

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

**Seventy-Fourth Session  
April 24, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:01 a.m., on Tuesday, April 24, 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/](http://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](mailto: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 D. Claborn  
Assemblyman Pete Goicoechea  
Assemblyman Ruben Kihuen  
Assemblyman Harvey J. Munford  
Assemblywoman Bonnie Parnell  
Assemblyman James Settlemeyer  
Assemblyman Lynn D. 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:**

John Sande III, Attorney at Law, Jones Vargas  
Krys Bart, Executive Director, Reno-Tahoe Airport Authority  
Richard Daly, Business Manager, Laborers, Hod Carriers, Cement Workers  
and Miners, Local Union 169  
Steve Holloway, Executive Vice President, Associated General  
Contractors, Las Vegas Chapter  
James Sala, representing the Nevada Carpenters Union  
Danny Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO  
Patrick Sanderson, Lobbyist, Laborers' International Union Local 872  
Mary Walker, representing Carson City  
Richard Staub, Attorney at Law, representing Carson City  
Ken Furlong, Sheriff, Sheriff's Office, Carson City, Nevada  
Madelyn Shipman, representing Washoe County Legal Services  
Paul Elcano, Jr., Executive Director, Washoe Legal Services

**Chair Kirkpatrick:**

[Roll call.] [Quorum present.]

The first bill we have today is Senate Bill 117 (1st Reprint).

**Senate Bill 117 (1st Reprint): Exempts certain contracts entered into by the Board of Trustees of the Reno-Tahoe Airport Authority from certain requirements. (BDR S-809)**

**John Sande III, Attorney at Law, Jones Vargas:**

This bill is pretty straight forward, and we appreciate you giving us time this morning.

**Krys Bart, Executive Director, Reno-Tahoe Airport Authority:**

I am sure all of you have been in the Reno-Tahoe International Airport and you have seen what the tickets lobby looks like with those big CTX machines.

We have been trying to do a project to put those machines behind the check-in counters, which is a very critical and security sensitive project. In this effort to upgrade and create a whole new baggage screening system, we have run up against two road blocks. The first being that the project plans are considered "sensitive security" by the Transportation Security Administration (TSA), which as you know, is the Department of Homeland Security. At the same time, the size of the project, which is in the neighborhood of \$30 million, is subject to the state Local Government Purchasing Act by virtue of our enabling legislation.

While we recognize the goal of the Local Government Purchasing Act is to ensure we get the best price for the project, the goal of the security sensitive information designation is to limit the number of people with information regarding the methodology and design of the system. It is a sensitive security design; it is currently considered by the Homeland Security Department as sensitive security not subject to public purview. The Federal Security Director at the airport is very interested in having this project finished by selecting the contractor and moving it forward, because in addition to the sensitive security status, the TSA has given \$7.5 million cash to the project, which is part of the total \$30 million project.

As part of this project there would also be security clearances that would be required by anyone that would be working on the project. Security clearances are very detailed and much more in depth than in the past. There are very few contractors in our region that could meet that requirement, meet the timeline, and deliver the project.

Having said all that, this bill would enable us, for what is probably a one-time opportunity, to be relieved of the requirements of the Local Government Purchasing Act.

You might ask, "What about McCarran International Airport?" McCarran did the same project some time ago. The rules have since changed and we are subject to much more stringent security rules than McCarran was at the time they did their project, which is why we are here this morning asking for your consideration on S.B. 117 (R1).

**Chair Kirkpatrick:**

Do we have any questions?

**Assemblyman Claborn:**

Looks like S.B. 117 (R1) takes away all existing rules and regulations with regard to competitive bidding, and the prevailing wage rate. This bill looks like it is some kind of a ploy to get around all of the laws which govern us today.

You are asking us to give up our prevailing rate, you are asking us to give up our performance bonds, and you are asking us to give up the Government Purchasing Act. Is this what this bill is asking?

**Krys Bart:**

No, I want to clarify we are not proposing to do away with the prevailing wage rate. First, because federal funds are involved with this project, we will pay prevailing wage. Second, from our perspective, the only thing we are looking at with respect to the Purchasing Act is the ability to award this contract without the competitive bid process, because we cannot let the plans leave the premises nor can we let anyone look at the plans to even bid on them who has not been fully vetted through this very strenuous security check. It is a very unusual project. We do not anticipate another project like this, but it is without a doubt that we are proposing to pay prevailing wages; there was never a question about that.

**Assemblyman Claborn:**

We fought many years to keep competitive bidding intact and it worries me that we are superseding that. Personally, I cannot see what would be the object of doing that. There are a lot of public works jobs in Las Vegas, and what has happened is the owners have strung these jobs out so long and so far that they never finish these jobs on time. Do you ever charge any penalties that are prescribed in the bidding process itself? Never! Competitive bidding is making sure when they bid these jobs out, that they complete them, and complete them on time, or make them pay the penalty.

**Krys Bart:**

All of our major contracts, whether or not they are competitively bid as most of them are, as this project would be as well, do require liquidated damages. There is time certain, and if the contractor does not complete within the time certain they are subject to a daily penalty as part of the liquidated damages. We do enforce that; we have collected liquidated damages on previous projects, and this project would be no different.

