
Purchasing  
Anthony Bandiero, Mechanical Contractors Association of Nevada  
Fred L. Hillerby, Sun Valley General Improvement District  
Diana Langs, General Manager, Sun Valley General Improvement District  
William B. Horn, General Manager, Incline Village General Improvement District  
John Slaughter, Washoe County

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CHAIR HARDY:

We will call to order a subcommittee with Senator Care and myself present. Some of our Legislators are presently testifying in other committees and will join this Committee shortly. We will open the hearing on Assembly Bill (A.B.) 83.

**ASSEMBLY BILL 83 (1st Reprint)**: Revises provisions governing compensation of workmen on public works. (BDR 28-759)

ASSEMBLYMAN BOB MCCLEARY (Assembly District No. 11):

Assembly Bill 83 is a simple concept. The law states that if you work on a public works project more than eight hours, the additional hours become overtime. If you work four hours on the same project that same day, but in private works, it is not considered overtime. Working 12 hours in one day should be considered 8 regular hours and 4 overtime hours.

DAVID KERSH (Carpenters/Contractors Cooperation Committee, Incorporated):

The proposed changes to A.B. 83 would clarify that overtime compensation on a public works project is based on the total combined hours accrued at the company. A worker performing work on a public works project is entitled to overtime compensation after 8 hours per day or 40 hours per week at the prevailing wage rate (Exhibit C). Current law allows a contractor to place a worker on a public works project, and then move the worker to a private project to avoid paying overtime compensation. This was not the intent of changes made in the 2003 Session. The labor commissioner or the awarding agency reviewing the certified payroll records find it difficult to determine whether or not an overtime violation has occurred. The records only indicate the hours worked on a particular project and do not reflect the total hours worked in one day. Assembly Bill 83 codifies into law the existing policy of the labor commissioner. It would prevent unscrupulous contractors from trying to find a loophole to deprive workers of the overtime compensation they have legally earned.

Additionally, A.B. 83 deals with the issue of a contractor making contributions to a fund, plan or program in the name of a workman as part of the prevailing wage packet, Exhibit C. The current language is a result of working with the labor commissioner to find the clearest way of stating that a contractor may discharge, in part, the payment of a worker's prevailing wage by making contributions to a fund, plan or program.

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CHAIR HARDY:

Let the record show we are now in full Committee.

JIM SALA (Southwest Regional Council of Carpenters):

Mr. Kersh covered A.B. 83 very well and we concur. I urge the Committee's support.

CHAIR HARDY:

An individual working for a general contractor may spend five hours working on a public works job, and another five hours on a private sector job. That would be reported as a five-hour workday for purposes of overtime. Are you saying that is a ten-hour workday, as long as the worker is on assignment from the same company for both jobs? Mr. Tanchek, is that what we are trying to correct?

MICHAEL TANCHEK (Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry):

Our interpretative opinion differs on A.B. 83. For example, an individual works six hours on a public works project and four hours on a private project. If the six hours are worked in the morning and the four hours are worked in the afternoon, State overtime would not apply to those private project hours. If the scheduling was different and the individual worked four hours on a private project in the morning and six hours in the afternoon on a public works project, the ninth and tenth hours would be on a public works project and overtime would apply.

CHAIR HARDY:

This is where it becomes problematic. If you work six hours on a public works job, what wage would be paid? Would the one and one-half times rate be paid from the private work sector or the public work sector?

MR. TANCHEK:

You have to consider the pay status the worker was in at the time the hours were actually worked. If the worker was in the public-works pay status at that time, public works would govern the prevailing wage rate. If the worker was in private-work pay status, private-work wage rate would prevail. It is difficult at times, but you have to pay attention.

CHAIR HARDY:

The other concern is with the language in section 2. The practice is that when you pay a \$16 prevailing wage rate, \$6 is the benefit package. Contractors will pay \$10 per hour actual wages and \$6 per hour for the benefit package. That is how they arrive at the \$16 prevailing wage rate. Other times, they pay the entire \$16 as a wage per hour and no benefit package at all. Does this language change prohibit that?

MR. TANCHEK:

Nevada law requires employee wages be paid by "the cash component," or by negotiable instrument. The language in A.B. 83 is meant to clarify what is paid in actual wages and benefits to the wage earner.

CHAIR HARDY:

The cash wages versus benefits cannot be manipulated when preparing reports or reporting taxes.

MR. TANCHEK:

In general, we sometimes forget there is a wages, hours and compensation statute we must follow. All employers, no matter what the situation, are required to keep those records. It has nothing to do with prevailing wage.

CHAIR HARDY:

You are definitely on target with intent and concept. However, I do want you to work on the language further to clarify these points we discussed. Is there anyone else wishing to testify in favor of or opposition to A.B. 83? We will close the hearing on A.B. 83, and open the hearing on A.B. 456.

**ASSEMBLY BILL 456 (1st Reprint)**: Revises certain provisions relating to facility for vocational training for culinary skills in southern Nevada and performing arts centers in certain larger counties. (BDR 20-1063)

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):

It is my privilege to speak in support of A.B. 456. This is a cleanup bill with two components. One is an allocation of \$3 million to the Culinary and Hospitality Academy of Las Vegas. The second part is the funding for the Las Vegas Performing Arts Center. Both are funded by a 2-percent charge on rental car fees collected within Clark County. Over the last decade, a considerable amount of effort has been made toward the development of the

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state-of-the-art Performing Arts Center for southern Nevada. The proposed Performing Arts Center will be a public and private partnership. Myron Martin, president of the Las Vegas Performing Arts Foundation, is with me today.

ASSEMBLYWOMAN CHRIS GIUNCHIGLIANI (Assembly District No. 9):

In A.B. 456, I saw an opportunity to draft this legislation for the Las Vegas Performing Arts Center (LVPAC) appropriately using revenues from the car rental tax. The LVPAC will be located in Clark County. The county commission has been supportive and adopted the language to implement the car rental tax. The city of Las Vegas has put together their amendments.

CHAIR HARDY:

In section 2, we are adding the construction of the Culinary and Hospitality Academy, with which I am not familiar.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is a program where the first \$3 million will be allocated from the car rental tax to the Culinary Training Academy in North Las Vegas to complete that project. After I picked up the language, I found that the Culinary and Hospitality Academy had already been designed. The \$3 million was prohibited from being used for construction. We are changing it for the construction purposes. In the meantime, the County advanced the \$3 million to the Culinary Training Academy to complete that portion. The County will be reimbursed. That program is now moving forward and the language cleans up the amendment. I did not anticipate construction would move so quickly.

CHAIR HARDY:

Will the dollar amount change?

ASSEMBLYWOMAN GIUNCHIGLIANI:

There are no additional funds involved. This just allows us to use the money for the construction.

CHAIR HARDY:

Is that a Culinary Union program?

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ASSEMBLYWOMAN GIUNCHIGLIANI:

It is the project conducted by the Culinary Union and the Nevada Partners, Incorporated which are located in southern Nevada. The young people are hired directly out of the program.

SENATOR TIFFANY:

There was a Culinary Arts Program at the Charleston Campus of the Community College of Southern Nevada.

ASSEMBLYWOMAN GIUNCHIGLIANI:

This is an expansion of the Nevada Partners Culinary Training Academy project, which is completely different from the Culinary Arts Program. There is a Hospitality Institute at Charleston Campus of the Community College, but there is no connection.

SENATOR TIFFANY:

There are four-year apprenticeship programs at some of the trade organizations, and they are not entitled to government money. Why would the Nevada Partners and the Culinary Training Academy have this exclusively?

ASSEMBLYWOMAN GIUNCHIGLIANI:

This is the culmination of a program sponsored by U.S. Senator Harry Reid and put in place four years ago. It was a partnership between Clark County and Nevada Partners. This is an ongoing program and does not involve State revenue.

CHAIR HARDY:

The policy decision concerning this was made back in 2003. The way it is drafted, there should not be any additional government money involved. The purpose of this language is to clean up A.B. 456.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is absolutely correct. The funds will come from the car rental tax.

MYRON MARTIN (President, Las Vegas Performing Arts Center):

I present a video to this Committee:

Our city is changing, awakening to a new day filled with possibility and promise. It is stepping forward to take its place

among the great communities of the world. This city is ready to dance. It is waiting to raise its voice in songs of beauty and praise. Soon the majestic chords of the finest orchestras will fill a great hall, stirring the hearts of young and old alike. The curtain will rise on performances, rich and powerful, drama, music and dance, from around the world. The Las Vegas Performing Arts Center is prepared to take the stage. This would be more than a magnificent centerpiece to grace the city's master plan for the new downtown. It will be the missing piece, an icon of civic hope and progress destined to bring a shared sense of community and cultural pride to every resident of the valley. The arts are the soul of all great cities. The Las Vegas Performing Arts Center will become the heart and soul of our great city for all to enjoy. This is our cultural destiny for our children and our children's children. The time is now. Our city is ready to dance.

CHAIR HARDY:

I certainly support the Las Vegas Performing Arts Center. The video was well done and effective.

MR. MARTIN:

Two of our board members are joining us via videoconference from Las Vegas. I would like to introduce Bob Forbuss, and our chairman, Don Snyder.

DON SNYDER (Chairman, Las Vegas Performing Arts Center):

The video has captured the essence of this community-changing project. We have been working on the Las Vegas Performing Arts Center for 11 years, and we need the support of this Committee. The language needs some cleanup, and that will allow us to begin the funding mechanism. The Donald W. Reynolds Foundation gifted a \$50-million pledge for this project, the largest private sector gift in the history of the State of Nevada. This is a project bringing together the public sector and the private sector in a unique joint venture. The LVPAC will offer an unparalleled form of arts education to future generations.



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CHAIR HARDY:

This project sets a significant precedent for public and private partnerships.

ROBERT FORBUSS (Las Vegas Performing Arts Center):

This is a great day for the City of Las Vegas. I echo the testimony of Don Snyder, and I appreciate the Committee's support of Assembly Bill 456. It has been a long 11 years in the planning.

SENATOR LEE:

Different groups were interested in establishing performing arts programs. They talked of developing one in Summerlin and another on the campus at North Las Vegas. Are these all different projects or are they connected to this one Las Vegas Performing Arts Center?

MR. MARTIN:

There were two or three groups all attempting to bring world-class arts to Las Vegas. The case was made for the need in the inner-city area where everyone could benefit. Three years ago, the City of Las Vegas had to make a decision on land location, where an arts center could be constructed. After careful analysis, the City determined the best location for a world-class performing arts center was in the center part of our community which is the downtown area. It is now a unified effort to finally bring this project to reality. There is only one consensus, one location.

CHAIR HARDY:

Ms. Guinasso, I have a question on section 1, subsection 7 of A.B. 456 where it speaks specifically to requirements of the *Nevada Revised Statute* (NRS) 338. Is that language redundant? Where public funds are involved, a requirement is already in the NRS 338 stating that prevailing wage is paid.

KIM MARSH GUINASSO (Committee Counsel):

We have similar language throughout various places of the NRS. It is not necessarily redundant.

TED J. OLIVAS (City of Las Vegas; Commission to Study Governmental Purchasing):

We are in support of A.B. 456. Since we will be working with some nonprofit organizations, subsection 6 and subsection 7 of section 1 clarify

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the design language and, regardless of the situation, they would have to pay prevailing wages.

SENATOR LEE:

Is maintenance for the Las Vegas Performing Arts Center a continuing cost? Once this facility is built, are the operation and maintenance funds covered in this bill?

MR. OLIVAS:

Yes.

MR. MARTIN:

Mr. Snyder mentioned the gift of \$50 million from the Donald W. Reynolds Foundation. Of those funds, \$45 million will go into an endowment that will help the Las Vegas Performing Arts Center be self-sustaining.

SENATOR LEE:

That is how I read it, but I wanted to hear it.

CHAIR HARDY:

I agree with Mr. Olivas. It is important to have the design language in the bill for this type of facility. We will close the hearing on A.B. 456 and open the hearing on A.B. 492.

**ASSEMBLY BILL 492 (1st Reprint)**: Revises provisions relating to economic development. (BDR 18-337)

ASSEMBLYWOMAN GIUNCHIGLIANI:

Assembly Bill 492 is a legislative request from David Lee, who is with a Taiwanese organization in southern Nevada. The intent is to make clear that the Commission on Economic Development would ensure a qualifying standard for persons who represent the Commission in foreign countries. The appointed individuals must be citizens of the United States or at least qualify for citizenship. A review process would be in place to reevaluate the appointees biennially.

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ROBERT E. SHRIVER (Executive Director, Division of Economic Development, Commission on Economic Development):

Trade representatives should know the country in which they work. Precluding knowledgeable people because they are not citizens would be a mistake. My suggestion is that the language states a qualified individual must either be a citizen of the United States or lawfully entitled to remain or work in the United States as outlined in my proposed amendments ([Exhibit D](#)).

SENATOR RAGGIO:

Why do we have to put this into law? Why not just let the Commission make these decisions?

ASSEMBLYWOMAN GIUNCHIGLIANI:

An individual from the Taiwanese Association of America approached me 18 months ago and requested that I draft this bill. Through regulatory process, the Commission probably could make these decisions. Mr. Lee was very intent and proud of Nevada. He felt strongly that the language be clarified through legislation.

SENATOR RAGGIO:

That is understandable, but why would we want to restrict them otherwise? You need to have the best trade representative available. The case has not been made for putting this into law. The Commission on Economic Development would be the qualified entity to determine who should represent us and what the restrictions should be.

ASSEMBLYWOMAN GIUNCHIGLIANI:

The language is not restrictive. It allows the Commission to do exactly that, with the addition of the language "either" and "or." The trade representative did embarrass the organization as well as the State. He became linked with some businesses that were not appropriate. Mr. Lee could not be here today to testify, and that is why I am here to represent him.

SENATOR RAGGIO:

We sometimes try to micromanage these kinds of situations. We do not want to overreact.

SENATOR TITUS:

The problem is in the first part, where you appoint and then review the performance every two years. Much of their business interests are to their own financial benefit as opposed to the benefit of Nevada. We need to know just who these people are and what they are doing. If they were given an official title, it could be used for reasons not beneficial to the State of Nevada.

MR. SHRIVER:

That is correct. We actually review every year. If someone is representing the Commission on Economic Development in a foreign country, in reality, they are agents of the State of Nevada. We go through an exhaustive process of recommendations to acquire top representatives.

SENATOR TITUS:

Since you are familiar with the problem, have you put something in place to keep these sorts of things from happening in the future? When we put this in statute, we should state "annual review" instead of every two years.

SENATOR CARE:

Are you saying there is no mechanism in place for removal of a Commission member?

MR. SHRIVER:

They have a contract which allows a 30-day notice from either party.

CHAIR HARDY:

We will close the hearing on A.B. 492, and open the hearing on A.B. 425.

**ASSEMBLY BILL 425 (1st Reprint)**: Establishes policies and incentives for urban design, mixed use development and environmentally friendly construction. (BDR 22-1084)

ASSEMBLYWOMAN GIUNCHIGLIANI:

Assembly Bill 425 is a smart-growth piece of legislation. This smart-growth concept is available in chapter 278.02521 of the NRS. Please refer to the handout, "Summary of State Statutes Related to Smart Growth" ([Exhibit E](#)). This concept is referred to as the "new urbanism." It promotes traditional neighborhood design or mixed-use development that is a mix of housing and

commercial development, interspersed with public and civic uses, promoting pedestrian activity to reduce vehicle trips, and the associated pollution and land dedicated to parking. This would help reduce crime and increase property values. Promoting the use of transit-oriented development is also used to reduce traffic congestion and air pollution. Transit-oriented development is located near transit centers or along transit lines permitting access to jobs, shopping and recreational activities. Developers may reduce parking and road capacity which would reduce infrastructure costs.

Who sets state controls? This is the critical question. State control over land use planning varies across the United States. In Nevada, the State controls and establishes the policies. We do not have a Nevada state board that manages land use development. Assembly Bill 425 has been crafted to establish the state policy which the local governments would then utilize. The regional planning commission will study and develop methods to provide incentives for mixed-use and transit-oriented development which will minimize negative impact on the environment.

A huge issue is not prohibiting condos and high-rise hotels, but to make sure a proper review is contained within the master plan. Initially, I proposed anything over five stories would warrant a review. This was not popular. The City of Las Vegas had me change the requirement to go with Washoe County standards, which is a 30-foot requirement. The 30 feet should be changed to 55 feet so we do not pick up everything out there, even though some local ordinances are already at 35 feet. The language in A.B. 425 refers to "urban villages" and designates the construction areas of buildings higher than 55 feet, in order to promote the utilization of transit services. The language expanding the infrastructure beyond the boundaries should be discouraged. There are many urban villages or urban centers throughout the planning, and if you restrict the infrastructure, you restrict the urban village, which is not the intent. The infrastructure should match what the urban village is doing as it is dealing with their development. We need to reference public schools and their projects of regional significance.

Most of the smart-growth bill came from neighborhood contacts and other individuals who have worked with the planning commissions. The language there will coincide with the Clark County Growth Task Force in southern Nevada, but it really affects the entire State. This is a progressive and supportive piece of legislation and has received support from a large majority

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of my constituents. Many local governments throughout the United States have adopted this type of language and moved forward to revitalize their downtown and urban village areas, [Exhibit E](#).

SENATOR TIFFANY:

I direct this to Ms. Guinasso. Is there anything in the statute that defines urban village?

Ms. GUINASSO:

The term "urban village" is not a defined term in statute.

SENATOR TIFFANY:

It is referred to in the amendment. This needs to be addressed with a definition. Also, when attempting to get involved with a mixed-use plot, I found you cannot have more than 500-square feet of living space within a 2,000-square-foot warehouse. The problem with mixed-use housing is usually at the local level. It is not a State issue. It is up to the local government and what they will allow. It is a great concept and we should consider mixed-use living, but there are many restrictions to take into consideration.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is an interesting point, and I will look into it. I did find each location had a different ordinance that defined something otherwise; we decided to stay with the definitions in the master plan amendment on mixed-use housing.

SENATOR CARE:

Where would we find an urban village? Two months ago, as part of the growth panel in Clark County, a subcommittee was created to study the location of casinos yet to be built. It was concluded nothing further could be done because those sites had already been selected. Does that sound familiar to you?

ASSEMBLYWOMAN GIUNCHIGLIANI:

As we were envisioning, urban villages were core areas. For example, the district in Henderson is somewhat of an urban village. You consider shopping, business, mixed-use living, restrictions on lofts and look at a core place. In considering this process, you have to look at the overlay depending on the construction need. Eleven core gaming areas are still zoned in

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southern Nevada even though neighborhood casino legislation goes back ten years.

SENATOR CARE:

That was legislation from the 1997 Session. The language indicated 2,500 feet of gaming overlay for casinos located near schools. Does the 2,500 feet preclude other construction?

ASSEMBLYWOMAN GIUNCHIGLIANI:

If they are already grandfathered in under the original bill, you are absolutely correct. I do not know enough about how gaming enterprise disrupts construction, but it is a worthwhile issue to cover. You should have something noted in the master plan, so potential housing buyers would be aware if a casino is to be constructed in that particular area. There will be more neighborhood casinos.

SENATOR CARE:

Are you referring to something like Red Rock?

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is correct. The master plan must disclose where you are going to have mixed-use, high-rise hotels and casinos and such. Everything has to be open to the public.

SENATOR RAGGIO:

I have not received any input on this bill. I am not sure how everyone stands concerning A.B. 425 and urban villages. You mentioned this would not be mandatory, but the language appears mandatory in some specific areas. Language like "take into account" as you stated would mean it cannot be ignored. Areas that state "you must address" an issue, means you must address that issue. That has the language of being mandatory. I am interested in the concept of master planning, but it seems we are going beyond legislative boundaries. Does this language indicate the content is mandatory?

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ASSEMBLYWOMAN GIUNCHIGLIANI:

The intent is not to dictate. It is intended to set the policy the State is asking; as local governments move into these areas, they anticipate things that may come about. I was looking at this and the issue of shadowing as a policy decision. Depending on needs, we could implement accordingly.

SENATOR RAGGIO:

When you put these statements into law, it can give somebody an issue to take to court.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I appreciate what you are saying, and it is necessary to be sensitive to that. There are two lawsuits now pending in regard to the shadowing language.

JOE L. JOHNSON (Toiyabe Chapter Sierra Club):

We are in favor of A.B. 425. This is a progressive piece of legislation.

CHAIR HARDY:

Is there anyone else wishing to testify in favor of or opposition to A.B. 425?

IRENE E. PORTER (Southern Nevada Home Builders Association):

Our primary opposition to A.B. 425 is that it takes one more step in the complete micromanagement of the development industry. It is causing housing prices to soar. We talk about affordable housing, study affordable housing and yet we continue to micromanage housing to the point there is no other option but to have it unaffordable. The urban village concept today is the same as mixed-use development. We do not feel additional legislation is necessary for mixed-use development. When you go into the master plan and start designating areas to locate an urban village, it narrows the ability to get land for these projects. We already have outrageous land prices as a result of the severe land shortage in southern Nevada. The more we narrow the field, the worse it becomes. When we talk about putting items into a master plan more suited to a zoning ordinance, you are completely micromanaging. Designating areas with construction of buildings more than 30 feet or even 55 feet high is impossible. Houses are being built more than 30 feet high today. To get into affordable housing, garages are built on the first floor, a living unit on the second and living quarters on the third floor. That house then becomes more than 30 feet high. Even changing it to 55 feet does not belong in a master plan. That belongs in a zoning



ordinance. Zoning ordinances today have a height restriction in every kind of land use. You would have to obtain a variance to go beyond the restriction.

Smart growth is something being done in the development industry. Additional legislation is unnecessary. We have Brownfields Program sites and we supported Senator Titus and her Brownfields legislation. We already have requirements, when a new home is purchased, to disclose the gaming enterprise districts. A map is provided showing these districts. That map is prepared by county government and various local governments. If you are going to do shadowing, it belongs in a local zoning ordinance. This bill is a further hindrance on the creativity of innovativeness in the building industry. It causes additional problems related to affordable housing. For these major reasons, we oppose A.B. 425.

ANDY GABRIEL (National Association of Industrial and Office Properties):  
I am here today on behalf of the National Association of Industrial and Office Properties, and we are not entirely opposed to A.B. 425. The concepts make sense on some levels. We have identified issues and problems already covered by the Committee members. We have concerns with the definition of urban village, mixed-use and the inconsistencies with the legislation as to whether or not some of these concerns could be handled with zoning ordinances. Is the intent of the changes to consider local zoning which protects existing views and access to solar resources? That would be contrary to the concept of an urban village, which would lend itself to high-rise office buildings. It is hard to both protect existing views and create an urban village with a high-rise office. Adverse impact is relative and subjective, and it does not say anything about maximizing the benefits. Where is the balance? This looks to be a first in time, first in right, protective-type ordinance which does not serve the interest of long-term growth in the community. Our concerns are with the particulars of the language, how it might be interpreted, and whether this gives the proper guidance and direction to whoever needs to act on the legislation.

GARY E. MILLIKEN (Associated General Contractors, Las Vegas Chapter):  
We have worked with Assemblywoman Giunchigliani on A.B. 425. It is micromanaging. If you make a mistake with a bill this large, it will take us two years to come back and make it better. We remain in opposition to A.B. 425.

BUFFY J. DREILING (Nevada Association of Realtors):

Most of our concerns have been addressed. Much of this bill is mandatory in nature as pointed out by Senator Raggio. The National Association of Realtors, the Nevada Association of Realtors and the local associations support smart-growth and mixed-use development, but we feel those issues are dealt with on a supply-and-demand basis. Those issues are best taken care of on a local level. We register our opposition to A.B. 425.

KIMBERLY McDONALD (City of North Las Vegas):

We did not testify when A.B. 425 came up in the Assembly. We believe in smart growth and we understand what Assemblywoman Giunchigliani is trying to achieve. There is a need to go on record with our opposition. This legislation is not necessary. The local governments are also working with the Southern Nevada Regional Planning Coalition to address some of these development issues.

TERRI B. BARBER (City of Henderson):

We registered our opposition when A.B. 425 came up in the Assembly. We wanted to work with the industry to come up with something agreeable allowing development to continue. The City of Henderson prides itself on smart growth. We remain in opposition to this bill.

SENATOR CARE:

I am hearing this is micromanaging, but on the other hand I hear repeatedly the municipalities are headed this way. Ms. McDonald or Ms. Barber, can you give us some idea of how much contained in this bill you are close to accomplishing?

MS. BARBER:

The City of Henderson addresses all of these issues when considering a development. We have always looked to provide school sites in addition to what is required by the school district. I can certainly obtain the specifics for you and identify the codes. Our mayor supports smart-growth efforts as we have demonstrated in our building codes and in our land use plans. Many of these things are already done.

SENATOR TITUS:

The local government is too often resistant to their important role in smart growth. This should be left to the local government and the State should not

be involved. The State has to pay for education, social services, air pollution, worry about the water exchanges and transportation. All of that is tied to growth. This is not the sole responsibility of State government.

MS. BARBER:

It becomes problematic when our role is mandated. When all the specifics are mandated, we lose the flexibility to work with the development community within our own parameters. The different building situations are just that, too different to mandate. The involvement has to be broad and enabling for local governments.

DAVID S. ZIEGLER (Director of Regional Planning, Truckee Meadows Regional Planning Agency):

The Regional Planning Governing Board of the Truckee Meadows Regional Planning Agency has not taken a position for or against A.B. 425. The Board's legislative committee met after the hearings in the Assembly and does not feel the need has been identified to justify this measure. We would work with the sponsor on this piece of legislation.

MS. McDONALD:

Senator Care asked what areas were not currently addressed. The only one is the solar provision. The local governments are focusing on everything else. We could use some enhancements in that area.

JOHN MADOLE (Associated General Contractors, Nevada Chapter):

We still have concerns with A.B. 425. We remain opposed to the bill.

DAN MUSGROVE (Clark County):

Clark County has imposed a two-year moratorium on nonconforming changes to master plans. We did this to assure there would not be any changes to the master plan. The neighborhood meeting for any kind of zone change application would be problematic. We have a minimum of five public meetings that would have to take place and, realistically, many more are held. We will wait to see the mock-up to decide how that issue will be addressed.

As buildings are going up in Clark County, we have identified the potential need for schools. Depending on when these buildings are constructed, they may or may not be within that 2,500-foot separation of the gaming

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enterprise district. We do not want to tie the hands of the school districts in their attempt to gain school zoning. We will have to address those issues in the future. We are looking forward to the mock-up.

SENATOR LEE:

Are you familiar with promoting the utilization of transit services.

MR. MUSGROVE:

We would consider equitable transportation facilities within areas of growth so people would leave their cars and use buses.

CHAIR HARDY:

We will close the hearing on A.B. 425. We will turn our attention to A.B. 26.

**ASSEMBLY BILL 26 (1st Reprint)**: Revises provisions relating to management and operation of veterans' homes. (BDR 37-271)

CHARLES (CHUCK) W. FULKERSON (Executive Director, Office of Executive Director for Veterans' Services, Office of Veterans' Services):

Assembly Bill 26 establishes methodology to devise a schedule of private pay rates for the Nevada State Veterans Homes for the following fiscal year. With the advice of the Nevada Veterans' Services Commission, the executive director will submit recommended private-pay rate changes for the coming fiscal year to the State Board of Examiners for approval. The approved changes would become effective the beginning of the following fiscal year ([Exhibit F](#)).

CHAIR HARDY:

The only change the Assembly made was clarifying that the recommendation of the executive director is only a recommendation; they are not bound by it.

We will close the hearing on A.B. 26 and open the hearing on A.B. 201.

**ASSEMBLY BILL 201 (1st Reprint)**: Revises provisions relating to rehabilitation of certain residential property. (BDR 22-813)

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ASSEMBLYMAN WILLIAM C. HORNE (Assembly District No. 34):

Assembly Bill 201 allows nonprofit organizations to participate in programs for the rehabilitation of abandoned residential property. Those properties will be provided to low-income families. The nonprofit organizations have to meet certain loan criteria. The expert on this matter is David Olshan from the Nevada Fair Housing Center in Las Vegas.

CHAIR HARDY:

We are trying to clarify the availability of housing to low-income families, but this looks like it might be a form of rent control. Mr. Olshan, I am not sure how this works so maybe you can educate me.

DAVID OLSHAN (Nevada Fair Housing Center, Incorporated):

One of the issues raised in the Assembly was housing affordability for low-income families. Page 3, line 10 of A.B. 201 sets forth the restriction that rent will not exceed 30 percent of the household gross income. That is the federal standard used by the U.S. Department of Housing and Urban Development (HUD). It is considered a rent control for people who acquire tax delinquent property and the loans for affordable housing. These are programs directed toward affordable housing, and we feel the rent control restriction is justified.

ASSEMBLYMAN Horne:

We do not want anyone to take advantage of these loans for these purposes and then make huge profits with higher rents. This would undermine the statutes taken directly from the HUD.

MR. OLSHAN:

Individuals have a difficult time taking advantage of these laws. They do not have the financial means to purchase tax delinquent or abandoned property. Assembly Bill 201 allows affordable housing providers who have the financial means and technical expertise to acquire the property and make it available for affordable housing.

SENATOR TIFFANY:

Is there a time certain that a nonprofit organization has to hold the property? Could they keep it for five years and then flip it?

ASSEMBLYMAN HORNE:

The time is ten years under the HUD standards. That also came up in the Assembly hearing. If that is a HUD requirement, there would be a time certain.

MR. OLSHAN:

When considering time periods, our solution was for the duration of the loan, the property would be available for affordable housing. The property could not be sold for market rate until the loan was paid.

SENATOR TIFFANY:

If two or three nonprofit organizations were bidding, how would you award the bid?

ASSEMBLYMAN HORNE:

I am not familiar with the bidding process. It is a remote possibility that there would be more than one bid at a time. However, I would anticipate a normal bidding process.

SENATOR TIFFANY:

This bidding process needs to be addressed. Now that you are encouraging the opportunity, you may get more than one bid.

MR. OLSHAN:

State law allows for nonprofit organizations to bid for the property. The local municipalities set the rules and priorities. The basic instruction from the State is that this has to be available for affordable housing. A local city government or county commission would set the specific standards for the program. If more than one organization is interested, the local municipality would make the decision.

SENATOR TIFFANY:

Would they present a request for bid?

MR. OLSHAN:

That is current policy for Clark County.

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SENATOR TITUS:

How does A.B. 201 overlap with Senator Horsford's bill on loans and rehabilitation in blighted areas? Do these bills complement each other?

