

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

**Seventy-Fourth Session
March 12, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:04 a.m., on Monday, March 12, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, 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 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

COMMITTEE MEMBERS ABSENT:

Assemblyman Chad Christensen, Excused

GUEST LEGISLATORS PRESENT:

Assemblyman Tom Grady, Assembly District No. 38



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

James Sala, Senior Representative, Southwest Regional Council of Carpenters
David Kersh, Government Affairs Representative, Carpenters/Contractors Cooperation Committee, Inc., Los Angeles, California
Thomas Morley, Laborers Local 872, Las Vegas
Danny Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO
Richard Daly, Business Manager, Laborers Local Union 169, Northern Nevada
Michael Tanchek, State Labor Commissioner, State of Nevada, Department of Business and Industry, Office of Labor Commissioner
Clara Andriola, President, ABC Associated Builders and Contractors, Inc, Sierra Nevada Chapter
Adam Rutherford, President/Owner, Spanish Springs Construction
Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties
Shaun Jillions, Legislative Advocate, City of Henderson
John Martin, Owner, Bison Construction
Tom Metcalf, President, ABC/Metcalf Builders
Ted Olivas, Director of Government and Community Affairs, the City of Las Vegas
John Madole, Executive Director, Nevada Chapter, The Associated General Contractors of America, Inc.
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County
Misty Grimmer, representing Cox Communications

Chair Kirkpatrick:

[Meeting called to order and there was a quorum present]

[Roll Call]

We are taking Assembly Bill 91 out of the work session.

**Assembly Bill 91: Makes various changes to provisions governing explosives.
(BDR 42-691)**

[No Action Taken]

Chair Kirkpatrick:

We will start the meeting with a hearing on Assembly Bill 140 and then we will go into work session.

Assembly Bill 140: Provides for certain contractors to receive an additional preference in bidding on public works. (BDR 28-773)

James Sala, Senior Representative, Southwest Regional Council of Carpenters:

This bill provides for general contractors and major specialty contractors who provide employer-paid health care and a defined benefit pension, and who participate in an approved apprenticeship program. They would receive an additional 1 percent over the current 5 percent bidder's preference for providing those three things. Currently, a contractor who has participated in the State, is a local contractor, and has paid at least \$5,000 in either goods and services tax or sales tax in any 12-month period for a consecutive 60 months, receives the 5 percent preference. This bill would require a contractor who has achieved that 5 percent bidder's preference to do four additional things to qualify for the 6 percent, or as the bill describes it, "the enhanced certificate."

Number one: For at least a 12-month period they would have to possess, or be qualified to possess, that basic certificate, which takes five years to get. Number two: They would have to provide and make contributions to their employees for health and welfare. Number three: They would have to make contributions and participate in a defined benefit pension plan. Number four: They would have to participate in a state-approved apprenticeship program.

This certificate would be issued by the Contractors Board much in the way it is now for a basic certificate. The affidavit would come from a Certified Public Account (CPA). The CPA would also produce a letter of verification for participation in either the health and welfare plan, or the pension plan, and with the apprenticeship, I imagine they could either verify that or the Labor Commissioner could do that.

This should not create any additional cost or administrative burden for the Contractors Board. I have had some discussions with them and with the lady who issues the certificates; she deems it to be a fairly straightforward process administratively. The way the bill is drafted, the contractor would either get a 5 percent or a 6 percent certificate.

There are several good reasons why we think this bill should be passed and would make very good public policy. First, it would encourage contractors to provide a health and welfare plan and a pension, and to participate in apprenticeship training in this industry. We hope this will attract and retain local, highly skilled and qualified workers in the construction industry, and make sure we continue to have an adequate supply of workers as construction continues to grow at an unbelievable rate in Nevada. This important point was made last week in a State Public Works presentation. One of the reasons for the escalation in the construction bids was the depletion of skilled manpower. The way it was described, when a contractor bids on public works he is not only factoring in the cost of material and the cost of labor, which are defined, but he is also factoring in his risk and the amount of competition that is going on in the public works market. We believe by enhancing this certificate we may be able to attract people back into this market. One of the things the contractors are looking for is to make sure there is enough skilled labor, so participation in the apprenticeship program is one way to achieve this.

Currently, we are signatory with 165 general contractors in southern Nevada. Out of that group about five to six of them actively pursued bidding in the public works market. We would hope that this kind of incentive and enhanced certificate would attract more of those contractors to move back into the public works market and create more competition in the bidding process.

Another way this bill could potentially lower the cost of the projects in public works is the policy of providing these benefits as part of the wage and benefits package. As many of you know, the prevailing wage is set by a survey done by the Labor Commissioner. That survey includes wages and benefits like pension, health and welfare, apprenticeship, and training. The carpenter rate in Clark County is around \$40 an hour; from that, \$30 is the wage, \$4 is health and welfare, \$4 is pension, \$2 is vacation, and about 35 cents an hour is the apprenticeship and training contribution. One of the ways to encourage participation is through this certificate. If a contractor pays a wage of \$30, then he is only paying a modified business tax, workers compensation, and unemployment insurance on \$30, not on \$40, because his benefits are pre-tax money. We think this will help to not only increase competition, but it potentially has the ability to lower the bids that contractors are submitting to a public works project. We would like to see that happen.

The other way to receive additional preference is by participating in an apprenticeship program on public works; you are either a journeyman or an apprentice. If you are an apprentice, you get paid at a lower rate based on your skill level. You could be at 65-75 percent of a journeyman rate. In much of the industry if you utilize those programs the unit cost for labor can go down—you

match up a journeyman, paid at 100 percent, with an apprentice at 75 percent, on drywall, and they are working together as a team. That can help lower the contractor's cost as well. We would like to see that kind of participation encouraged.

Another important area that makes this good public policy is the issue of health care. Prevailing wage is made up of wages and benefits. It makes very little sense for the public works and for the taxpayer to pay for health care twice. The health care provision is rolled into the prevailing wage cost, but many contractors pay the full amount to the wage and get taxed on that amount. Indigent care, especially at University Medical Center (UMC) in Clark County, is probably at an all-time high. I was privileged to take a look at a survey that was done in 2004 and early 2005 in regard to the cost of indigent care and its impact on UMC. From the survey, the construction industry was the largest group, at 27 percent receiving that care. It seems a shame for an industry that includes benefits in their compensation and has a set prevailing wage, but often people do not take advantage of it. So it is like the taxpayer paying twice, paying once through the prevailing wage where you could be covered by health care, and then turning around and footing the bill at UMC, which costs between \$40 million and \$50 million a year for indigent care issues.

The bidder's preference up to this point has worked very well to retain local contractors and a local workforce, but in this construction boom with all the commercial work that is going on, it is becoming more and more difficult to attract and retain those contractors to continue to work in the public works market.

We are hoping that this bill will lead us down that path. While the bill does not carry any fiscal note, I am sure there will be some discussion about whether or not this will raise the cost of construction projects. We had some email and preliminary work from the Legislative Counsel Bureau (LCB) that stated they dealt with the State Public Works Board and the Board indicated they had \$536 million of public works projects for the year that is coming up. If every single project was impacted at its maximum level of 1 percent that would be around \$5 million, and their best guess was that between \$1million to \$1.5 million of work could be impacted. It would be difficult to tell based on the erratic and unpredictable nature of the industry and the bid process. That boils down to 0.25 percent and is much less than a lot of things in the construction industry like change orders and other issues. We think the long-term benefits of this bill in providing health care, dealing with indigent care issues, and retaining local contractors and a qualified workforce outweigh that 0.25 percent that could be impacted by this bill.

David Kersh, Government Affairs Representative, Carpenters, Contractors Cooperation Committee:

We are a labor management organization that is made up of the carpenters union and signatory contractors. I would like to highlight a couple of points and reiterate some issues. The key word is "incentive" in regard to the public policy goals as opposed to penalizing contractors; it is really about creating incentives, encouraging contractors, and for the public to get the most out of their money. They are already paying top dollar for the prevailing wage. Employees should also get the health care, training, and pension benefits that go along with it. There is a correlation between a responsible contractor who provides these benefits for their employees and the kind of construction that you are going to get; you will be attracting better contractors. We are involved in contract compliance activities on public works projects. We see that the contractors who take these steps and are responsible are also better contractors in regard to the quality of the work. This is a "win-win" at all levels. This is something worth pursuing in terms of creating incentives and getting the most for your dollar. We urge you to support this bill.

Assemblyman Goicoechea:

We have the general contractors that are eligible for the 5 percent, and with this, it would be an additional 1 percent. How do we ensure that the subcontractors, which are under the contractors who get the bidder's preference, will be in compliance?

Jim Sala:

We struggle with that issue, because the certificate is issued to the general contractor. This is an incentive, and an encouragement to comply. We are hoping that it will set the pattern for the subcontractors. We cannot see a way in this bill to try to enforce that, or to give some kind of incentive to subcontractors who do not bid directly on public works. If anyone has any ideas on this, I would be happy to take a look at it.

Assemblyman Goicoechea:

Not typically, but you could have a scenario where the general contractor would have three people he could bring into compliance with this and have subcontractors under him and none of them would be in compliance.

Jim Sala:

Yes, that could be correct. I would imagine that even under the current bidder's preference it could be the same with local contractors. I do not believe that the subcontractors have to be in compliance for the bidder's preference, just the general contractor or a major specialty subcontractor.

Assemblyman Goicoechea:

That is true, but typically the general contractor would supply his list of subcontractors, and if you look at the 5 percent bidder's preference you can, in fact, require that early on in the bid. It is pretty hard to go back and redo payroll, pension plans, and those sorts of things they have available. It is easy enough to look at a subcontractors list and establish which ones are Nevada contractors and which are not when we are doing the 5 percent bidder's preference, as far as paying Nevada taxes. I realize it is only 1 percent, and I see the advantage we are trying to extend out there, but I would like to see it tightened up to make sure that we do not get a general contractor from Nevada and a bunch of out-of-state subcontractors.

Thomas Morley, Laborers Local 872, Las Vegas, Nevada:

We are strongly in support of this bill. My number one concern is training within the industry. I have currently hired Male and Associates to do an economic study in regard to the shortage of craftsmen within the next ten years within the industry. The average age of a member in my locals is 45 years. Within the next five to six years my journeymen will be retiring, and our concern is that we will not have enough people to man these jobs with the current state of the industry.

We are also in support of this bill because we like to see that there is good neighbor policy going on. With the amount of new contractors coming into southern Nevada, we would like to see them take care of Nevadans.

Assemblyman Settlemeyer:

You indicated that you see potential savings to UMC because they will not have to take on so many indigent services. You indicated that 20 percent of the cost of indigent care is related to the construction industry. What if we put a provision within this bill that unless we see a correlation in the drop of costs to society that this program goes away? Put it forward and see if it will save the State money. If it does not, then it will be costing us money because of the 1 percent increase.

Jim Sala:

I do not know if I have the background to fully answer that question, but we would like to see what the impact would be, not just on UMC and health care. I am not sure how you would measure just one aspect of the bill, because I think there are going to be lots of bills this session that modify issues and deal with health care. Also, in regard to public works and the encouragement to utilize these incentives, I think it is good to pass a bill that actually works and has an impact. That is what the goal is.

Chair Kirkpatrick:

We will start with the people who would like to speak in favor of A.B. 140.

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

I am speaking on behalf of Jack Jeffery who represents the Southern Nevada Building and Construction Trade. He has a conflict this morning and was unable to be here. The original 5 percent bidder's preference was Mr. Jeffery's bill when he was the Majority Leader of this House. He introduced that bill because at that time public works that were being bid were being awarded to contractors from out of state. Contractors who came from out of state would underbid our contractors and get the jobs because in many cases they paid substandard wages. In those days there was not a lot of compliance on the prevailing wage. I recall the testimony on this bill. Mr. Frank came from the Ironworkers in southern Nevada and said, "On Friday these guys get their paychecks and they get in their cars and they drive back to Arizona and Utah with a bag of dirty clothes and our money." That was the reason the 5 percent bidder's preference was introduced in the first place.

Given the amount of work that is done statewide, but specifically in southern Nevada, I think it is only fitting that you reward local contractors, and you will see a positive impact because this bill is good public policy. It encourages local hiring; it encourages incentives to provide health care and retirement for the employees. I do not know how you would measure that offset from indigent to what is provided now. I am familiar with the situation now and that is that people without health care access the system at the most expensive point, which is the emergency room. They are either indigent, which you pay for, or they promise to pay but are unable to pay. When they are unable to pay, then the provider can only raise the cost to those who do pay, which is everybody I represent. I have building tradesmen who pay \$8 an hour for health insurance; that is not uncommon, and part of the reason is the amount of people who do not have health insurance. So we think this is good public policy and I would like to speak in favor of it, and on behalf of Mr. Jeffery who was unable to be here today, and go on record that the Southern Nevada Building Trades supports this bill.

Richard Daly, Business Manager, Laborers Local Union 169, Northern Nevada:

I want to go on record as being in support of this bill. When contractors are paying benefits, they need to pay on all hours that a person works. There are too many contractors who come in and they just have insurance or pension plans for prevailing wage jobs. For the rest of the jobs, the worker does not have that. Hopefully this would be considered for inclusion in the bill.

Chair Kirkpatrick:

Now we will hear from those who are neutral and would like to speak on this bill.

Michael Tanchek, State Labor Commissioner, State of Nevada, Department of Business and Industry, Office of Labor Commissioner:

I am truly neutral on this bill; I do not have a dog in the fight, as they say. I would like to put one thing out for consideration. Through the Executive Branch Committee in the past year we were looking at ways to improve the survey process for prevailing wages in public works. One of the suggestions from that process was the possibility of adding to the bidder's preference additional points for contractors who actively participate in the survey process on an annual basis. I am not proposing that as an amendment, but if there is going to be any work done on this bill, I would appreciate this being considered as a possible addition.

Assemblyman Goicoechea:

Once we give the bidder's preference to the general contractor, is there any way we can extend that and also require the subcontractors be in compliance? I realize that it may not be as big an issue in southern Nevada, but across the northern tier, especially in northeastern Nevada, we end up with a lot of subcontractors coming out of Idaho and Utah. I think the bidder's preference is great but there has to be a way to put some language in the bill that says the subcontractors must comply. We heard Mr. Thompson talking about keeping the jobs in the community; the best way to do that is make sure that local subcontractors are being hired.

Michael Tanchek:

I have not looked at extending compliance to include subcontractors and have not considered it, but would be happy to look into that with any people who may be working on the bill.

Chair Kirkpatrick:

Since there are no questions for Mr. Tanchek we will now start with those who are against the bill.

Clara Andriola, President, ABC Associated Builders and Contractors, Inc. Sierra Nevada Chapter:

We are opposing this bill as presented for several reasons. I would first like to state that the spirit of the bill, in terms of encouraging training, is one that we live everyday. As Associated Builders and Contractors we currently have apprenticeship programs. We are not representing the State Apprenticeship Council, but as a member of that council we support training. The way that this

is presented, there is no guarantee that apprentices are really working on the job. To say that you participated in an apprenticeship program simply indicates that you, as a contractor, are a part of it. It is not a guarantee that apprentices will actually be on that job. I am also concerned about the enforcement, brought up in the earlier questions, in terms of ensuring that subcontractors are compliant and general contractors will not be penalized, because in a lot of cases general contractors do not have apprenticeship programs. They do not even have the framework. Again, I am not representing the State Apprenticeship Council, but I am someone who is very familiar with *Nevada Revised Statutes* (NRS) 624. There is no framework for them to participate and that is of grave concern. That does not mean that there are not reputable, licensed general contractors who, although they do not participate in an apprenticeship program, ensure quality and try and keep a competitive bidding process in place and keep costs in line. The bill is missing some information that is of grave concern to us, so we are in opposition of this.

Adam Rutherford, President/Owner, Spanish Springs Construction:

We are a northern Nevada-based construction company with over 30 employees, and I am against this bill for numerous reasons. I compete everyday in the public works market and bid against contractors who have certificates of eligibility who are from out of state. One company is from outside the United States and has a certificate of eligibility because they have paid taxes for five years. With the addition of 1 percent to the bidder's preference we would have a 6 percent disadvantage on bids because our company is new. We are in northern Nevada, but the companies we compete against might not be. On a \$10 million job we would have a \$600,000 disadvantage, or the taxpayer could end up paying \$600,000 more, if we were competing against a company with this enhanced certificate of eligibility.

The second of the three things the contractors need to qualify for the bidder's preference is an approved apprenticeship program or participation in one. I have worked for numerous general contractors in town and only certain employees came from areas that would have an apprenticeship program and the vast majority of their employees did not. Is it all employees or all sectors of the company that would be required to have apprenticeship programs?

Again, with the companies I worked for, some employees had retirement plans and others did not. Are the retirement plans and health insurance for every employee in the company or just a select few? The way the bill is written is very vague and I do not know if any company would really qualify if every employee has to have these three things.

I urge you to vote against A.B. 140.

Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties:

We would like to go on record as opposing this bill. Some of the details as to why it is being opposed have been stated. We have a cost issue associated with this, and the Nevada Association of Counties agrees that the intent of the bill, although we see that as a positive thing, has to be balanced with the enforcement, and whether it is worth the additional 1 percent cost that would be added to public works projects, especially with the escalating costs of those projects. We want to go on record as opposing this bill.

Assemblywoman Parnell:

Would the cost not be offset by the savings on indigent care for that county? I am surprised that the county would look at this bill that way because the more people that we can get covered with health care, the less cost it is to the county in indigent care. Was this a part of the conversation when you made your decision to oppose this?

Vinson Guthreau:

We appreciate trying to save money on health care costs. Unless there is a way that we could measure that, I do not know if this bill necessarily achieves that as an offset. It was part of the conversation, but we would have to measure that. I do not see how this bill achieves that savings in health care costs.

Shaun Jillions, Legislative Advocate, City of Henderson, Nevada:

We are also in opposition to this bill. Vinson [Guthreau] just mentioned several of the reasons. Anytime we are talking about increased costs for public works projects, we are skeptical; however, I would also echo the comments of Mr. Rutherford. We are not certain this bill is going to increase competition among public works projects bidding. As we heard this morning, relatively few contractors bid on these projects and we are concerned with anything that is going to further lessen the field.