**Assemblywoman Parnell:**

What I would like to make clear is that you are only talking about the bidding having to do with construction that the Transportation Security Administration (TSA) has deemed sensitive. Is that correct?

**Krys Bart:**

Yes, that is correct.

**Assemblyman Atkinson:**

Is this going to exempt the airport authority from the bidding process altogether or is it just for this one job?

**Krys Bart:**

No, it is just for this project. This project is the only project to date I am aware of that is considered security sensitive.

**Assemblywoman Pierce:**

Who gives the security clearances to the contractors?

**Krys Bart:**

The Department of Homeland Security Transportation Security Administration provides all the security clearances to people that have access to secure areas of the airport, security sensitive information, or projects. These clearances require very detailed background checks, as well as fingerprint analysis through the FBI. The background checks involve a lot of investigation into previous employment—there is a cost associated with this as well as a length of time. No one could look at the plan that does not have this clearance as determined by the Transportation Security Administration of the Department of Homeland Security.

**Assemblywoman Pierce:**

You said that you "think" that only a couple of firms in Northern Nevada would qualify for this. Do you have any actual evidence to that?

**Krys Bart:**

We maintain the list of those firms that have worked at the airport that have clearance, and of those firms there are one or two that are Nevada firms that have both the capability to do a project of this size and detail, and the clearance.

**Assemblywoman Pierce:**

Even though there are two firms, they are not going to bid, and you are just going to pick one. Is that what the bill would do?

**Krys Bart:**

Yes, that is what the bill would do. It is my assumption that there are only one or two cleared firms. There certainly could not be more than two. There may not even be two because we have not had a project of this difficulty and size since the Transportation Security Administration has been created. Since the creation, which is post September 11, the requirements and the background checks have become increasingly difficult and onerous.

I cannot tell you exactly how many we have; because we, unlike McCarran, have not had the substantive kind of projects that McCarran has had that would have required this.

**Assemblywoman Pierce:**

The truth is that we are told repeatedly by our current leaders in Washington that there is no end to the war on terror. The idea that this is a one shot project and no one is going to go back and say, "Oh, for security reasons we have to get out of this or that" does not jive with what we are being told by the people who lead us.

**Assemblyman Beers:**

We have seen projects seemingly go on without end. How much time could potentially be saved if this were allowed, and also what criteria would you use to make the choice as to who would do the project?

**Krys Bart:**

In evaluating our plans, we could save between 12 and 18 months doing this. We have no control over having anyone else get backgrounds. We have no control or ability to influence how or when the TSA or the FBI completes a background check. This becomes a problem and a proponent under the normal situation could not come in and look at the plans unless they were clearly vetted.

With respect to cost savings, we have a finite amount of money as well. What we are experiencing are significant increases in the cost of steel and there is a lot of steel in this project. There is a threat of a moratorium on steel production, so we are up against a wall with a \$30 million project. That is all we have to complete the project at today's costs. We have a security sensitive project that requires this vetting, and there is no control over the time or the ability to get people cleared. It is increasingly difficult to get people cleared through that vetting process.

With respect to how we would choose this contractor, we would have to look at those companies we work with that are vetted and have the expertise on staff to do a project of this magnitude. Having done that, we would have to see if those companies have the majority of their team currently cleared for security. Then they could actually come in and look at the project and the plans, and, of course, we have in-house engineers that are going to verify the cost estimates.

It is not as if there is a runaway opportunity here; that simply will not happen.

**Assemblyman Beers:**

You mentioned that there are at least two companies in the State of Nevada that are capable of doing this job.

**Krys Bart:**

There are two companies that I know of that we have worked with that are capable. What I do not know is if those companies at this time are fully vetted for a security background clearance. That is due to the fact that we have not had significant projects of this size since the TSA has developed these criteria.

**Assemblyman Beers:**

So these companies have worked on projects of this size before?

**Krys Bart:**

Yes.

**Assemblyman Goicoechea:**

You are going to have a bidders list that will be complied by TSA. The TSA would approve a bidders list, whether it be one bidder, two bidders, three bidders, these would be the ones that have the security clearance.

**Krys Bart:**

The TSA would work hand in hand with us in selecting whoever gets the job based on the things we have already discussed.

**Assemblyman Goicoechea:**

Let us say that you have at least two contractors that were interested in the project. If you had two contractors, and you did submit the plans to them, would it still be a competitive bid?

**Krys Bart:**

If that were the case, it would be, but I want to clarify we would not submit the plans. Nobody would be able to look at the plans if they were not vetted and approved by the TSA. The plans do not leave the TSA security control.

**Assemblyman Goicoechea:**

I understand that, but again, I am hoping we have a bidders list with at least two contractors on it. But in the case you only had one that had the clearance, I could understand that, but if you did have two, then there would, at that point, have to be at least some type of process to bid. I realize that the plans would not leave the building, but they would have to come forward with at least a bid of some type.

**Krys:**

Yes, that is correct.