ASSEMBLYMAN HORNE:

I am not familiar with Senator Horsford's bill. I will look into it and get back to the Committee.

CHAIR HARDY:

I would like our staff to compare these two bills. Mr. Olshan, would you give me examples of the nonprofit organizations? Are there nonprofit organizations that do only this?

MR. OLSHAN:

The two organizations we have been working with in regard to A.B. 201 are the Women's Development Center and Nevada HAND, Incorporated.

CHAIR HARDY:

Is this primarily what they do? Is it their mission to find affordable housing?

MR. OLSHAN:

Yes, this is what they do. Habitat for Humanity attended our most recent meeting.

MR. MUSGROVE:

We are in complete support of A.B. 201. We appreciate the language that Assemblyman Horne contributed to the amendment.

CHAIR HARDY:

Mr. Musgrove, can you address the question of two competing nonprofit organizations, and how you would handle the bidding process?

MR. MUSGROVE:

I really have no expertise in that area. I will obtain an answer to your question and bring it back to Committee.

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CHAIR HARDY:

It would be worth knowing the thought process from the county perspective.

NICOLE J. LAMBOLEY (City of Reno):

We appreciate the amendment, and we support A.B. 201.

CHAIR HARDY:

Since there is no further testimony, I will close the hearing on A.B. 201 and open the hearing on A.B. 287.

ASSEMBLY BILL 287 (1st Reprint): Requires contractors and certain subcontractors to provide bona fide health care plan for certain employees employed on certain public works. (BDR 28-723)

ASSEMBLYMAN JOHN OCEGUERA (Assembly District No. 16):

The majority of Nevadans obtain health insurance through their employers. However, being employed does not guarantee health insurance. Uninsured Nevadans come primarily from working families with low to moderate incomes. Coverage for these families is either unavailable or unaffordable. In 2003, the Kaiser Foundation reported 23 percent of adults in Nevada between ages 19 and 64 did not have health insurance. Of these, 85 percent were employed. Assembly Bill 287 is designed to address this problem. The bill provides that certain contracts for public works, for which the estimated cost is \$100,000 or more, must require contractors to provide bona fide health care coverage for their employees. The coverage must begin before the work commences and continue for the period during which the employee is performing work under the contract. An employee who has health care coverage from another source may elect to decline the coverage. Assembly Bill 287 also requires the labor commissioner adopt regulations establishing minimum standards for the required health care coverage. In addition, the bill provides for a hearing and imposition of penalties in the event a contractor fails to provide the required health care coverage. This bill will serve to expand offers of health care coverage for Nevada's uninsured workforce. I urge the support of this Committee for A.B. 287.



MR. SALA:

Assembly Bill 287 presents a unique opportunity to solve a health care problem with little or no cost to employers, workers and public bodies. This is good public policy and represents a smart way to use existing funds. Please refer to page 3 of my handout ([Exhibit G](#)). There are three charts on this single sheet. We propose the contractors who bid on a public works project be required to provide a health care policy for their employees and utilize the existing prevailing wage rate. We propose all employers bidding on public works projects be required to participate in a health plan. Significant modifications were made to A.B. 287 when it went through the Assembly. The bill applies only to contractors doing 1 percent or more of the public works projects. When the contractor takes out funds for the health care package, he does not have to pay workers' compensation unemployment insurance, or taxes and social security on those funds. This pre-tax benefit is shown in [Exhibit G](#).

CHAIR HARDY:

If we are paying indigent health care for a person making \$38 per hour, it would be my intention to call for an audit of our indigent health care system. It seems outrageous that earning \$38 an hour is considered indigent, and we are paying health care for a person earning that much. Mr. Sala and I have had this discussion before, but I did want to make my opinion heard for the record.

MR. SALA:

It does seem outrageous sometimes. The workers will not always be making \$38 an hour. They move back and forth with different contractors in the private sector of the industry. They are unemployed for periods of time. Sometimes, just qualifying for health care on private plans, depending on preexistent health conditions, is difficult.

SENATOR LEE:

If a workman declined coverage, would he then have to prove coverage from another agency? How would that be handled?

MR. SALA:

The employee would submit a declaration to the employer indicating he is declining health coverage, and attach a copy of the existing health care card or statement.

SENATOR LEE:

You indicated contractors doing 1 percent or \$50,000, whichever is greater, of public works projects are required to carry health coverage. The \$50,000 seems low considering there is always a question of labor versus material when bidding projects. Please explain how that works.

MR. SALA:

There was not extensive conversation concerning labor versus material on a particular project. The total project including labor and material would be \$50,000.

CHAIR HARDY:

I direct my question to Ms. Guinasso. Please refer to page 3, lines 3 through 5 of A.B. 287, "In the event of a conflict between the provisions of this section and provisions of a collective bargaining agreement, the provisions of the agreement prevail." Are there any instances in the NRS where a collective bargaining agreement takes precedence over the law?

MS. GUINASSO:

The language was modeled after existing law in the NRS 245.215. I can look into this further.

CHAIR HARDY:

That is not necessary at this point. I find it questionable that any private agreement would take precedence over State law.

