

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fourth Session
April 20, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:02 a.m., on Friday, April 20, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Bob Beers
Assemblyman David Bobzien
Assemblyman Chad Christensen
Assemblyman Jerry Claborn
Assemblyman Pete Goicoechea
Assemblyman Ruben Kihuen
Assemblyman Harvey Munford
Assemblywoman Bonnie Parnell
Assemblyman James Settlemeyer
Assemblyman Lynn Stewart
Assemblywoman RoseMary Womack



STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Scott McKenna, Committee Counsel
Cheryl Williams, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Cecilia Colling, Deputy Administrator, Rehabilitation Division, Nevada
Department of Employment, Training and Rehabilitation

Chair Kirkpatrick:

[Roll call.] [Quorum present.]

Today we have only one bill and that is Senate Bill 140.

Senate Bill 140: Revises provisions relating to the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations. (BDR 27-609)

**Cecilia Colling, Deputy Administrator, Rehabilitation Division, Nevada
Department of Employment, Training and Rehabilitation:**

Senate Bill 140 is a simple bill. The program is an exemption from the bidding requirements for state and local government.

There are four entities that provide training and employment opportunities for individuals with disabilities. These organizations are known to us as community training centers. This bill would require the community training centers to register with our division, because under the *Nevada Revised Statutes* (NRS) 334.025 we are required to assist in the implementation of the program, and report to the Legislature and other entities on the progress of the bill. We feel that this gives us the authority to make sure the individuals are legitimately working with individuals with disabilities. The bill will also allow us to report accurately to the Legislature.

Chair Kirkpatrick:

Does anyone have any questions? I have a couple of questions for you.

In Section 1, subsection 2 (a). I do not believe I have ever seen that written in that manner, "wishes to submit." What does that mean as it is used throughout the rest of the bill?

Cecilia Colling:

What we are trying to get at with this wording is, prior to someone approaching a state and local government, we would like them to register with us. If they are intending or wanting to contact an agency to try to provide goods or services to that agency, we want them to register with us first.

Chair Kirkpatrick:

It sounds like you are trying to privatize this portion of the bill. What would the benefit be by not having to go through the bidding process?

Cecilia Colling:

This is a program that is offered in many states, and is also done in the federal arena where non-profit organizations, that may or may not receive federal dollars to provide assistance to individuals with disabilities, have an exemption from the bidding process and are allowed to negotiate directly with the purchasing agents on contracts.

This provides individuals with disabilities an opportunity for employment they may not have if they were going to have to bid competitively. It is a way to assist the organizations in providing employment for their clients.

Chair Kirkpatrick:

When it says you are going to establish the market for commodities, how are you going to do that? Commodities change constantly, some on a weekly or daily basis.

Cecilia Colling:

It references market studies to see exactly what the market is showing for all commodities. Those studies would have to be shown to the purchasing agent and they would have to agree on the market value. Some negotiations could ensue. It is a negotiating process for the contract based on a market study. We do have some contracts with the State. The State offers bids and that is one of the vehicles we use to determine a market value; seeing what the other groups of the market are bidding to provide commodities or goods.

Chair Kirkpatrick:

I work for a vendor who sells commodities and knows that it is a science when you are determining the market-price on different issues. For instance, butter goes up daily so you have your buy. I worry that you would hold particular vendors hostage when it came to determining how to buy out for the whole year.

With the bidding process through the State Purchasing Division you have to do that for the entire year. You have to be able to anticipate where the market is going to be for the entire year, for it to be successful for the manufacturer as well as the State. Would someone have the experience to do that? You have people that do this as their only job; watch the market all day.

Cecilia Colling:

I can assure you that we have worked with the Purchasing Division on developing these market studies, and they have given us the benefit of their expertise and how we would approach this. We have also contracted with an organization that does this for the State of Texas. They come in and assist us with setting up a program. It is not a mandatory program, it is voluntary on behalf of the local or state entity, and they would have to feel comfortable with the supportive documentation for the price of the product. It is in place now, and we are negotiating with the State on some products. It is in its infancy stage.

Assemblyman Bobzien:

One thing that I did not see addressed in the bill, and I am wondering if it is actually the case or not. Are these organizations primarily non-profit organizations?