**Assemblyman Atkinson:**

I am trying to figure out what happens if this is done for this project, and at this point you are exempt. There is nothing in this bill about putting the language back into NRS 332. Are you then permanently exempt if we approve this? Maybe Legal could answer this.

**Scott McKenna, Committee Counsel:**

According to the provisions of the proposed new Section 9.3, I cannot speak to the parameters of the duration of the TSA project. If what we are talking about is a project acquisition works or improvement that TSA has said constitutes sensitive security information it would be subject to this exemption.

**Assemblyman Goicoechea:**

[Spoke off microphone.]

**Scott McKenna:**

Yes, absolutely.

**Assemblyman Atkinson:**

[Spoke off microphone.]

**Scott McKenna:**

As I read the provisions of the proposed section, there is no time limitation on this language, but I cannot speak to what period of time the TSA might be classifying things as sensitive or not under the particular Code of Federal Regulations (CFR) provision. That would be what would limit the time here, if it was limited at all.

**Assemblyman Atkinson:**

It just does not seem like it is.

**Assemblyman Bobzien:**

I would echo some of the concerns that have already been expressed. I am certainly appreciative that you are trying to come into compliance with the federal process that is different than it was before. But, when I read "the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, acquisition, works or improvements including without limitation," this is a very broad cast of the net.



I am wondering if that goes beyond what you are trying to get here. I believe Mr. Goicoechea tried to establish what you are looking for, and that is the security issue with the bidders, making sure that the contractors are qualified and have the security clearances to do the job. How wide is the net? Are there other provisions that we are rolling into this bill unintentionally?

I am a little concerned because I did hear you mention construction costs and certainly I can appreciate that difficulty. It does make me hesitant as to what else we are including in this broad casting of the net. I do not know if you thought about that, or if there are other things that we are unintentionally bringing in. Perhaps the language could be tightened a little more to be more specific to just this particular situation at hand.

**Krys Bart:**

This bill states that it only applies to projects that are considered sensitive security by the TSA, irrespective of cost. It is a fact we are all facing, but in this case we have one project we are most concerned with, that is the baggage project, and it is considered a sensitive security project.

This is the project we are trying to get approved with this bill. We do not have any intention of skirting any other legal requirements. In fact, Mr. Sande pointed out to me in Section 9.3, subsection 2, "a contract entered into by the board pursuant to this Section must contain a provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work performed pursuant to the contract." That is the section that does relate to things like prevailing wage, so I wanted to clarify that it is specifically stated in this bill that we are not looking for any further exemptions from any of the other normal processes that we do.

This is a very unique situation and I cannot share with you how difficult it is for an airport in today's environment where we have to have a balance between security issues and getting a project done. The big issue in the news is more and more concern about employees at airports, and people who have access to secure areas. In the future, the TSA could be coming down with additional requirements regarding all of us who have access to secure areas.

I applaud you for asking all these questions. I want to assure you that there is only one project I am aware of, and it is this project, the baggage project. It is the only project. What happens in the future I do not know, but we have no plans for future security projects, unless the TSA themselves want to build them, which is not likely.

**Assemblyman Bobzien:**

I do appreciate that you are intending to constrain the scope to just these particular projects. Are there other aspects of the Government Purchasing Act that are still a part of this net, that may achieve your goals of getting the project done according to federal security stipulations?

**Scott McKenna:**

Mr. Bobzien, my answer to that would be that I would hesitate to say, off the top of my head, that I could speak to all of the relevant provisions of Chapter 332 on local government purchasing. One of the things I would be concerned about, given what we are talking about, is sensitive security information. Theoretically, if you would combine the provisions of Chapter 332 on local governmental purchasing with Chapter 239 on public records, anything that gets into possession of governmental entities once you put something into the bidding and advertising requirements of Chapter 332, I am not sure at this point things could be confidential. That would be my concern.

**Chair Kirkpatrick:**

I do not understand why we had to have the amendment because the first bill described it in a more condensed way—the way Homeland Security works. My understanding is that the federal government trumps state government.

In my opinion, all the blueprints would come under that because they would all be security issues, even knowing where people had to exit the airport. All of those blueprints would be part of the Homeland Security Program. I did verify some of that with the TSA. It becomes a big problem now because it covers the entire airport. Chapter 332 allows you to get out of the contracts that include services and supplies, but that opens it up to the food that is distributed. If the airport had staff that is working with another company that contracted out all their employees, how would we narrow that down? Does Chapter 332 only affect the Reno-Tahoe Airport Authority because of the way the board is set? This will allow those who sit on that board to be exempt from the provisions as well. You could give a contract to one of the members.

My big thing is transparency. We need to always be sure that the public is getting the very best service.

I understand the time frame, and the costs of materials going up before the bids even go out, but at the same time I would not want us to affect our bond rating because we do not have the bids in place at this time, and that falls under Chapter 339, which comes full circle with Chapter 332.

**Krys Bart:**

With respect to any other part of the airport, we consistently bid out everything else that gets done. We do not consider the food concessions security sensitive. The TSA has not indicated that it is considered security sensitive. In the case of something like Quizno's, the airport does not handle that. It is a private sector contractor under concession agreement that actually does concession construction. The concession agreement was put in place with a full bid process pursuant to the Purchasing Act requirements. Whether it is construction, or whether it is concessions, we follow the requirements of the *Nevada Revised Statutes* as it relates to the Purchasing Act. I want to assure you, this is very different. This is a baggage project where processes and technologies are highly integrated into a system that could make the difference between having something get through the baggage claims or not.

**Chair Kirkpatrick:**

Let me stop you right there, because I will address it by line in the reprint of the bill. Line 5 reads, "Except as otherwise provided in subsection 2," and then if you go down to line 9 it reads, "Without limitation, the provisions of Chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by the Board. . . ." The original bill was very specific—lines 15 through 20 read, ". . . the designing and constructing of a secure area to house security operations, need not conform to the requirements of the Local Government Purchasing Act."

I am okay with the first bill, but the amendment references NRS Chapters 338, 339 and 332 and they include goods and services. Services could be anything—your laundry that comes in and out, your paper towel holders, or the food—and currently the food is part of a bidding process.

I am not here to debate with you, and I am not an attorney. I am just reading it the way I see it.

**John Sande, III:**

It is limited to a project acquisition works or improvement. The bill was amended supposedly to tighten it up on the Senate side. Maybe we will have the bill drafters look at it again. The intent was for it to apply to the one baggage project that we have. It was for the construction of this project and nothing else.

We would be more than happy to work with your bill drafters if we need to do something to clarify the bill more.

**Krys Bart:**

To the issue of the bond rating, the Reno-Tahoe Airport Authority was created as an act of the Nevada Legislature, and has a bond rating that is determined on the basis of the Airport Authority alone. The bond rating is not backed by another entity, it is not backed by the County, and it is not backed by the State. We currently enjoy an "A" bond rating, which is a very high bond rating for an Airport Authority of this size. This is due to the performance of the Airport Authority, so I am not quite certain what your question was with respect to the bond rating.

**Chair Kirkpatrick:**

My question would be on line 10 of the reprinted bill. It reads, "without limitation, the provisions of Chapter 332, 338 and 339 of NRS." If I am not mistaken, I believe that Chapter 339 has to do with the bond rating that the airport gets.

**Krys Bart:**

I am not aware that it does. Our legal counsel will look into that, it was certainly not by intent. In fact, the bond rating is determined not by the State but by outside bond rating agencies. The intent of that language was to tighten the bill and make it clear that this is about one project only. If, in fact, this does not do that, then I will ask Mr. Sande to further address that with our legal counsel.

**Chair Kirkpatrick:**

My other question would be on the provisions of Chapter 332, which address the Reno-Tahoe Airport, where it specifically says that board members would not be bidding on the process. I think without limitation and exempting it for this project, we would be setting a precedent and not have the transparency that we are looking for.

**Krys Bart,**

Board members today are not able to bid on a project or be hired by the Airport Authority. Two sessions ago we had a bill that prevented them from doing so within a year after completing their term as a board member. Beyond that, having been a board member carries no weight, but we are not proposing to change that.

**Chair Kirkpatrick:**

However, if you exempt the provisions of Chapter 332, that exemption washes away most of what you just said, is that correct?

**John Sande, III:**

The airport authority was created by a separate statute in 1977. I believe the language that prohibits board members from bidding on airport projects is in the statute and would still apply, but we will check and make sure it is accurate. I believe that taking out the reference to Chapter 332 will not impact that requirement of the Statutes of Nevada.

**Chair Kirkpatrick:**

I would like to verify the statute regarding the Reno-Tahoe Airport Authority—it is in Chapter 244A. It is under the County and has its own provision tying this altogether.

**Assemblyman Claborn:**

How is money involved in this project, both state and federal money?

**Krys Bart:**

There is no state money involved at all. There is \$7.5 million of federal money through the Transportation Security Administration. This is a \$30 million project, and the difference will be made up by passenger facility charges from a fee assessed on airline tickets. The Airport Authority does not take any money from the State for operation or capital projects.

**Assemblyman Claborn:**

My opinion is that it would set a precedent.

**Chair Kirkpatrick:**

Is there anyone that would like to speak in favor of S.B. 117 (R1)? [There were none.] Is there anyone that is neutral on S.B. 177 (R1)? [There were none.] Is there anyone that is opposed to S.B. 177 (R1)?

**Richard Daly, Business Manager, Laborers, Hod Carriers, Cement Workers and Miners, Local Union 169:**

I am opposed to the bill as it is currently exists. I believe they are intending this bill for one baggage project. The problem I have, is if this is their intent, then make it clear that it does only apply to the baggage project or put some type of sunset on the bill. When I read the bill and looked through some of the various things that the TSA deems as security sensitive information, it could be expanded by them at any time, and to give them that broad scope under the Code of Federal Regulations (CFR) is going too far. If there is some type of amendment that limits it to this one baggage project, or has a sunset date, we could see what it might or might not encompass.

As the bill is now, I cannot support it.