John Martin, Owner, Bison Construction:

I am a local business owner here in the north end of the State. I have been doing business since 1978, and my company does a lot of public works projects. I have some concerns. I do agree with Mr. Tanchek on the wage survey participation that would help to level the playing field. It has largely been organized labor pushing this, talking about a recognized apprenticeship program, but every time there is another apprenticeship program proposed it is argued against heavily by organized labor. I wonder if this is a backdoor attempt to make it so that only union contractors can do prevailing wage work. I provide health care for my employees; I provide a retirement plan that they can participate in if they choose to, not one that is forced. As far as a cost savings,

anybody who is a signatory to a labor agreement has got me beat by \$2 an hour simply because of the cost of the taxes that do not have to be paid when you have a labor agreement. Consequently, they have somewhat of an advantage on me. There was mention of 27 percent of indigent health care that comes into UMC from the construction industry. How much of that 27 percent comes from the public works projects that this bill would have an effect on? If out of that 27 percent only 4 or 5 percent comes from public works projects, then are the health cost savings going to offset the potential of the additional cost to the public for public works projects? There was also mention of \$536 million in public works projects. There is the potential then, if one year was to go sour all the way through, for an additional cost of \$5.36 million added to the cost of public works projects due to the additional 1 percent bidder's preference proposed in this bill.

As far as the out-of-state contractors, I am in agreement there, that is a frustrating thing for me. We compete against one particular contractor, and they are a good contractor, and they do good work, but they have a pickup and a guy here in the State. Their office is in another state. If you are trying to go after the out-of-state contractors that come in to do prevailing wage work, then make them have an office here in this State. I am adamantly opposed to this bill because it has a potential to exclude me or take away work from me and my employees. It also has the potential to drive up the costs of construction.

Tom Metcalf, President, ABC/Metcalf Builders:

I agree with everything that has been said by Mr. Martin. I have a similar type of company. I have 45 employees, I do have health care, and I pay for health care for the entire family. This is not an employee contribution plan, my company pays for this. I also have a retirement plan for my employees.

We are also a professional management company. On public works, we typically will not perform any of the trade work; I rely on the subcontractors that bid with me on that project. Will this bill benefit general contractors who do not have tradesmen? I do not need an apprenticeship program.

I heard about this bill two weeks ago. We just heard about this meeting last week. Can the trade unions and associations, the Associated General Contractors (AGC), and the Associated Builders and Contractors (ABC) get together and present a bill?

I would also like to agree with Mr. Rutherford on new Nevada-based contractors. I have the 5 percent preference. When I was getting the 5 percent preference I was new to the State, but I lived in the State. I also had subcontractors and general contractors who were born and raised in this State

and had to compete for five years with out-of-state contractors. That needs to be modified. Let us concentrate on the deliverables of the State public works projects, this will save measurable money for the State.

Chair Kirkpatrick:

Just so everyone is aware, yes this is a Committee bill, but it was introduced at the end of last session. We always welcome everybody coming together to work on a bill.

Assemblyman Claborn:

You stated that you had insurance for your employees. Is that correct?

John Martin:

That is correct.

Assemblyman Claborn:

Do you have any problems when you do any competitive bidding with other contractors that do not have insurance?

John Martin:

That is tough to quantify because we have no way of knowing what the contractors have or do not have for their employees when we bid against them. We do and can make it a condition of hire to set that insurance up to take effect the day they come to work for us rather than wait three to six months like it is with a lot of organizations.

Assemblyman Claborn:

This bill would tie that in too. If you were going to bid on a project, you would get a preference if you prove that you do have insurance for your employees. You would all be on an even level.

With prevailing wage, put everybody on an even level so everybody knows what you are bidding and what you are paying. That was what prevailing wage was established for. I think we are getting off on the wrong track here. We are trying to save money. We are looking for something that will take care of employee health and welfare.

John Martin:

I would be in 100 percent agreement with you except for the tie to an apprenticeship. The last time I checked with the local carpenter's union here, they had taken in 19 first-year apprentices out of a membership of 1,900. They are not taking care of their own attrition. I am not going to say that was the

norm, because at that time they had about 135 apprentices in their four-year program.

When the bidder's preference is tied to so many things that are directly tied to being signatory with organized labor, if I opt not to be a signatory but I can show that I have these programs and meet the requirements, even though I do not have an apprenticeship because I do not have an apprentice working for me right now, I should receive the bidder's preference. I do have an apprenticeship program that I could certainly use should the time arise. In my opinion we have somebody talking about decreasing what we can get for our tax dollar.

Assemblyman Claborn:

I was an operating engineer and I sat on a trust for 24 years and we put out qualified people. In that kind of work it would be advantageous to look at an apprenticeship program.

John Martin:

I agree, I am a product of an apprenticeship program myself. I support training 100 percent but if this thing is going to go through as it is written, then let us stop the opposition to every other apprenticeship program that comes up. Apprenticeship training is more important in making sure the apprentice is properly trained than it is in who does that training.

Assemblyman Claborn:

I can speak for the operating engineers. They have a 600-hour program and 46 hours of curriculum per semester.

Assemblyman Beers:

Mr. Metcalf, you stated that you already get the 5 percent. Is that correct?

Tom Metcalf:

Yes.

Assemblyman Beers:

Is your opposition to this bill primarily the apprenticeship clause?

Tom Metcalf:

Yes, in the way it is written, and that is why I suggested the trade organizations and the organized union getting together to put a bill together. I am a product of Local 745 Carpenters Union in Honolulu, Hawaii, so I understand good training and good apprenticeship programs. I agree with Mr. Martin, there is more than just one training program out there and we need to get on the same page to present a bill like this.

Assemblyman Beers:

What language would you propose to make this palatable to you?

John Martin:

Again, I would rather sit down with the people that it affects, with the general contractors, with the subcontractors, and with the trade unions, and talk about it together instead of having it presented as a one-sided bill.

Ted Olivas, Director of Government and Community Affairs, City of Las Vegas, Nevada:

I am also a member of the Nevada Public Purchasing Study Commission and today I am also testifying on behalf of the City of Las Vegas. As many of you know, the Nevada Public Purchasing Study Commission was established by the Legislature in 1975. It was established to study practices in governmental purchasing and associated laws and to make recommendations with respect to those laws during the legislative session. That is provided in NRS 332.215. As such we work for you on governmental purchasing topics. This Committee has worked closely with our group to shape the purchasing laws to allow for a level playing field, transparency, accountability, and efficiency, and to reduce bureaucracy and barriers in doing business with governmental agencies. We have also worked closely with the Associated General Contractors (AGC), Associated Builders and Contractors (ABC), Carpenters and Labors Union, the Quad C [a management company] and others on the public works bidding process. In this case, the City of Las Vegas and the Commission are opposed to this bill for various reasons.

The bill indicates that there is no fiscal impact. That is not correct. Statewide there are hundreds of public works projects in various stages of development that have a combined value of well over a billion dollars. This includes state, city, and county projects, airports, Nevada Department of Transportation (NDOT) projects, water districts, school districts, flood districts, regional transportation commissions, the university system, and others— not to mention the impact for small rural municipalities. I was going to go through an example of how this bidder's preference works, but I think that everyone understands it. If a person has that preference but they are not the lowest bidder, but they are within 5 percent of the lowest bidder who does not have that preference, then that is considered the best bid. It costs us extra money. We live with that. It has been reported to me that terminal three at McCarran International Airport is in the process of going out to bid. It is reported that it may have a price tag of over a billion dollars. If the current bidder's preference at 5 percent were to be a factor in that bid process, the taxpayers would have to pay up to \$50 million more than the low bid. If this bill were passed and this preference was a factor, that could add up to another \$10 million in taxpayer dollars on that one project.

That may or may not happen. We do not know, but I can tell the Committee this: public works projects are awarded based on the current bidder's preference rules that are in place. I am not going to debate whether it is right or wrong, but we do award contracts based on bidder's preference.

We believe this bill could result in a cancellation of some public works projects because of a lack of funding. We know that Chairman Atkinson's committee, the Assembly Transportation Committee, as well as Taxation, is struggling with trying to determine where all this money is going to come from for all these projects that we know we have in the State. That is just one agency; there are many other agencies that are going to experience the same problem.

We believe that this bill could hurt small minority and women-owned contractors who may not have the resources to comply with this. It will reduce the public agency's ability to track new, good, quality contractors. It will hurt our already limited bid response rate because this may hurt a contractor's ability to compete. Finally, this bill may violate good procurement practices that call for free and open competitive bidding in order to attract as many bidders as possible. In addition, this bill appears to be an unfunded mandate for the State Contractors' Board that will be responsible for issuing the enhanced certificate of eligibility. Finally, I do not think that any jurisdiction would argue against the importance of apprenticeship programs and the funding of benefit plans or health insurance benefits, they are all important; but if this Committee feels strongly about these things I would implore you to consider reducing the current bidder's preference of 5 percent to 4 percent and allowing an additional 1 percent for these benefits. That will eliminate the additional fiscal impact on the governmental agencies and ultimately the taxpayers. I have not discussed that proposal with anyone; I am just trying to provide options that you may consider.

John Madole, Executive Director, Nevada Chapter, Associated General Contractors of America, Inc.:

This morning I am also speaking on behalf of the Las Vegas Associated General Contractors (AGC). We are opposed to this bill, and I will not belabor a number of concerns that were brought up beforehand. I might point out that this is an industry where the average net profit is less than 2 percent. That is three times what the average net profit of a contractor in the United States is. Mr. Rutherford raised a good point. We are encouraging people to start new businesses and then we are giving them a bar to jump over. With this bidder's preference, history shows that this has brought about some unintended consequences. If discouraging people from starting their own businesses is one of those consequences, then we ought to be very cautious about proceeding to

make this even more complicated than it already is. There were great points raised about the subcontractors.

We talk about a defined benefit plan; the way I read this law, we would give exactly the same consideration to someone with a less comprehensive plan as the gentleman who preceded me who said he paid for 100 percent of the health care coverage for all his employees and their families. His competitor could set up a defined benefit plan with a \$2,500 deductible that only covers the employee, not the family, with a low cap on it for the major medical, and this might cost a fraction of what this other gentleman is paying; but this bill would give exactly the same consideration to both contractors, even though one is not treating the employees as well as you would hope. We all support apprenticeship and we want employees to have good health and pension plans. What this bill is trying to accomplish is a worthy objective, but this bill is not the right way to go about it.

Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County, Nevada:

I echo many of the same issues and concerns brought up by my colleague, Ted Olivas. It is a simple economic idea or principle that decreased competition equals increased costs that have to be borne by the taxpayers. At a time when southern Nevada is facing a crisis in transportation funding, we believe this bill is incredibly bad for taxpayers and local governments; therefore, we are opposed.

Assemblyman Claborn:

I am concerned with the people out there, the people who have no insurance and work for these contractors.

Chair Kirkpatrick:

Is there anyone else who would like to speak against, for, or neutral on this bill? [There were none.] I will close the hearing on A.B. 140. I am going to put together a working group with Mr. Claborn, Mrs. Womack, and Mr. Settlemeyer and maybe you can work with some of the other people to see if there is any dialog that can come about or not. There have been a lot of issues addressed here today.

We are now moving on with our work session and we will start with Assembly Bill 134.

Assembly Bill 134: Expands the duties of the Executive Director for Veterans' Services. (BDR 37-846)

Amber Joiner, Committee Policy Analyst:

The first measure in your session document ([Exhibit C](#)) is Assembly Bill 134. This bill requires the Executive Director for Veterans' Services to: 1) prepare, maintain, and make available for public inspection a register of the names of the veterans' interred in all public and private cemeteries in the State; 2) require the director to provide flags of the United States for placement on veterans' graves during certain holidays; and 3) require the director to provide to each resident of a veterans' home a flag of the United States to commemorate certain holidays. The flags provided must be manufactured in the United States. This measure was heard on February 28, 2007. There is one proposed amendment by the sponsor, Assemblywoman Womack. The amendment proposes to appropriate, from the State General Fund to the Office of Veterans' Services, \$7,500 for each year of the 2007-2009 Biennium in order to carry out the provisions related to providing flags. You can see a mock-up of the amendment in your work session document that was provided during the original hearing. There was no testimony in opposition to this measure.

Chair Kirkpatrick:

Is there any discussion on the bill?

Assemblyman Goicoechea:

This would have to go to Ways and Means, right, with the \$15,000 appropriation?

Chair Kirkpatrick:

We have asked that question of more than one person and the opportunity that we have today is to pass this bill out of Committee and let the Ways and Means Chairman pick it up if he decides that it should be picked up. We will not be referring it other than out of this committee and then it would come up for a vote on the Floor. At that time the Chairman of Ways and Means will more than likely ask that it be re-referred, and maybe exempt, to Ways and Means.

Assemblyman Atkinson:

Is there any way to know for sure if the bill is going to Ways and Means, because it may make a difference to some of the committee members as to which way they will vote on the bill?

Chair Kirkpatrick:

We can choose to refer it in our motion; however, the Ways and Means Chairman told me that if it has a penny on it, he is getting it. However, you as a Committee can pass this bill out of Committee, if somebody is willing to make that motion.

Assemblywoman Womack:

I would just like to acknowledge that Mr. Tetz is here, the Director of Veterans' Affairs, to answer any questions.

Chair Kirkpatrick:

So noted, would you like to make the motion?

ASSEMBLYWOMAN WOMACK MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 134.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS
ABSENT FOR THE VOTE.).

Mrs. Womack will do the Floor Statement.

We will move on to Assembly Bill 135 ([Exhibit D](#)).

**Assembly Bill 135: Authorizes the Stagecoach General Improvement District to
furnish sanitary facilities for sewerage. (BDR S-184)**

Amber Joiner, Committee Policy Analyst:

Assembly Bill 135 authorizes the Stagecoach General Improvement District to furnish sanitary facilities for sewerage. This measure was heard on February 28, 2007, and was sponsored by Assemblyman Grady. There was no testimony in opposition to this measure and there were no amendments proposed.

Chair Kirkpatrick:

Is there any discussion on A.B. 135?

ASSEMBLYWOMAN PARNELL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 135.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR THE VOTE.).

Chair Kirkpatrick:

Mr. Grady will do the floor statement for A.B. 135.

We will move on to Assembly Bill 162 ([Exhibit E](#)).

Assembly Bill 162: Provides for the establishment of and the transfer of certain abandoned property to the Nevada Veterans' Museum. (BDR 33-775)

Amber Joiner, Committee Policy Analyst:

Assembly Bill 162 establishes the Nevada Veterans' Museum as an Institution of the Division of Museums and History in the Department of Cultural Affairs, and authorizes the transfer of abandoned property to the Museum. It was sponsored by Assemblywoman Kathy McClain. It was heard on March 2, 2007, and there were no amendments proposed for this measure.

Chair Kirkpatrick:

Is there any discussion on A.B. 162? Is there a motion?

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS ASSEMBLY BILL 162.

VICE CHAIR PIERCE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR THE VOTE.)

Chair Kirkpatrick:

Ms. McClain has asked to do the Floor Statement.

We will move on to Assembly Bill 120 ([Exhibit F](#)).

Assembly Bill 120: Revises notice requirements for a proposal to vacate certain rights-of-way or easements. (BDR 22-376)

Amber Joiner, Committee Policy Analyst:

Assembly Bill 120 changes the method by which a city or county that proposes to vacate a right-of-way or easement is required to notify each owner of property abutting the proposed abandonment. Notice must be provided by mail using a method that allows for confirmation of delivery, but does not require the signature of the recipient. This was sponsored on behalf of the Nevada

Association of Counties. It was heard on February 20, 2007. There were four proposed amendments to this measure. The first three amendments have been integrated into a mock-up that you can see in your work session document. The text boxes on the side of the mock-up will let you know who proposed each conceptual amendment. The first conceptual amendment would be to add the requirement that notice be mailed to the abutting property owner not less than ten business days before the public hearing. The second amendment would add the words "held in fee" to clarify which type of right-of-way would be included. The third amendment would add that each public utility serving the proposed area to be vacated or abandoned should be notified in writing. The public utility would then respond in writing that it either does not require an easement or that it requests a reservation of an easement. If the public utility requests the reservation of an easement, the governing body shall reserve and convey the easement in favor of the public utility and ensure that it is recorded in the Office of the County Recorder. Those three amendments are in the mock-up. The fourth amendment would add community antenna television companies to the list of utilities that were in the proposed amendment number three. A mock-up of that language is behind the larger mock-up, also in your work session document. There was no testimony in opposition to this measure.

Chair Kirkpatrick:

Is there any discussion? I know that a big portion of this is that we wanted to make sure that people were notified properly. We went through all the different methods of delivery and ended up with the postal service; more people will be notified because they will get it in their mailbox. One of the things we looked at is a tracking system that the county would use to verify that the notice was sent out and also delivery confirmation.

I am going to have Amber Joiner explain why the cable company is different from the utility; I think this is the question that everyone has.

Misty Grimmer, representing Cox Communications:

The reason we put in a separate amendment is because cable companies are not defined as a utility under NRS 704.020. We are regulated under NRS Chapter 711, but we have the same concerns that any other utility would have. We have facilities in the right-of-way; we have the same obligations and access via our franchises and federal law. The concerns are the same; we are just not defined in Chapter NRS 704.020.

Assemblyman Goicoechea:

Who else might fall into this category? Are we talking about cell phone providers? If we are doing this, let us make sure that we capture everyone.

Misty Grimmer:

I am not sure where cell phone providers are designated with respect to whether they are a utility or not. It is my understanding that NRS 704.020 does include most other utilities, such as gas, electric, and telephone. As far as I know we are the only ones in the same situation as far as use of the rights-of-way that are not defined in NRS 704.020. I made these changes along the same lines as the one proposed on behalf of Nevada Power.

Scott McKenna, Committee Counsel:

I would clarify that under the definition of a utility that is used in the bill, which is in NRS 704.020, it would include telephone companies and telecommunications providers.

Assemblyman Stewart:

What is the method that the post office uses to verify delivery without the signature?

Chair Kirkpatrick:

A return receipt is what they would get. Any further discussion?

Assemblyman Goicoechea:

They only have to notify those owners whose property abuts the proposed abandonment.

Chair Kirkpatrick:

Currently that is NRS statute.

We have three options; we can Amend and Do Pass all four, we can take it back for further discussion, or we can Do Pass for the original.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 120.

VICE CHAIR PIERCE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS
ABSENT FOR THE VOTE.)

Mr. Munford will do the floor statement on A.B. 120.

We will move on from our work session. We do have a BDR that we need to introduce.

BDR 21-361—Revises provisions relating to the annexation of certain territories by certain cities. (Later introduced as [Assembly Bill 287](#).)

ASSEMBLYMAN KIHUEN MOVED TO INTRODUCE BDR 21-361.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR THE VOTE.)

At this time we will take any public comment. Seeing none, do we have anything from the Committee? We will adjourn until tomorrow at 9:00 a.m.

Meeting adjourned [at 10:21 a.m.]

RESPECTFULLY SUBMITTED:

Cheryl Williams
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 12, 2007

Time of Meeting: 9:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 134	C	Amber Joiner, Policy Analyst	Work Session Document
A.B. 135	D	Amber Joiner, Policy Analyst	Work Session Document
A.B. 162	E	Amber Joiner, Policy Analyst	Work Session Document
A.B. 120	F	Amber Joiner, Policy Analyst	Work Session Document