Cecilia Colling:

Yes, they are.

Assemblyman Bobzien:

Do you ever have a situation where you have for-profit agencies that would fall under the definition of an organization or agency whose primary purpose is the training and employment of persons?

Cecilia Colling:

It could conceivably happen. We are not aware of any at the present time, and the statutory language is rather broad. It does not prohibit for-profit agencies.

Assemblyman Beers:

You mentioned earlier this could increase employment opportunities for the disabled. How would that be accomplished, and how would oversight be maintained? These are organizations that would be outside of the government.

Cecilia Colling:

The way it is accomplished is, organizations, such as Easter Seals, Opportunity Village, Washoe Association for Retarded Citizens (WARC), have clients and

they assess the clients to determine their capabilities, and then they provide opportunities for these clients.

The supervisory ratio is higher for those entities to make sure the products and services are well provided. It is also possible to have some non-disabled individuals participating in the program. We want a higher ratio of people with disabilities than non-disabilities. This is basically how it works. Those entities are regulated by the Mental Health and Disabilities Services Division, and they do have to follow several regulatory requirements. I believe that there maybe some oversight activities that they assume. Does that clarify it for you?

Assemblyman Beers:

The oversight is still a little sketchy.

Cecilia Colling:

The oversight for the program is not our charge. We are to assist with the implementation of it and to report on the progress. The office that has oversight over the entities that I mentioned is the Mental Health Department. Exactly how they regulate it, I cannot answer for them, but I am aware they have regulations. I have discussed with them how they look at the employment status and other areas so I know they are actively involved in oversight.

Assemblywoman Pierce:

I am still unclear as to what problem we are fixing.

Cecilia Colling:

The problem is we are not necessarily aware of entities out there directly soliciting contracts with State and local governments. We are requested by the Legislature to report back on those activities. We are also attempting to implement a program that may cause concerns or fears from purchasing agents and we want to make sure that we are knowledgeable about what is occurring, and trying to intercede if there are problems with the way service delivery is provided. Right now we feel like we do not have enough information and we do not have the authority to request it.

Assemblywoman Pierce:

It seems to me the bidding process would help this whole situation a lot.

Assemblyman Goicoechea:

In existing statute you presently have the ability to do it without going to bid. I do agree with you Madam Chair, I question the term "wishes." I think "intends"

would be far better. What I am seeing is, we have more and more of these groups coming forward, and as witnessed in room 3100 this morning, they are doing a great job for people with disabilities.

I am definitely in support of it, but what I am hearing is, as we see a few more of these groups come forward, you would like to have the agency have the oversight of those groups to determine which ones would have the ability to contract without going through the bid process.

We are creating an agency that is going to be able to oversee the groups, whether it is High Sierra or whoever it is that is presently training the disabled, and ensure when these groups are, in fact, going through this process without going to the competitive bid process, that they are listed and oversight of the program is provided.

Cecilia Colling:

That is our intent.

Chair Kirkpatrick:

My concern is currently in the public bidding process. Anybody can bid on anything. It is a very accessible process and I would think you would have all the necessary information. There is quite a bit of information that you have to fill out whether you are a minority group, or a special needs group, but it is very explicit, so I do not understand how you cannot get the information because it is all public knowledge. For instance, I could go on the website for the State, and get the bidding price that was won for the last two years by the school district. I could get all the information I wanted to know about any particular company. It is a great tool for groups like the Opportunity Village which runs the shredding operation for the hotels in Las Vegas. It is a huge business, they do a great job, and they employ a lot of people. You also have the Goodwill operation that runs all the stores; they also employ a lot of people, but they get a little bit of bidding preference when they go through that process.

Cecilia Colling:

That is correct because they are operating under the statute. I know that we have assisted Opportunity Village and WARC with shredding contracts with State governmental entities. It is more difficult for them to compete because of the supervisory ratios. They have to provide some transportation and some of the other bidders may not have to.

The bill is beneficial to individuals with disabilities because they have the opportunity to negotiate directly and do not have to spend their resources on bids. It is also a benefit to the local and state entities if they get a good

product. That is what we are attempting to do, to try to get a handle on what is going on out there, so the program has a good reputation and people feel comfortable entering into these kinds of contracts.