MR. KERSH:

Assembly Bill 287 is a cost-effective way of dealing with a serious issue. This enables union and nonunion contractors to provide health care coverage for their

workers. The charts in [Exhibit G](#) make a compelling case for the cost-effectiveness of this bill. I urge your support of A.B. 287.

MR. MADOLE:

A number of the initial issues I raised with A.B. 287 while in the Assembly have been addressed. However, some fundamental problems will not go away. I have concern with the labor commissioner deciding what constitutes a bona fide health care plan. There is massive paperwork involved with public works projects. Going forward with this bill will make public works projects less attractive to the contractors. As the competition is reduced, the cost will increase. We are still opposed to A.B. 287.

MR. MILLIKEN:

This bill would affect the smaller subcontractors. It is difficult to obtain bids on public works contracts from subcontractors, and this measure would make it even more difficult. This would just drive up the price on public works projects.

RANDALL C. ROBISON (Associated Builders and Contractors):

Mr. Madole and Mr. Milliken have already outlined our concerns with A.B. 287. We remain opposed to this bill.

MR. OLIVAS:

We have tried to reduce the barriers to be competitive in the public works arena. We have made progress in that regard. Our huge concern is where industry stands on this from a bidder's perspective. We support the need for health care, but we do not want to create more barriers and give contractors additional reasons for not bidding on our public works contracts. We have to stay firm on our opposition to this bill.

JUSTINE CHAMBERS (City of Carson City; Commission to Study Governmental Purchasing):

We are also concerned with the general contractors having to carry this burden of health care. They are responsible for the subcontractors as well. I am concerned with losing bids from general contractors and from subcontractors. How would we handle day labor health insurance? That is a viable part of a construction project. We would hire someone for a few days or for a week.

CHAIR HARDY:

Earlier this Session, we passed legislation for the State Public Works Board stating that if prequalified contractors do not submit a bid, they can go off the prequalified list. Something similar is being done in Douglas County.

ANTHONY BANDIERO (Mechanical Contractors Association of Nevada):

Our concern has been handled, but I do want to get this on the record. Our trades have a large apprenticeship program. When referring to a workman, that also means a bona fide apprentice. All apprentices are part of our workforce.

MR. TANCHEK:

I also had some concerns with the labor commissioner establishing the standards. I contacted the office of the Division of Insurance and found the insurance commissioner had adopted a minimum health insurance package in lieu of this legislation. We should take a look at what that offers.

CHAIR HARDY:

Mr. Sala and I have been discussing this issue for quite some time. In the past, contractors have had the option to pay the full salary, or salary plus benefits. They usually opt to pay increased salary in lieu of benefits. This is an area where we need to do more work in the industry.

We will close the hearing on A.B. 287 and open the hearing on A.B. 475.

[ASSEMBLY BILL 475 \(1st Reprint\)](#): Makes various changes relating to general improvement districts. (BDR 25-39)

FRED L. HILLERBY (Sun Valley General Improvement District):

Assembly Bill 475 changes the notice requirements relative to what has to be published in the newspaper from three consecutive weeks to one time, 15 days in advance of the public notice event. The general improvement district (GID) is the hub of the community, and posting throughout their offices does become an expense for the GID. Section 3 of this bill increases compensation for the board members. The \$6,000 rate was applied in 1977. If you apply just the inflation rate since then, that amount should be about \$18,000. However, the concern was in comparison to school boards and others, it was too high. Many small GID are in this area. We did not oppose the Assembly amendment to reduce that figure to \$9,000. This is only for those GIDs, which provide water, sewer and garbage services. Page 3, line 25 of A.B. 475 states their

"budget is adequate," and we have a safeguard built in to indicate this cannot go into effect until after the next general election. Section 4 changes when delinquent charges may be levied. This is based on the concept that you only invoice once a month; therefore, subsequent charges could be filed. That is not the way to do it in the utility district. Section 5 of A.B. 475 indicates that if a county proposes to merge, consolidate or dissolve a GID, it provides at least water, sewage and garbage services. The GID board of trustees must agree. We have agreed to work with Washoe County to address some issues they have expressed with this bill. There will be a friendly amendment coming from Washoe County at a later time.

CHAIR HARDY:

My intent would be to include A.B. 475 in a work session early next week.

DIANA LANGS (General Manager, Sun Valley General Improvement District):  
We would like to thank you for your consideration of A.B. 475 on behalf of our board of trustees and our customers.

WILLIAM B. HORN (General Manager, Incline Village General Improvement District):

I am in full support of A.B. 475 and testify to the importance that a voice be heard on behalf of the citizens of Incline Village.

CHAIR HARDY:

Is it the complete discretion of the county commissioner to dissolve the district?

MR. HORN:

Yes, it is.

CHAIR HARDY:

Do they have guidelines associated with that?

MS. LANGS:

There are voting guidelines as to how the process would work. There are no financial or political issue guidelines.

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JOHN SLAUGHTER (Washoe County):

Our concern is if there should be a financial emergency in the GID, and I will commit that in the next few days.

CHAIR HARDY:

If there is no further business, I call this meeting of the Senate Committee on Government Affairs adjourned at 4:36 p.m.

RESPECTFULLY SUBMITTED:

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Catherine T. Barstad,  
Committee Secretary

APPROVED BY:

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Senator Warren B. Hardy II, Chair

DATE: \_\_\_\_\_