**Steve Holloway, Executive Vice President, Associated General Contractors, Las Vegas Chapter:**

As many of you on this Committee have already perceived, this bill as written could be considered a dangerous precedent. It is also unnecessary and redundant.

I would point out; if federal funds are involved then federal law may prevail. (Several procurement specialists have advised me that the federal emergency procedures would also apply if the Airport Authority wanted them to.) *Nevada Revised Statutes* (NRS) 332.112, subsection 2, and NRS 338.111, subsection 2, all provide for procedures in the case of any emergency or exceptions to the those Chapters of the NRS in the event of emergencies. More importantly, the problem here seemed to be in providing a security clearance to the contractors who bid on this project, and making sure that the contractors who bid on the project have a security clearance before they bid on the project so that it is alright to show them this so-called confidential information.

There are already procedures in Chapter 338 for this. The bidders could pre-qualify and I point that out. They do not need to become exempt from Chapter 338 to accomplish what they want. There is no reason for this bill if that is the reasoning for the bill.

**James Sala, representing the Nevada Carpenters Union:**

I agree with Mr. Holloway and Mr. Daley on many of the points that they made as well as the questions that the Committee asked. I would want to make a couple of quick additional points; we are nervous about the broad scope of this bill and the precedent it could set.

Mr. Goicoechea had mentioned the bidding process and pre-qualifying these contractors for security clearance. In the State of Nevada there are several contractors and subcontractors who work at McCarran, as well as contractors who work at the test site who already have security clearance and would be able to do this project. Some of those contractors reside in northern Nevada as well as work in southern Nevada. There seems to be some perception that they just need to pre-qualify the general contractor so they could look at the plans. If that general contractor is going to bid, he is going to need a drywall contractor, a steel subcontractor, an electrical contractor, et cetera, and they are all going to have to be pre-qualified and security cleared as well. The contractors are all going to need to know that in order to be able to work on the project. This then takes it down to another level, which is being done at a lot of secure areas, in which the workers still have to be cleared to go into those areas.

I am not sure that this bill accomplishes what it set out to do.

**Assemblywoman Parnell:**

If you take it out of this airport situation, this is a federal issue. This has got to be happening across the country. Are you familiar with how other states are dealing with TSA issues or security issues in relation to construction projects?

**Steve Holloway:**

We have not done a complete survey, but I did make a few phone calls to other Chapters of Associated General Contractors (AGC) in other states. I do not know of any states that have exempted the competitive bidding statutes on behalf of TSA. If TSA wants to do a project and the majority of the funding is federal funding, they can do it any way they want to. They have the authority to do so now.

**Assemblyman Settlemeyer:**

Would the bill gain your support if it had a sunset date? Would you then be supportive of the bill?

**Steve Holloway:**

A sunset date would really help, but I think it is still too broad. It needs to be restricted to a specific project. Just about anything under the sun could probably qualify as a security problem under TSA.

**Assemblyman Settlemeyer:**

Since the original language seemed to be much more narrow in scope, do you know who had a part in "un-narrowing" it?

**Steve Holloway:**

No, we had no part in that, and I do not know who did it.

**Assemblyman Goicoechea:**

We have already established that it is a Davis-Bacon project because it is all federal dollars involved. The real conflict comes as you try to meld the Chapters of 332, 338, and 339 into this security clearance package.

We all understand the intent and where the sponsors are headed and we are trying to craft some language that will make this work. Clearly there are projects, and I think you agree, that we need to have at least a bidder's preference list of contractors that have the security clearance and are available to either do the project, or bid the project depending on the number of people that we have in place. Do you agree with that assessment, that we do need some security clearance?

**Steve Holloway:**

I do agree that we probably need security clearance from the contractors on these projects, but I also think under the existing law and regulations, they could pre-qualify those contractors to bid on the projects before they actually bid on them. So, they could pre-select which contractors could bid on the project.

**Assemblyman Goicoechea:**

I agree we could probably get there, because we are government and we have to expose exactly what was bid, and what those plans look like. I can see where the sponsors of the bill are headed. There are a number of Chapters that would have an impact as we look at CFR 49. Again, those are federal codes and we all know what they look like.

You did not oppose the bill on the Senate side? You were not involved in this amendment?

**Steve Holloway:**

Yes, we did oppose the bill on the Senate side or signed in as opposing the bill. We were not a part of this amendment. We would not oppose the bill if it were more narrowly written and specifically specified this one project.

**Assemblyman Goicoechea:**

I would hope that we end up with more than one contractor. That is what really scares me, because if you have only one contractor in the state that has the clearance, it then becomes a cost-plus job and not a true bid.

**Steve Holloway:**

We have hundreds of contractors in southern Nevada and throughout Nevada that are qualified and have security clearances to work on the test site, and have been working on that test site for 20 or 30 years with those security clearances.

We have contractors who work on the McCarran Airport who have security clearances now. They have not had to circumvent the competitive bid procedures to do that. I do not think that Reno-Tahoe Airport Authority needs to circumvent the competitive bid procedures that are in statute now to require security clearances by those contractors who are bidding on their projects or to pre-qualify them.

What I had said first was kind of a compromise, which was we would still not object if this bill was much narrower in concept than it is now. It is in our opinion a very dangerous precedent.



**Assemblyman Beers:**

Are you aware whether or not the security clearances as they currently stand would be accepted by the TSA or the other agencies that are involved in checking clearances at the Reno-Tahoe Airport for this project?

**Steve Holloway:**

No, I am not aware of that, but I do know that they were able to pre-qualify, or limit the number of contractors who bid on some of those projects by having them get the security clearances before they released the bids.

**Chair Kirkpatrick:**

Does anyone have any other questions?

**Richard Daley:**

I think a word date would be good enough. You could put a sunset date after that. The project would be excluded for as long as it took.

We have seen and read and heard a lot of the problems and potential abuse that has occurred with no-bid contracts. This is no-bid contracting and I do not think it is in the best interest of the people of this state.

**Danny Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO:**

We are concerned with the precedent you are setting; this will be a never ending process because everyone who has a better idea for a mousetrap will be before this Committee asking for an exemption. We have long fought this kind of thing because of that. I can tell you that our contractors are working at Area 51, the Tonopah test range, they build all the jails, and they are currently building at McCarran International Airport. I think this can be done without circumventing the law.

**Patrick Sanderson, Lobbyist, Laborers' International Union Local 872:**

Every time a construction job comes up, the company has to get a security clearance, and it is done by the contractor, under the guidance of the government, on how strict the clearances have to be. It is done everyday throughout the United States without circumventing the public bid process. It is all done with open bidding. We need this to be a one-job only bill. We have workers at the test site that are working every day, and when the contractors call up and ask the union for new hands, we send them out and they get qualified.

At the Reno-Tahoe Airport you do not know what jobs are available unless they are posted somewhere. So, even if we give them permission, and just for this one baggage job, it has to be posted somewhere prior.

We do have the contractors, and we do have workers in the State of Nevada to do this job, and we do not need to close it down any tighter.

**Chair Kirkpatrick:**

Are there any questions? [There were none.] Is there anyone that would like to testify against S.B. 117 (R1)? [There were none.]

In Chapter 474, *Statutes of Nevada 1977*, Section 9.5, subsection 1, it talks about the revenue bonds issued by the Authority and that Chapters 332, 338, and 339 of *Nevada Revised Statutes* do not apply. Could we look at how this all ties in together before we talk about placing a sunset date? In Section 2 of this bill it says that Section 9 subsection 1 of the Reno-Tahoe Airport Authority Act is amended to read, "Except as otherwise provided in subsection 2 and sections 9.3 and 9.5 of this act. . ." If you take away the new Section 9.3 and take away existing Section 9.5, which talks about their bonds and the regulations process, what do you have left?

My question is, what is the point of having any purchasing process? Can we figure out if there are any other states that do something similar to this by taking all those sections out when it comes to Homeland Security issues?

**John Sande, III:**

We are fine with applying this to this one baggage project. It is very important for the airport to get this done as soon as possible. We are very concerned about the steel cost issue. We can work with the opponents and the Committee Counsel to draft up something that would apply to this one baggage project so that we can move forward with the bill.

**Krys Bart:**

I would like to concur that we would be happy to apply it to this project. The intent is only for this project.

We did look at the emergency provisions of the existing legislation and we did not believe that the emergency provisions fit. We did not intend to create a sham with the project by invoking the emergency provisions.

I want to stress this again, the security clearance requirements are determined by the TSA. The requirements have been tightened. They have been tightened since McCarran did their project, and they have been tightened, even more, since.

On an annual basis the Reno-Tahoe Airport Authority puts out to bid between \$50 million and \$90 million worth of capital projects. Every single one of those projects is bid. We have never proposed to circumvent the Purchasing Act, and we are in a very unique situation with approval of this bill.

**Assemblyman Settlemeyer:**

If this bill does not get through, does it jeopardize the ability of getting this job done?

**Krys Bart:**

Yes, it does.

**Chair Kirkpatrick:**

In what sense will it be jeopardized?

**Krys Bart:**

There are several parts to this, and if this bill does not get through we do not have the ability to award the contract without the TSA approving the backgrounds. We will not be able to approve the backgrounds in time to do the project and bring it in with the amount of money that we have in place.

The TSA has set aside machines that would fit into the new baggage system. Those machines would be allocated to another airport somewhere in the country. We will lose those machines, and unfortunately, we will be stuck with the procedures we now have in this airport with the big machines in the lobby. We have no guarantee of securing additional machines in the future.

**Chair Kirkpatrick:**

I would be curious to know, in the last 12 months, why we have not been moving forward with our process.

Are there any other questions? [There were none.] With that we will close the public hearing on S.B. 117 (R1), and open the public hearing on S.B. 447 (1st Reprint).

**Senate Bill 447 (1st Reprint): Makes various changes to the Charter of Carson City. (BDR S-324)**

**Mary Walker, representing Carson City:**  
[Read from prepared statement.] ([Exhibit C](#))

This bill did pass unanimously out of the Senate.

**Richard Staub, Attorney at Law, Representing Carson City:**

When the Mayor cannot act it falls to the Mayor pro tem, but in the case of a vacancy it falls to the Mayor pro tem in an informal basis. By clarifying that the May pro tem will become the Mayor clears up the succession process and hopefully avoids a free-for-all among the other four supervisors competing to become Mayor until the next election.

**Ken Furlong, Sheriff, Sheriff's Office, Carson City, Nevada:**

The language cleanup we are requesting in this bill merely provides a little more flexibility within the Sheriff's administration to recognize some of the true talents and leaderships. Management positions are not always law enforcement persons. The language changes this and allows added flexibility for the administration as well as account for one additional position, while at the same time recognizing that this does not mandate or push forward an authorization—these types of activities are handled through the Board of Supervisors.

**Assemblywoman Parnell:**

Mr. Staub, this question is for you. With reference to Mayor pro tem, currently this is what we do. If you look at Section 3, subsection 2 of the bill, current language is, "Perform the duties of the Mayor during the absence or disability of the Mayor." The only new line is subsection 3, "Act as Mayor until the next general election." It does not seem to be that different, but you felt that it was needed. Do you currently have a Mayor pro tem?

**Richard Staub:**

I am the current Mayor pro tem. The burden would fall upon my shoulders whether I wanted it or not. What this bill does is civically mandate that the May pro tem become the Mayor until the next general election, not merely perform the duties under subsection 2, which I deem to be somewhat temporary. The new subsection 3 makes it very clear that the May pro tem will act as the Mayor until the next general election.

**Assemblyman Stewart:**

I noticed in Section 3, subsection 2, there is the disability part and it is not included in Section 3. Is there any reason for that?

**Richard Staub:**

The way I read it is subsection 2 merely states the pro tem will perform the duties during an absence or disability. In subsection 3 it uses the term "vacant" which includes resignation, death, or potential removal. This is the way I read it. I do not know if the Committee would like to amend the bill, but I believe the term "vacant" covers all possible instances adequately.

**Chair Kirkpatrick:**

Why do we need this bill? Did the City Attorney say that it was not spelled out? What is the reasoning behind it?

**Richard Staub:**

The Board of Supervisors felt that it was necessary to clarify if the Office of Mayor became vacant by death, resignation, or removal, everyone on the Board would be clear as to who would become Mayor until the next general election.

Right now we do not believe that it is clear, and upon advice from our Deputy District Attorney, we could clarify it with this legislation, and remove all doubt as to who would be the Mayor when that office becomes vacant because of the reasons stated.

**Chair Kirkpatrick:**

Where in the United States has the Mayor pro tem not stepped into those shoes? I always understood that the Mayor pro tem knew that was their job. It is like a Vice Chair and a Chair. I am wondering where it would be unclear within the United States. Can you ask the Board of Supervisors for me?

**Richard Staub:**

I do not know in other areas of the United States where it may not be clear, but yes, I can ask that question.

**Chair Kirkpatrick:**

In Section 3, line 27, why do we need that language? We are going from five to six designated by the Sheriff. What is the reasoning for that?

**Ken Furlong:**

This language merely accounts for what would have been a management assistant for the staff.

**Chair Kirkpatrick:**

So, now it has to be designated by the Sheriff, is that what you are saying?

**Ken Furlong:**

Under the previous language the Sheriff did not have the ability to appoint any positions that were not supervisory law enforcement positions. This allows flexibility in determining those persons who are most suited for those positions.

**Assemblyman Beers:**

Then who placed these individuals in those positions prior to this bill?

**Ken Furlong:**

The staff is appointed by the elected Sheriff, and these are the positions that have been in place for some time. They are not always filled. In other words, we have to stay within our budgetary capabilities. Currently, of the five that are authorized by our Charter, there are only four appointed positions at the Sheriff's Department. The management assistant aide is not currently filled.

**Assemblyman Beers:**

Correct me if I am wrong, but I am not seeing a tie to the need here based on what you have told me. You said, "The staff was appointed by the Sheriff," but you did not have the budget to fill all the positions. How would this bill help with that?

**Ken Furlong:**

This bill would allow me to make administrative appointments that fulfill the needs of the department, as I direct as the elected official of the Department. Up until recently, all of those positions were filled. Working with the City, and the Board of Supervisors, and addressing the budgetary constraints that we are facing, we have allowed certain positions to remain vacant as of this date. Does this answer your question?

**Assemblyman Beers:**

You still did not say how this bill would help with this problem.

**Ken Furlong:**

This bill would help immensely by opening up my ability to look at persons that are best qualified for the positions. For example, in the officer career development, which is a position that I do have on staff, rather than it being a position that requires a supervisory law enforcement person, I can look to other leadership and management persons who have those talents and knowledge, and bring those persons on.

The resultant benefit to that type of decision making process would be about one third of the salary costs.

**Assemblywoman Pierce:**

If these six employees are not going to be deputy sheriffs and they are outside of the merit personnel system, who decides what their pay is?

**Ken Furlong:**

I work closely with the Human Resources Department at City Hall on establishing those pay rates. They are consistent with the definitions and duties described in those positions. Those positions include the undersheriff, which is consistent with just about every county in the State. Carson City has two Chief Deputies as a consolidated municipality. We differ from the other counties in that our Sheriff's Department and Police functions are combined into one.

**Assemblywoman Pierce:**

Does the Board of Supervisors have to okay the pay scale you are setting, or do you set this by yourself?

**Ken Furlong:**

I have never had to set the pay scale by myself. I have always conferred with the Human Resources Department. Their job descriptions are clearly written out, they have an established pay scale, and we stay within that pay range.

**Assemblyman Goicoechea:**

What you are doing here is amending the existing law, where it requires that those five supervisory positions be deputy sheriffs, you are just expanding that by one in case you need him down the road, and it will give you the ability to hire people that are not deputy sheriffs.

**Ken Furlong:**

That is absolutely correct. Nationwide we are seeing law enforcement agencies go to about a 2 to 1 ratio of sworn to non-sworn employees. This change recognizes those talents and those leadership capabilities of non-sworn persons as well.

[Chair Kirkpatrick left the meeting and Vice Chair Pierce assumed the Chair.]

**Vice Chair Pierce:**

Are there any other questions?

**Mary Walker:**

What the Board of Supervisors is trying to do here is to say, let us give you a little bit more opportunity to manage your department the way you feel that you need to have it managed. You get an array of people, not just deputy sheriffs, but also more professional management people.

With regard to the Mayor pro tem issue, there are two things that require a permanent solution to this matter. One is the transition from Mayor pro tem to the Mayor, but also the appointment of that Mayor pro tem vacancy. Let us say, after an election, there is an unfortunate occurrence where the Mayor passes away and there is a year and a half before the next election. You cannot run the City with four people, you have to be able to move the Mayor pro tem into the Mayor's spot, and be able to appoint someone to the vacated Supervisor spot so that you have five people to run your government. Those are the things that they are concerned with.

**Vice Chair Pierce:**

Are there any other questions?

**Assemblywoman Parnell:**

I do not see anything in the bill addressing the issue of electing the fifth Supervisor when the Mayor pro tem becomes Mayor. Is that taken care of elsewhere, or is that something we need to address with this bill?

**Richard Staub:**

Yes, that is addressed in another section of statute under our Charter.

**Vice Chair Pierce:**

Are there any other questions? [There were none.] Is there anyone else that would like to speak in support of S.B. 447 (R1)? [There were none.] Is there anyone who is opposed with S.B. 447 (R1)? [There were none.] Is there anyone that is neutral on S.B. 447 (R1)? [There were none.] I will close the public hearing on S.B. 447 (R1) and open the hearing on Senate Bill 500.

**Senate Bill 500: Authorizes contracts between legal services organizations and local governmental agencies for the provision of insurance. (BDR 23-1367)**

**Madelyn Shipman, representing Washoe County Legal Services:**

I am introducing Paul Elcano, Executive Director of Washoe Legal Services to tell you why he would like this bill to be enacted.



**Paul Elcano, Jr., Executive Director, Washoe Legal Services:**

Everyone should have a short handout in front of them on Senate Bill 500 (Exhibit D).

Initially there is no fiscal impact. What this bill does is allow a county to let a legal service organization in the county, by contract, participate in the County plan for medical insurance.

The legal service organization pays the premium. There is no cost to the County. Legislation is permissive, it is a county option, and it is a tool for better use of tax dollars. Currently in our county, legal service organizations play the part of a quasi-public defender. We handle all the child advocacy cases for children who are abused and neglected and end up in the social service organizations and foster homes. We do a lot of domestic violence work and so on.

Currently, our budget is over 60 percent county dollars, and in another year it will be about 70 percent county dollars. The county is already funding between 60 and 70 percent of our medical insurance premiums. This would allow for stability. The problem we have is if we hire an employee and they have an epileptic husband, our premiums go up \$40,000 a year because we have a small pool of 21 employees.

This would provide stability for our medical insurance so each year we could budget. We have no way of passing those unusual cost increases along. It would provide for a better plan, and as a result with the stability and a better plan we will keep our employees longer, have less turnover, and the county will get a better bang for its buck for the 70 percent that they are funding for the work that we are doing.

**Vice Chair Pierce:**

Are there any questions?

**Assemblyman Goicoechea:**

Clearly it is only enabling legislation; the deal is struck between the local entities...

**Paul Elcano:**

Yes, we have to agree by contract so it is a county option. If the County wants to tell us to "take a hike," they may.

**Vice Chair Pierce:**

Are there any other questions? [There were none.] Is there anyone that would like to speak in support of S.B. 500? [There were none.] Is there anyone who would like to speak in opposition to S.B. 500? [There were none.] Is there anyone who would like to speak that is neutral on S.B. 500? [There were none.]

I will close the public hearing on S.B. 500.

Is there any public comment? [There were none.]

The meeting is adjourned [at 10:30.]

RESPECTFULLY SUBMITTED:

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Cheryl Williams  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 24, 2007

**Time of Meeting:** 9:00 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 447	C	Mary Walker	Prepared Statement
S.B. 500	D	Paul Elcano	Handout