Chair Kirkpatrick:

I would be curious to see that, because I am telling you that I think they already have a pretty good opportunity out there to bid. We have well over 10,000 501(c)(3)s in the State and I would not want a bunch of people to abuse it.

It is pretty transparent the way the process works. I would like to see what you think you would be losing or gaining.

Assemblyman Goicoechea:

The way I read the bill, under NRS 332.117, they presently do not have to bid. These community-based training centers that fit this description do not have to go to bid at present.

What this program would do is provide oversight over those agencies and those 501(c)(3)s, to make sure they meet the criteria and are not skating around the edge to avoid the bid process for services or products to state and local government. The oversight people would be in charge of compiling a list of people that intend to bid, rather than wish to bid, and make sure they comply. I do not see the language in the bill that outlines the criteria they are going to need to avoid the bidding process. The way I read the existing language in statute, they presently have the ability to provide the service or the product without going to bid.

Cecilia Colling:

That is true.

Assemblywoman Pierce:

At this point, local governments are authorized to run this program while at the same time they are coming to us asking for more autonomy. This is basically the State stepping in and saying, "No, we are going to regulate this, and we are going to oversee this." I am wondering if this is a program that has gone awry.

Cecilia Colling:

Let me start by saying I think the purchasing agents would feel more comfortable if somebody looked at it who understood the disability service industry, to ensure these entities are legitimately falling within the intent of this legislation.

You could have someone come in and claim they have individuals with disabilities working for them, but in fact, they have only one person out of 50. They would be avoiding the bidding process. I do not think it would be fair to other private entities that were being honest about it.

The purchasing agents are hesitant to enter into the program because they do not understand how they would verify it. They would be happy to have someone who understood the program, knew what the intent was, and how these organizations are supposed to function. They could verify that this was a legitimate entity before they started becoming involved in these contracts.

Assemblywoman Pierce:

Do you have the manpower in your office now? Is there a fiscal note to this? This is a huge job you are taking on.

Cecilia Colling:

At this point in time, we are only aware of about 15 entities that are involved in this program. We do have some regulations to try to explain what we intend. This bill gives us some statutory support.

Chair Kirkpatrick:

What sort of certifications would your purchasing agents have to verify? How does that work?

Cecilia Colling:

Prior to listing them on our registry we would make sure they were legitimate. Once they were determined to be legitimate and put on the list, their purchasing agents could contact us or use our website.

Chair Kirkpatrick:

If you are a minority when you bid, you have to have a certificate. If you are a woman when you bid, you need a certification and you have to provide all those documents. Do the persons with disabilities and persons in rehabilitation have something similar?

Cecilia Colling:

We are not charged with certifying organizations. The entities that I mentioned are involved with cognitive disabilities. Mental health disabilities are regulated and certified by another state agency. We would verify with that agency that they were certified. There is one entity that is not certified with them and that is the Blind Center of Southern Nevada, but we are aware of what they do and use them in our vocational rehab program. We know that they are a legitimate agency. We also know their ratios and the types of clients that they have.

Assemblyman Goicoechea:

I have mixed feelings on this bill. I see on one level we are establishing another level of bureaucracy; I believe in the programs and what they can do. I can also look on the other side of it and see that once they are listed on the website, it might facilitate it for local governments from other areas to access the products or commodities these groups bring forward. Do we need that level? Maybe the entity that does the certifying should also compile the list.

Chair Kirkpatrick:

Are there any other questions? I would like to meet with you outside Committee because I do have some real questions. I have been to all of the classes on the procurement process, and we have some very high standards and offer some real opportunities. You have not convinced me that this bill is needed.

Is there anyone else that would like to speak in support of S.B. 140? [There were none.] Is there anyone who is neutral and would like to speak? [There were none.] Is there anyone who is in opposition and would like to speak? [There were none.] I am closing the public hearing on S.B. 140.

Is there any public comment? Is there anything from the Committee?

Meeting adjourned [at 9:29 a.m.]

RESPECTFULLY SUBMITTED:

Cheryl Williams
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 20, 2007

Time of Meeting: 9:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster