

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

**Seventy-Fourth Session  
April 4, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:02 a.m., on Wednesday, April 4, 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 Settelmeyer  
Assemblyman Lynn D. Stewart  
Assemblywoman RoseMary Womack

**GUEST LEGISLATORS PRESENT:**

Assemblyman David Parks, District No. 41  
Assemblywoman Debbie Smith, District No. 30



**STAFF MEMBERS PRESENT:**

Amber Joiner, Committee Policy Analyst  
Scott McKenna, Committee Counsel  
Mary Kay Doherty, Committee Secretary

**OTHERS PRESENT:**

Karen Baggett, Deputy Director, Administrative Office of the Courts,  
Nevada Supreme Court  
Cindy Edwards, Administrator, Division of Buildings and Grounds,  
Department of Administration  
Patrick M. McInnis, Chief Engineer, Division of Buildings and Grounds,  
Department of Administration  
Gary Milliken, representing Association of General Contractors, Las Vegas  
Chapter,  
Nicholas Anthony, Legal Relations Program Manager, City of Reno  
John Hester, AICP, Community Development Director, City of Reno  
Madelyn Shipman, representing the Southern Nevada Home Builders  
John Slaughter, AICP, Management Services Director, Washoe County  
Robert Joiner, AICP, Government Affairs Manager, City of Sparks  
Marilyn Craig, Deputy City Attorney, City of Reno  
Renny Ashleman, Chairman, State Public Works Board  
Steve Holloway, Executive Vice President, Association of General  
Contractors (Las Vegas Chapter)  
James Sala, Southwest Regional Council of Carpenters  
Crystal Soderman, representing the Nevada Chapter of Associated  
General Contractors (AGC)  
Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and  
Contractors, Inc.

[The meeting was called to order at 8:02 a.m.]

[Roll was taken]

**Chair Kirkpatrick:**

We have three bills today. I will open with A.B. 572.

**Assembly Bill 572: Revises various provisions governing the administration and control of the Supreme Court Building and other property used by the Supreme Court. (BDR 26-665)**

**Karen Baggett, Deputy Director, Administrative Office of the Courts, Nevada Supreme Court:**

My name is Karen Baggett. [Read from prepared statement. ([Exhibit C](#))]

Additionally, in 2004, the Public Works Board conducted a Facility Conditions Analysis, Building Number 1478. The Public Works Board has three building class definitions. Those categories are: Priority Class 1, which is currently critical (needs to be immediately taken care of within the next two years,) Priority Class 2, not yet critical, (two to four years), and Priority Class 3, which is (four to ten years). The total for the needed improvements, in 2004, was \$3,259,000. The report has been provided to your staff, and you should have copies of that, ([Exhibit D](#)). We can go into more detail regarding these projects later. Some of them have been completed but the majority has not. The Supreme Court, however, has had no input on the priorities submitted by Buildings and Grounds (B&G) to the Public Works Board for capital improvement projects

During the 2005 Session, the Court requested a position for the Facilities Manager because of the inadequate maintenance service and the increased concerns regarding the building. David Albert was hired last year for that position.

With David's expertise we were able to better monitor the regular maintenance schedule and ensure that custodial and cleaning services were performed as needed. We experienced many issues involving custodial assistance. During three months of 2006, for example, we had a shortage of police officers, and custodial service was reduced. We had no recourse or adjustment to our costs or means to rectify the situation. When the B&G services did not improve, the Court decided to look at the possibility of managing the building.

In September 1, 2006, we submitted our Bill Draft Request [Discussed as BDR 26-665]. The Court asked to control the administration and maintenance of the building. Buildings and Grounds was notified of the submitted BDR.

The Court, in Fiscal Year (FY) 2006 and FY 2007, had \$1,088,376 deducted and paid to B&G for the building. Additionally, we pay for miscellaneous services that are above B&G's perceived normal costs. Our costs for the upcoming biennium budget will be \$1,277,693 annually. It has been

determined the Court could maintain the Supreme Court Building and the grounds at the appropriate level for a Class A building. We would also like to begin implementing some capital improvement projects not currently planned or in B&G's proposals.

Cindy Edwards, the Administrator for Buildings and Grounds is up against some tough obstacles. The B&G maintains a lot of buildings, and it must go through the Public Works Board for its project requests. Those requests get sifted out, and very few come to light and, in fairness, Cindy must work only with the funds allotted for the maintenance of the properties.

Since September, 2006, various Court Staff have met with the Administration Staff to iron out differences and ensure the building would be maintained to appropriate standards. Following a meeting in December, the Court provided a due diligence report. The costs of building repair range from \$899,000 to \$925,000. Next year, with the increased rent costs, there will be approximately \$190,000 additional cost.

We understand that all buildings, within B&G, are assessed and charged according to the total of the buildings being served. The newer buildings, obviously, support the older ones. However, the Supreme Court is an independent branch of government and should not be subsidizing over \$300,000 of the Executive Branch. This is difficult for B&G to process but, on the other hand, the Court is helping to supplement other buildings that belong to the Executive Branch.

Mr. Albert also provided the B&G staff with a proposed Service Level Agreement (SLA) typically used in private industry. This SLA outlines the various duties, tasks, and time frames for service completion. The B&G staff was very receptive to this type of document and has indicated it may also use the document with other entities. We are still working with B&G regarding the SLA and a Memorandum of Understanding (MOU). One of the most critical aspects is the resolution for services not adequately performed, but communication between our staff and the B&G staff has drastically improved.

We need to make two corrections to the bill. If the bill is passed out of Committee and goes forward, we would like to have a later "effective date" for the Court to submit Requests for Proposals (RFPs) and to implement contracts for various vendors for the building. We do not anticipate any additional staff. There would probably be a fiscal note to get some of these capital improvement projects completed.

The residents of Nevada can be very proud of our Supreme Court Building. The Rotunda and Seal always elicit compliments from visitors. Hundreds of people go through each week, especially during Session. Our intent is to maintain this building to the standards we can all appreciate.

**Assemblyman Goicoechea:**

As I look at it [the bill], my concern is the probable duplication of efforts with landscaping and the building exterior. If you start duplicating the process, you might well encourage some additional costs.

**Karen Baggett:**

My understanding is we have very little grounds surrounding the building. Most of the grounds belong to the Legislature and the area where the iron fence starts belongs to the Capitol. Our grounds basically surround the perimeter of the building.

**Assemblyman Goicoechea:**

I agree, but I am concerned about your buying your own rake, pitch fork, and lawn mower.

**Assemblywoman Parnell:**

I understand your concerns because I had a similar situation when I took a tour of the Kincaid Building. I was very, very disturbed when I heard things like, "Oh, I thought that had been fixed." It really alarmed me because they were referring to dire safety concerns that had not been tended to. It seems something is not working right. I think this ([Exhibit D](#)) is a good model. Perhaps it is one we could use for other buildings.

I do not blame anyone, but maintenance of our State buildings may entail too much. Perhaps there is not the adequate manpower necessary to get in and fix things and, especially, address safety issues. Is this what brought you to Assembly Bill 572? This bill seems like a good way to go.

**Karen Baggett:**

Yes it is, Assemblywoman Parnell. The reason for being here today is to ensure the Supreme Court building is operated and maintained on a level appropriate for its type of building. We would like to get the Service Level Agreement completed and will continue working toward that.

**Chair Kirkpatrick:**

Are there any other questions? I see none. Is there anybody neutral regarding A.B. 572?

**Cindy Edwards, Administrator, Division of Buildings and Grounds:**

I am here to present the fiscal impact of transferring the Supreme Court Building from the control of Buildings and Grounds. The Division, [of Buildings and Grounds] currently manages and operates about 1,447,000 square feet of office, storage and dorm space. Of that square footage, the Supreme Court occupies about 182,000 square feet. The transfer of the Supreme Court Building and its grounds from our division would have a fiscal impact and a revenue loss of \$1,277,000 for each year of the biennium ([Exhibit E](#)). Our operating budget would be decreased by \$398,000 in the biennium because of reduced utilities, reduced contracted services, and the major improvement projects for that building. Additionally, personnel could be decreased by \$674,000 with the elimination of maintenance staff positions and transferring three Capitol police officers. The total projected reduction in both services and personnel is \$1,072,000. Also, there would be a shortfall in our proposed office space rent of \$205,000 and would increase the office space rent from \$1.09 per square foot to \$1.11 per square foot in the 2008-2009 biennium.

**Assemblywoman Parnell:**

What are your recommendations for solving this problem? We do not expeditiously go out and do what we need to do. We have a lot of square footage in our state buildings and perhaps not enough manpower to correct things in a timely fashion. The Supreme Court has come with one idea. How do we fix this?

Also, I was stunned to learn, during the tour of the Kincaid Building, the agencies within the state buildings were paying you [Buildings and Grounds] for the work to be completed. Am I right? Is that why there is a fiscal impact connected to this bill?

**Cindy Edwards:**

No, we do the maintenance from the rent rate, and this rent supports our budget. It is "cost-pooled", and it is spread over all the tenants within 45 of our buildings. We have buildings in Reno, Las Vegas, and Carson City, and we have maintenance staff in each of those cities.

**Assemblywoman Parnell:**

I guess my question to you is what recommendations would you like to see to solve this problem?

**Cindy Edwards:**

As stated, we have been working with the Supreme Court on a Service Level Agreement. This agreement would clarify exactly what is wanted and include a check list making us [B&G] accountable to that list. The B&G is working to facilitate this. This is a good step. We would like to continue taking care of the court building. We would also implement the SLA agreement with all the State agencies.

**Assemblywoman Parnell:**

Do you need more personnel? It disturbs me to see, if this bill goes through, we [the State] could lose personnel, and we probably need additional personnel. We should keep all the personnel in place based on the needs of our state buildings.

Since touring the Kincaid building, I cannot overstress how upset I am. Most of the employees are my constituents, and are, to some degree, unsafe. This is the problem we must solve. I am a little lost because I do not know how to solve the problem, but I would be happy to have some discussion and try to solve this.

**Chair Kirkpatrick:**

If we lose that staff we just move one problem to another. What can we do collectively to work toward an agreement and be productive?

**Cindy Edwards:**

In the past we have allowed agencies to participate in the Capital Improvement Program, (CIP) process. We have told the Supreme Court that they could come to all of the CIP meetings with us and present the projects. We prioritize the projects because we have 45 buildings. Yet, if the Supreme Court were at the top of the list, it could still be cut by the State Public Works Board. They, too, will prioritize and finally make a determination for the whole State.

The many older buildings use most of the maintenance funds. As I said all of the costs are pooled. We will work with the Supreme Court to give them a better level of service, but as far as maintaining the building, it is prioritized depending on the life safety of each building. There are only so many funds to cover all the costs.

**Assemblyman Beers:**

This brings us back to questions previously asked. What level of funds is needed and what level of personnel is needed to assure this complaint does not arise again?

**Cindy Edwards:**

I believe we have the level of personnel needed, but more communication is necessary regarding big capital improvements. Capital improvements are very expensive and are not included in the rent rate. They are funded through the requested capital improvement funds. We [B&G] would require more funding through either capital improvements or deferred maintenance.

**Assemblyman Beers:**

Is there a dollar figure that you can give now for the level of funds needed for capital improvements?

**Cindy Edwards:**

I do not have that with me. I can bring it back to the Committee.

**Chair Kirkpatrick:**

Because time is short we would need that today or tomorrow. I also have a question. What kind of capital improvements do you need for the Supreme Court? It is the most expensive building ever built in the history of Nevada. It is beautiful but what is needed?

**Patrick M. McInnis, Chief Engineer, Division of Buildings and Grounds,  
Department of Administration**

I am the engineer for Buildings and Grounds. The Supreme Court is reaching an age where a number of the mechanical systems, such as chillers and other larger mechanical pieces of equipment, need more than routine maintenance.

This past CIP we [B&G] requested a major rehabilitation to the mechanical system, the chillers, air handling units, control systems, and things like that. Unfortunately, it did not make the cut by the CIP because of several things beyond our control. The number of requests from the prison system, for example, is taking the majority of the CIP and the other projects with a higher priority. The present chiller system works as it sits. We have some equipment not operating at 100%, but the capability is there to maintain the Court building at a level well within the normal operating parameters of any Class A building. We have redundant systems.

The process for getting CIP money is convoluted. It is a competition among every State agency drawing from the General Fund. Next year, at about this time, every agency begins defining projects for the Public Works Board. These projects are first prioritized within departments, and when received by the Public Works Board, they are prioritized between the departments. These departments include the Higher Education System, the Prison System, the Department of



Administration, Public Safety; everybody but the Nevada Department of Transportation (NDOT) and a few of the federally funded groups. Capital money is hard to come by, especially in the current economic system, and the choice is based on what agency needs it the most.

**Chair Kirkpatrick:**

I want to stay on point regarding the projects needed. How old is the Supreme Court Building?

**Patrick McInnis:**

It was opened in 1992, I believe.

**Chair Kirkpatrick:**

I am confused. Hotel chillers in Las Vegas last for at least 20 years. They have routine maintenance, and they service many more people than the Supreme Court, and on a more consistent basis because of the weather. I personally find it a little bit hard to swallow. Did we not buy the higher quality chiller? Or, did we cut corners on such things?

**Patrick McInnis:**

The initial equipment was in the medium line and quality. It is not the best available, and it is an older technology. The chiller is of reciprocating compressors, and they pound themselves to pieces within a period of 15-20 years. We have one circuit on one of the two chillers that has a leak due to a crack in the tube, and we have not found it yet. It is an ongoing issue.

**Chair Kirkpatrick:**

The Sands Expo [hotel] has the largest chiller in the world. I have seen its capacity. The MGM Grand has one of the top 10 chillers and they have not had to replace theirs in over 14 years, and it has serviced millions of people.

Ironically, later this morning we are hearing from the Public Works Board. Perhaps we need to address this as a whole. I want to know, and you can get this to me later, what size is the chiller and what are its specifications?

**Assemblywoman Pierce:**

I just want to say if you spend 20 to 25 years adhering to the most valued of State beliefs — "do more with less and let us do it cheaper", this is what we get. I am trying to confirm this statistic on the Web, we have fewer state employees per capita now that we did about 20 years ago. Nevada has been very, very thrifty, and here we are, congratulations!

**Chair Kirkpatrick:**

If this bill were to come forward, would the Supreme Court have to purchase all the maintenance equipment, and where would it fit into the fiscal impact?

**Cindy Edwards:**

Yes, the Supreme Court would have to fund all of their maintenance and all their needs to take care of the building. They propose to use the building rent. That would be sufficient. They would do the capital improvements on the building, also.

May I just clarify, Madam Chair, what is wanted of me? I believe you want a list of all the capital improvements needed for the Supreme Court.

**Chair Kirkpatrick:**

That is correct. I also want a list of the chiller functions. I cannot believe we need a new one within this amount of time.

**Cindy Edwards:**

Do you want the cost of capital improvements in the next two years or for five years?

**Chair Kirkpatrick:**

The next five years.

**Patrick McInnis:**

Madam Chairwoman. The chiller is actually being repaired in the next CIP. We have \$85,000 from category 14. It is one compressor system out of many.

**Chair Kirkpatrick:**

Then, I want to see if we are spending that \$85,000 on something that will last only a few years. There is something to be said about quality. I will state for the record, my husband is a plumber and puts in chillers in hotels all the time. My children and I have spent many a Father's Day in hotels when the chillers were going in. I am somewhat knowledgeable about them, and I am curious about this one.

Is there anyone else who would like to speak on this bill?

**Gary Milliken, representing the Association of General Contractors, Las Vegas Chapter:**

I just need a clarification. It has nothing to do with maintenance. I agree with your maintenance comments. In the summary [A.B. 572] all capital

improvement projects for the Supreme Court Building goes through the Court Administrator and the State Public Works Board. Are you also talking about future construction projects or, are you mainly talking about maintenance concerns?

**Chair Kirkpatrick:**

Mr. Milliken, I am asking about the next five years and what will be needed.

Is there anybody else who would like to testify on Assembly Bill 572? [There was none.] At this time I invite the bill sponsors to have the last say.

**Karen Baggett:**

To reiterate, the purpose of this bill is to improve the maintenance and operation of the Court building, and also to get some CIP projects included for the future. I know the Elections Committee heard Mr. Malkiewicz, Director of the Legislative Counsel Bureau (LCB), testify on a bill requesting control of the LCB buildings and also asking for title. I suspect the Supreme Court will eventually seek the same thing. At this point, we merely want to have the building maintained at a level expected for such a building. We will continue to work with Buildings and Grounds to complete the proposed Service Level Agreement.

**Chair Kirkpatrick:**

Please leave your card, Ms. Baggett. I am sure the Committee will have some follow-up questions. I will now close the hearing on A.B. 572.

I want to clarify that A.B. 545, originally scheduled to be heard today, was removed from today's agenda and reassigned to Monday, April 9, 2007. If you are in Clark County and are there to speak on A.B. 545, please come back on Monday. We will move to our next bill, A.B. 558.

**Assembly Bill 558: Authorizes governing bodies to reject certain incomplete applications relating to land use. (BDR 22-431)**

**Nicholas Anthony, Legal Relations Program Manager, City of Reno:**

Assembly Bill 558 is a City of Reno bill. The bill deals with incomplete applications, and the intent is to give local jurisdictions authority to deny incomplete applications on their face.

What is an application? It can be a tentative map, a variance, a zoning. You should have a one page sheet in front of you ([Exhibit F](#)) showing the cover page to an application, and on the back side, there is the check list of what to include with the application.

Currently, in State law, we [Reno] do not have the authority to reject incomplete applications, and we have been told we need to seek such authority. That is why we brought this bill before you. To clarify, the intent is to reduce staff time and reduce project delay. Presently, if an application is incomplete, it must go through the whole process, including a hearing, and then get denied on its face, for being incomplete. This bill at an early stage provides both the applicant and Reno a fair chance to submit a completed application and begin the process.

I understand the building industry is offering an amendment to the bill. We have seen the amendment and accept it and will proceed with the bill as amended.

**John Hester, AICP, Community Development Director, City of Reno:**

There are three points I would like to make in support of A.B. 572. We had a case of an incomplete application being rejected by staff. It went to the federal courts where a judge expressed concern because Reno does not have state legislation allowing the denial of an incomplete application, and that is one point to support writing this bill. The second point is we have a Planning and Building Enterprise Committee comprised of industry officials, contractors, builders, and planning and development engineering folks. Over and over, in our monthly meetings, this committee suggested we reject incomplete applications and not spend time going through the described lengthy process. The submitted applications must be complete to get our attention. In other words, they would like us to reward the correct behavior and not reward the wrong behavior. The third point is an application check list already exists and some applications are accepted via the Internet. We anticipate that in the future more and more applications, as a matter of providing better service, will be accepted via the internet 24 hours a day, 7 days a week. At some point Reno will have software that will say, "Your application is not complete. Please provide this information." The City of Reno is setting the stage for using technology for better service. For those three reasons we urge your support of A.B. 558.

**Chair Kirkpatrick:**

Before we ask any questions I would like to recognize Speaker Perkins. Thank you for coming.

**Assemblyman Goicoechea:**

Referring to Section 1, line 3, and the new language in the bill, "The governing body or its designee 'shall', if practical, return the application." They must return it whether it is practical or not. If there is an incomplete application, let us make sure it goes back and not give such flexibility to make that call. So, may we delete that?

**Nick Anthony:**

I believe the builders' amendment will address your point. It requires the application to be returned, I believe, within three days and with written explanation.

**Assemblywoman Parnell:**

When I looked at the bill I wondered why it would not be sent back. As long as they are all returned with an explanation I will be fine with it [the bill].

**Assemblyman Beers:**

I notice the bill says there is no fiscal impact to local government. If this bill went through, would it not have a positive fiscal impact on local government?

**John Hester:**

It would allow us to provide more effective service, so I guess the answer would be yes.

**Chair Kirkpatrick:**

Mr. Beers, perhaps you could specify the positive fiscal impact you are referring to.

**Assemblyman Beers:**

If an incomplete application goes through the entire process, there would be staff time and paper work generated, and that is costly. If you are able to reject an application at the beginning of the process, there would be a savings of time and money, and that would create a positive fiscal impact.

**John Hester:**

You are correct. We do recover the full cost through a fee, so the answer is yes and no. The fee does not go into the General Fund, allowing us to provide other services, but it would allow us to use the revenue received from the application fee more effectively.

**Assemblyman Settlemeyer:**

I have a lot of retired people in my community who are building their own homes. They are trying to get the work done as soon as possible. If their applications are turned in and are incomplete because of a clerical error, a typo, or because they forgot to sign the check, could they just resubmit it without going to the bottom of the pile? If there was a growth ordinance, it could be prohibited from building for four or five years.

**John Hester:**

I think there are two responses to that observation. First, if it is a simple thing like a typo or forgetting to sign a check, it is not an incomplete application. That is a matter of customer service, frankly. Regarding applications for things like a plan amendment, a zone change, or a special use permit, we have deadlines. As long as a complete application is in by the deadline and it is processed within that cycle, it would absolutely go to the next cycle.

**Assemblyman Settelmeyer:**

I hope that is the way it is done. I just fear that some counties or communities may tighten their opinion of who should or should not be allowed to build and this could be abused in the future. I would like to have it clearly written in the statutes that customer service is important.

**Chair Kirkpatrick:**

Mr. Settelmeyer, Douglas County has a good planning department, but I think we have missed how the planning process works. As a former Planning Commissioner, I know an applicant will walk in and grab the application. It is set up similarly to the Department of Motor Vehicles (DMV). Currently, some cities do not provide a check-off list, which is very frustrating for the constituent. Next, the customer sits down with an individual planner, who says, "You have this, and you need that." And the process continues. However, there is very little consistency [within the State] requiring a check list, and applications are moved onto the planning commission. I believe it is at this point where the real bottleneck occurs because there is a law [State] that incomplete applications can be presented only three times. That is exactly what happens.

Does anyone else have any questions on A.B. 558? [There were none].  
Those in favor of A.B. 558 , wanting to speak, please come forward.

**John Slaughter, AICP, Management Services Director, Washoe County:**

Washoe County would like to go on record as supporting A.B. 558. We also have seen the amendment coming from the building industry, and we agree with the amendment. We view this as a customer service issue, and we urge your support.

**Robert Joiner, AICP, Government Affairs Manager, City of Sparks:**

We would also like to support this bill. We have had similar situations as those described, and we think this is good legislation. Thank you.

**Chair Kirkpatrick:**

Is there anybody else to testify in favor of A.B. 558? Any one who is neutral?  
Is there anyone who is opposing A.B. 558?

**Madelyn Shipman, representing the Southern Nevada Home Builders:**

I believe I signed in neutral. You will see, based on the intent listed on the proposed amendment, we did not feel it was necessary because most entities work informally with the developers to help them through the process if they have incomplete applications. I believe many local governments actually have ordinances that allow for the rejection, but given the situation presented by the City of Reno, we do believe there needs to be a minor change to it [the bill] to cover some of the issues that Mr. Goicoechea and Ms. Parnell brought forward ([Exhibit G](#)). That is what this amendment proposes to do and essentially says that a developer or a person who is seeking to submit an application has the right to have it either accepted or rejected within a three working day period. And, if they ask, get a reason for a request for additional documentation. There are reviewing agencies with every application and they may not get the application in time to actually respond with their comments within the three days. The bill addresses only the governing body which is the city or county, but perhaps it would foster coordination between some of those reviewing agencies. They [the reviewing agencies] could also provide the city with a check list for the normal processing of applications. That would be our comment.

**Chair Kirkpatrick:**

With that we will invite the bill sponsors back to the table.

**Nick Anthony:**

We urge the Committee's support of this measure.

**Chair Kirkpatrick:**

Mr. Anthony, please clarify your position regarding the amendment for the record.

**Nick Anthony:**

I would like to clarify that we support this measure with the amendment as presented by the Southern Nevada Home Builders Association.

**Scott McKenna, Committee Counsel:**

With respect to the proposed amendment, which requires the acceptance or rejection of an application within three working days, I understand it would be exclusive only to the completeness of the application, and that any other

provisions, for example Chapter 278 of NRS requires action on an application within a certain number of days, would be unaffected?

**John Hester:**

Yes, that is our intent.

**Assemblywoman Parnell:**

I do not read it [the amendment] like that. I see the concern. It looks to me like the application is to be processed and accepted or rejected within three working days, and that would be much too much to ask. The issue is within three days. If it is incomplete, the applicant needs to be notified of the incompleteness. When I read the amendment it looks to me that the whole process is supposed to be completed within three days. I have a problem with the amendment as I read it. I need to clarify we are not saying that within three days the application needs to be accepted in its completeness or rejected.

**Chair Kirkpatrick:**

Who would like to address that? Perhaps we should call Ms. Shipman.

**Marilyn Craig, Deputy City Attorney, City of Reno:**

We were told that Ms. Shipman had to go on to another meeting. However, our understanding, after our conversation with her, was the application was not to be processed within that time, [three days] but simply to determine whether it was complete or not.

**Chair Kirkpatrick:**

Perhaps we can work with Ms. Shipman to address the amendment's core intent.

**Assemblyman Goicoechea:**

I read the amendment to say, "if the application is incomplete" and the rest follows that. I am not an attorney but I think it works the way it is written.

**Chair Kirkpatrick:**

I will work with Ms. Shipman and Mr. McKenna to clarify this. I also will ensure Mr. Anthony sees the last of the language. At this time we will close the hearing on A.B. 558.

[The Committee recessed at 8:55 a.m. and reconvened at 9:07 a.m.]

**Chair Kirkpatrick:**

We will now open the hearing on A.B. 12.



**ASSEMBLY BILL 12:—Revises certain provisions relating to State Public Works Board. (Discussed as BDR 28-193**

**Assemblyman David Parks, District No. 41:**

I am here to present Assembly Bill 12 for your consideration. Before I go into the bill itself I would like to share some information relative to my personal background and my involvement, over the years, in the process of public works construction.

For many years I served as the Budget Director in the City of Las Vegas where capital improvement programs were one of my responsibilities. I worked on the financial end of numerous capital improvements. Subsequently, I worked at the Regional Transportation Commission of Southern Nevada where I was both the Chief Administrative Officer and the Chief Financial Officer. During that time I worked on at least half-a-dozen major capital improvement projects.

In the 2001 Session of the Legislature I presented A. B. No. 461 of the 71st Session which was unanimously approved by both Houses. It changed the process regarding qualifying bidders to submit capital improvement bids on construction. This is all by way of saying that I think I know capital improvement programs and projects. I feel confident that at this point a change is needed within the system as we build our capital improvements within the State of Nevada.

The bill in front of you, A.B. 12, has a number of changes in it. These changes were part of a bill that was passed by this Committee two years ago, referred on to the Assembly Ways and Means Committee, and it did not pass because of time and a number of other factors.

What the bill seeks to do is change the structure of the Public Works Board by having the Governor as the Chairman of the Board. The bill, as presented, would also mirror the State Transportation Board where the other members are elected officials. I have also presented for your consideration a conceptual draft, ([Exhibit H](#)) of potential revisions to Assembly Bill 12 in the form of a possible amendment. The draft looks at the possibility of replacing the existing six member board with a seven member board. The Governor would still be the head of the Public Works Board. The Board would also include two members of the Legislature; one appointed by the Senate Majority Leader and the other by the Speaker of the Assembly. Another primary aspect of this would require the Manager of the Public Works Board be appointed and serve at the pleasure of the Governor. It would be more in line with existing state agencies as opposed to the current arrangement which requires an Action Appointed Public Works Board supervise the manager.

In the handout I provided ([Exhibit H](#)), there are a number of bullet points. I would like to quickly go over those and respond to any questions after. [Read from [Exhibit H](#).]

Time and time again we have seen many projects begin as designs, but before we know it, the footage of a building grows from 60,000 square feet to 80,000 square feet and then is a project far out of scope from what was initially approved. Our Interim Finance Committee hearings as well as Ways and Means and Senate Finance hearings have seen this numerous times. The bill would allow the opportunity to review any change of scope and provide an approval process for it.

I refer to the third and fourth bullet point, [Read from [Exhibit H](#)].

Now we receive summary reports. For the most part, unless action was taken earlier, we never see the major changes in the project. Working on an "exception basis" would flag the situation if there were a number of significant change orders required, any changes in the cost, and any time delays. We do see time-delays and we certainly hear about them, but we rarely receive an explanation for the reason or nature of the change.

The final bullet point wants the option to use privatized construction project management. Occasionally this has been used and has proven to be very helpful; especially when the market has a tremendous amount of construction activity and competition for the best contractor. This also ensures the project is built according to specifications and in a timely manner.

**Assemblyman Goicoechea:**

As I look at the statute, the Governor is not presently the Chairman of the Board, is that correct?

**Assemblyman Parks:**

That is correct. He is not. I might explain, the bill as drafted would mirror the State Transportation Board. Currently, a separate board supervises the function of the State Public Works Board, and a manager and staff are part of the agency.

**Assemblyman Goicoechea:**

Do you anticipate the subcommittee of the Interim Finance Committee, (IFC) handling the majority of the work load? Would the Governor, as the Chairman of the Board, actually have time to chair that board if it meets every six weeks

or so? I would hate to see that function go away because the Chairman was not available.

**Assemblyman Parks:**

As it currently operates, the Public Works Board does meet monthly. I presume the same format would continue, and also all the routine matters would come before the Public Works Board.

The additional points in the document, ([Exhibit H](#)) deal with some oversight. We find change orders are issued months after construction begins, and something very different from the original plan happens. It is very difficult to stop construction after the fact.

**Assemblyman Goicoechea:**

I am very supportive of this, but that is exactly where I am heading. You talked about establishing administrative regulations and thresholds for anyone else dealing with change orders in the project. At what level would the Public Works Board step up and have to approve them? I assume those regulations have not been drafted or created as yet. Is that correct?

**Assemblyman Parks:**

I think some of the regulations are currently in effect, and they would be amended to take the changes into consideration.

**Assemblyman Goicoechea:**

The Public Works Board or a designee needs to make change orders fairly rapidly. It concerns me that the Governor, as Chairman of the Board, might not want to call a meeting three times a month if there are problems in the plan.

**Assemblyman Parks:**

I concur with what you say. In the fourth bullet point, on the top of the second page, I reference the fact, if the "scope was to vary beyond a certain threshold." In other words, a minor change order, such as the original architectural plan looked fine, but when it went to construction the door opened the wrong way. These types of problems would be corrected in the field, and there would be certain price thresholds that would be applied or permissible so construction would not be stopped dead.

**Assemblyman Goicoechea:**

We have all been involved in projects that went south. There might be a 30-day period when meetings are held every 10 days. Maybe it would be better to have a subcommittee of the Public Works Board to respond quickly or meet once a week for a month, while trying to get a project back on track.

**Assemblyman Parks:**

Hopefully, the regulations would handle those issues. What we want is timely reporting of change orders and a review process in place to prevent the planned 60,000 square foot building from becoming a 80,000 square foot building.

**Assemblyman Goicoechea:**

I support your bill and I think it is great. I just want to make sure it is workable.

**Assemblyman Stewart:**

Mr. Parks, am I to understand the original bill's composition is being amended by the handout you gave us?

**Assemblyman Parks:**

Mr. Stewart. I presented it only as a conceptual possibility. I know the Senate is also looking at the Public Works Board. They are considering a revised composition of the Public Works Board which would closely mirror what is in this conceptual amendment. I leave it up to this Committee for the direction it would go. The bill itself mirrors the State Transportation Board and that committee has operated with much success for many years.

**Assemblyman Settlemeyer:**

I am curious. Why did you allow the Senate and Assembly leaders to select someone else rather than themselves to be on the Board?

**Assemblyman Parks:**

It is conceivable one of them might desire to be the person, or they could appoint someone, but it must be a legislator.

**Assemblyman Settlemeyer:**

Do you want to require the Senate and Assembly leaders to be on the Board?

**Assemblyman Parks:**

No, only if they appoint themselves to the Board. That is a potential setup, and it has been used elsewhere.

**Chair Kirkpatrick:**

Mr. Parks, I have a couple of questions. We have looked at other states and other models where it is consistent that a Governor is part of the process and has the authority to appoint someone in his place. Is that correct?

**Assemblyman Parks:**

There are a number of different manners throughout the county in which public work boards are established. I believe a large number have the governor sitting on the Public Works Board. There is no single model more often used than another. It is very broad, very wide, and there are many different combinations of individuals serving.

**Chair Kirkpatrick:**

Throughout the building there is consensus that we need to make some changes. I am curious to see what the Senate is suggesting. I believe Mr. Ashleman, [Chairman of the Public Works Board] is ready for some changes too.

**Renny Ashleman, Chairman, Public Works Board:**

The Board, while I have been on it, has made many changes in procedures. We have held hearings to study some other changes, and we have some to propose this morning.

I want to comment on the proposed changes of Assemblyman Parks. Whether to retain some or all of the existing Public Works Board for their experience and knowledge gained is one proposal I will leave to your discretion. The Board has spent a lot of time studying some of these issues, so they might be of help in that regard.

The Public Works Board meets often and has quite a few subcommittees. Whether you would actually want to have the Governor, the Speaker, and the Majority Leader involved, is something you should give a lot of thought to. Currently, the budget officer is also a de facto part of the Board. It is almost a necessity for that person to be involved. The budget office prepares the estimates of cash flow, prepares the estimates of money available, and is integrally involved. The suggestions for qualifications are excellent and they primarily mirror existing statutes and there are additional detailed suggestions in the Senate bill to consider, as well.

The suggestion of a two-step process: first the planning step and then the capital improvement step, has in fact, begun under the current Board. I do not know whether you want to enshrine this in law, or if it would be better handled by policy or regulation. The idea is excellent, and the idea of having a monetary limitation is excellent too.

Referring to ([Exhibit H](#)), bullet 2; "Establishing a subcommittee of the Interim Finance Committee, (IFC) to review and approve changes in capital

improvement project scope and funding," is an outstanding suggestion because time is money in this business and there is a great deal of inflation in the construction industry, and also, there is the cost of carry-on funds. Anything that could be done to speed up approval of these changes would be exceedingly useful.

The idea of putting thresholds in regulation [bullet 3] when a project must receive IFC approval is also underway. There are some things in the Senate bill that would put it in law. We, [The Board] have some suggestions along those lines.

The status reports, [bullet 4] are also a good idea. We actually do receive those at the Board level. The problem is the Legislature and Interim Finance do not get them as regularly as they should. They have made requests for information along those lines. Again, the Senate bill has a good outline of things you would want in the reports.

The last point [bullet 5] refers to the optional use of privatized construction project management. The board has adopted regulations to permit this. It is not necessary to mandate it as we utilize this a great deal. It is a tool that would have prevented, in my view, some of the larger problems of past years. Those problems actually grew out of some contracts left many, many years ago, when we did not have those tools.

The amount of money we will manage is probably doubling in the biennium, so we raised our staff level request by about 25%. This is primarily a result of our ability to use various private management techniques. The cost of the Public Works Board to the public is going to go down, and our efficiency will improve.

The Board also has some suggestions and recommendations regarding the discussed composition [of the Board] and the detailed reports. One thing we propose, and have given the language draft to the Chairman, is recommending an executive committee. The Public Works Board cannot always be assembled simply to approve contracts. If emergencies occur, that committee could be very useful.

The law currently requires the Board to give design approval when the drawings and a certain degree of the design is complete. In a Board meeting, it is not possible to effectively review those things. This has caused a four to six week delay in many cases. It probably should be taken out, modified, or waived at the call of the Chair or by the Executive Committee.

I know the Chairwoman would like construction to begin within 30 days after the award of contract. That is present policy, but some legislation along those lines might be useful. Requiring the IFC to approve any cost change beyond 10% has been suggested. It might make more sense to look at 15% or to put a threshold on the smaller projects. This recommendation could use a little refinement, and certainly, the Board supports these ideas.

The Senate legislation suggests a deputy manager for enforcement of code and as a building official for the State. This is a very important concept. Currently, the code enforcement official reports to the general manager, who is also responsible for the speed, safety, and monetary savings on the construction. This is an obvious conflict of interest. We have not come to grief over it, but there should be a deputy manager to whom the enforcement people report, and who does not report to the general manager [of the project]. Enforcement is a very large division but does not have its own deputy manager. That would be very important.

In the Senate bill there is reference to "priority spending" saying gift money, federal money, and other sources are to be spent before general fund and highway fund money, or money from the general obligation bonds. It is an important concept, and we should do something in this area. There may be a need for an exception, of course, because some federal requirements insist you spend state money under certain circumstances. You would not want to lose any federal matching monies over this. Some gifts are conditioned on certain things happening, so it has to be very carefully worded.

**Chair Kirkpatrick:**

I want to commend you for the job you have done. It is a hard position to be in, and I know the \$80.00 given to the Board members does not cover all the meetings they attend. We are all moving in the same direction, and it is comforting to know we are working for the best interest of the State.

I want to ask about gifts. Yesterday, when I saw there were grants from the Department of Cultural Affairs with matching grants and certain criteria to be followed, I was very uncomfortable. Are there any thoughts for a better tool without losing money in the long run?

**Renny Ashleman:**

I think the Senate's bill has some language allowing for exceptions. With a little tweaking it can be made to work, Madam Chairwoman. There must be a heightened scrutiny of these donations/deals. These very large donations for the very large projects, for which the State is grateful, tend to drive the entire

project and can lead to cost overruns and other things. The legal staff and the Board should adopt a policy statement and very careful regulations in that area.

**Assemblyman Beers:**

You mentioned the gifts and the possible conflicts. If you take a look at the Nevada Department of Transportation (NDOT) Board of Directors you find the Governor, the Lieutenant Governor, the Attorney General, and the Controller sitting on that Board. If we place such individuals on the Public Works Board too, would that be a potential conflict?

**Chair Kirkpatrick:**

That is probably a question for our legal staff. I will defer that question to the Legal Department.

**Scott McKenna, Committee Counsel:**

Assemblyman Beers, if you would not mind restating the question, it would give me a little bit of time to think about it.

**Assemblyman Beers:**

If we follow the recommendations and place the Governor on the Public Works Board, and because he is already sitting on the NDOT Board along with the Lieutenant Governor, Attorney General, and the Controller, would it or would it not be a conflict of interest to have that placement?

**Scott McKenna:**

I would hesitate to give a conclusive answer without having some time to think it through.

**Chair Kirkpatrick:**

Are there any more questions? [There were none.]

**Steve Holloway, Executive Vice President, Association of General Contractors, (Las Vegas Chapter):**

We have been working with Mr. Ashleman as Chairman of the State Public Works Board on streamlining procedures and methods and addressing some problems giving our industry a black eye over the past several years. We have been asked by Senator Raggio, sponsor of Senate Bill 387 (the counterpart to A.B. 12), to write an amendment for that bill. He likes some of the ideas we have promulgated, and we also are interested and want these two bills to be reconciled. We are here to offer that service.



We have been working with you, Madam Chairwoman, and the Committee should know we have offered to work with Assemblyman Parks and Assemblywoman Smith.

We support A.B. 12 and its concepts, but are not sure we need the Governor or the Speaker and Majority Leader to sit on the Board. I think their representatives should, and it would be a great help to have a couple of the Interim Finance Committee members on the Board.

**Chair Kirkpatrick:**

Does anybody have any questions?

**Assemblyman Bobzien:**

I have a comment. I think the discussion whether or not the Governor should be on the State Public Works Board is a little bit disconcerting. I would think that the Governor would welcome the chance to exhibit leadership and take on the challenge to ensure the taxpayers are being well served, especially with these very expensive and very important projects.

**Chair Kirkpatrick:**

For the record, Mr. Holloway, Mr. Ashleman and I have had several meetings to determine the problems. When the Public Works Board was here I urged them to consider what could be done to streamline its process. It is really about taxpayers' dollars. I think we all want the same thing. I appreciate the work you do Mr. Ashleman and your willingness to work with us.

Is there anybody else who would like to testify in support of A.B. 12?

**Assemblywoman Debbie Smith, Assembly District No. 30:**

Mr. Parks and I have been working collaboratively on this bill, and I support Mr. Parks' amendment. I come to this from the perspective of someone serving on the Ways and Means Committee as well as spending time on the Interim Finance Committee. I have also served on the Interim Finance Committee studying the Lease Purchase Provisions within our state government and how it handles our construction projects.

Sitting on the Interim Finance Committee has been extremely frustrating because of the lack of information, the cost overruns, and the feeling that we are not the best stewards of the State's tax dollar.

I want to be very clear; I am not pointing fingers at the Public Works Board. It does a huge service for this State, and I really appreciate the work it does. However, our State has grown, and the number and magnitude of our projects

have grown exponentially. It has become difficult for work to continue in the way we have always done business. It is time for a change.

I heard the word streamline used a couple of times, and that term concerns me. What we really need is more oversight and also to dig into what information we do have. As we move forward and consider all of the amendments from the different parties, and as we look at Senator Raggio's bill, I hope we keep in mind our huge obligation to better manage these [Public Works] projects and contain the cost overruns.

I will mention one project that came to the Interim Finance Committee (IFC). It began as a few hundred thousand dollars project and within a few months it was \$1.5 million and growing. That is very frustrating.

When the IFC meets, it is usually an all day meeting, a minimum of eight hours. We deal with every division and department, and we plow through every kind of issue and budget imaginable. In those limited times it is not possible to do justice to these projects. Having an oversight subcommittee or a mechanism to thoroughly examine these projects is incumbent upon us to assure the best job possible. I encourage the Committee to help us all be fiscally responsible and reconsider how our State completes our public works projects.

**Chair Kirkpatrick:**

I will explain where "streamline" comes in and clarify one of the problems we have identified. It takes nearly two years to complete the bidding process. In fairness, how can any contractor project the price of concrete two years down the road? We have talked about this and how we can make the process move more quickly. For instance, when the Public Works Board came to speak to us, we learned paperwork could sit five to seven months on someone's desk before moving to the next part of the process. It is that we want to streamline.

**Assemblywoman Smith:**

Madam Chair, I appreciate that [explanation]. I was looking at two different issues; streamlining in one way and then having more oversight in another way, on both ends. You are absolutely correct.

We sit in Ways and Means and we look at 2003 CIP projects not yet finished. We are continually doing supplemental appropriations to try to wrap things up. So, I absolutely agree with that comment.

**Chair Kirkpatrick:**

Is there anybody neutral on A.B. 12?

**James Sala, Southwest Regional Council of Carpenters:**

I signed in as "opposed" because of the original language of the bill. After having conversations with Mr. Holloway and Mr. Ashleman and now listening to the conceptual changes, I am now in support. We like many of the concepts mentioned this morning by Assemblyman Parks, as well as many that are contained in S.B. 387.

Our opposition was because it placed the Governor as Chairman of the Public Works Board with some other state officers. The concept of appointments from the Governor, the Majority Leader, and the Speaker is a much better plan. Also, the concept of the Board appointing professional members and the manager and having oversight, as Assemblywoman Smith suggests, is a good idea. The issue of accountability, recommended by the Chairwoman, is a good idea too. Saving time and money for the taxpayers and the contractors who do the work is extremely important. Cleaning things up will encourage contractors to come back into the public works market with competitive bids, and the project's workers will also be more satisfied. I will work with everyone to ensure a good bill from the Legislature this session.

**Assemblyman Bobzien:**

Thank you, Mr. Sala. Having perspective from the folk working on our projects is very important to us. I would, however, make this distinction. I acknowledge the interim meetings have quite a workload. I also think it is important the Governor and the specified state leaders have the opportunity to take leadership on this important issue. Yes, there are meetings and there will be work; however, they do have staff. Ultimately, if we want to make this process more accountable, we will depend on the Governor's leadership to see us through.

**James Sala:**

I agree with you, Assemblyman Bobzien, but it would be more effective, perhaps, if the Governor and the others make appointments and have the appointees report back to them. Obviously it will be up to the Committee and both political parties to work this out.

**Assemblyman Parks:**

Earlier there was a question as to how other states handle their public works function. I did a quick tabulation, and one in nine of the 16 western states actually have a [separate] department handling the public works function. So, roughly half of the states function through the Department of Administration, or there is a stand-alone department called the State Public Works Department. I will get something like a mock draft or re-do bill to you as requested.

**Chair Kirkpatrick:**

We will close the hearing on A.B. 12.

**Assemblywoman Pierce:**

I have some numbers in front of me now that apply to what we have heard today.

In 1993, other western states, in terms of full-time equivalent state employees, had 135 [employees] per 10,000 per capita, and Nevada had only 110. That means a loss of 25 employees per 10,000, on a local level. In 2003, using the same criteria of 10,000 per capita, the other local governments had 327 employees per 10,000, but in Nevada there were 303 employees. In 2004, Nevada employment was ranked as 51 with local and state employment. We are the thriftiest state in the Union, and yet we are surprised we cannot get our buildings clean! Thank you.

**Chair Kirkpatrick:**

We will go into the work session.

The first bill under consideration is Assembly Bill 139. I will turn it over to Ms. Joiner.

**Assembly Bill 139: Revises provisions relating to local governmental administration. (Discussed as BDR 20-325)**

**Amber Joiner, Committee Policy Analyst:**

Assembly Bill 139 was submitted by the Nevada Association of County Recorders.

[Read from work session packet ([Exhibit I](#)).]

**Chair Kirkpatrick:**

Do I have a motion on this bill?

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 139.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

**Chair Kirkpatrick:**

Is there any discussion on this bill?

**Assemblyman Claborn:**

I want it to go on record that I have nothing against low-cost housing, but from where the low-cost housing is funded. I do not support the bill, and I will be voting no on the bill because the money will come from The Southern Nevada Public Lands Management Act of 1998 (SNPLMA). I want that to be on the record.

**Chair Kirkpatrick:**

Is there any other discussion on this bill? [There was none.]

All those in favor please say Aye.

THE MOTION PASSED. (ASSEMBLYMAN CLABORN VOTED NO.)

The next bill for discussion is Assembly Bill 218.

**Assembly Bill 218:** Revises provisions relating to public works. (Discussed as BDR 28-852)

**Amber Joiner, Committee Policy Analyst:**

[Read from the work session packet ([Exhibit J](#)).]

**Chair Kirkpatrick:**

Is there a motion on A.B. 218?

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 218.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION

**Chair Kirkpatrick:**

Is there any discussion on this bill?

**Assemblyman Bobzien:**

In past discussions there was concern this bill could penalize contractors who were honestly trying to do the right thing. I believe the Associated General Contractors (AGC) has some concerns. Can we get clarification about where we are?

**Chair Kirkpatrick:**

Ms. Soderman, would you like to speak?

**Crystal Soderman, representing the Nevada Chapter of Associated General Contractors (AGC)**

We think this [amendment] is a good fix for that one portion of the bill. There are some other issues to be worked on, but we do support the amendment.

**Assemblyman Stewart:**

I want to confirm it is clear that minor offenses or something that happened ten years ago would not accumulate and the contractors would be protected in that manner.

**Chair Kirkpatrick:**

Mr. Milliken and the Labor Commissioner were part of the conversations. I asked what we could do and whether there was room for discussion. I am sure there is more work to be done on the bill, but I believe, if we move it through the Assembly, the Senate will put its handprints on it.

**Gary Milliken, representing the Las Vegas Chapter, Associated General Contractors.**

Yes, the three of us worked it out as best we could. We had some questions with the bill initially, but if you look at Section C [of the amendment] where it says the "Labor Commission, shall, by regulation, establish criteria based on the severity of the commission of an offense to determine if it counts toward the cumulative offenses and corresponding penalties," and this is what we wanted to give to the Labor Commissioner. Now, if there was a minor offense four or five years ago, and that contractor has another minor offense, the Labor Commissioner has the flexibility to look only at the present offense. He might also send a letter if it was the same type of offense.

Many of the offenses are disputes over what category the employee works throughout the entire day and paying for an incorrect category. The AGC agreed to this amendment because it gives the Labor Commissioner flexibility, and it will be easier to handle any problems.

**Chair Kirkpatrick:**

Mr. Stewart, does that answer your question?

**Assemblyman Stewart:**

Yes it does.

**Assemblyman Settelmeyer:**

Mr. Milliken, should one individual [Labor Commissioner] have such power when writing regulations? Is there by chance, a board, or should we add people to determine the criteria for this set of regulations? In my mind we should not give

so much power to one person. I bring this up because there is a bill in Commerce and Labor that will possibly change who the Labor Commissioner will be. I question leaving such power with one individual.

**Gary Milliken:**

In general, I agree with you. The problem is there is no one else to choose from on these matters. The regulations will be set in a public hearing, and people already involved with creating the regulations understand it will be a long process. The ASC [the construction side] and labor also will give input from their side. At this time there is no other body to involve in these issues.

**Assemblyman Settelmeyer:**

I am very hesitant to vote for this bill in this form. Can we amend it and establish criteria saying the regulations are completed in a public meeting?

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

Actually, the Associated Builders and Contractors were opposed to this, in terms of its original introduction, and we testified, along with many of our members. I have had discussions with several people working on the bill, including the Labor Commissioner. Our concern was whether the Labor Commissioner could influence and override regulations. We still have some concerns because we do not want any unintended consequences for contractors who do their job legally and by regulation. The reason I am struggling with this [bill] is contractors could still be put out of work.

**Chair Kirkpatrick:**

I do not want to relive this testimony. I believe this bill could move to the Senate, and then the Senate can work with the folks.

**Assemblyman Beers:**

Hearing some of the testimony and hearing there is flexibility placed into this now, I have a concern because the Labor Commissioner could find offenses, even if no penalty was originally assessed. I agree. If the Senate can clean this up, then I am middling comfortable with moving it to the Senate.

**Assemblyman Claborn:**

When we heard this bill recently, I commented that I have been involved since the conception with this prevailing wage report. As a matter of fact the building trades, five of them, put all of it together back in 1978-1979 when there were no prevailing wage reports. This is how this [bill] came about. The building trades put this together, and it has been brought to the Legislature two times now. Ninety-nine percent of the problems result from not paying

according to existing classifications and not paying the prevailing rate. Do not be misled or believe this is about merely paying ten or fifteen cents an hour out of classification. This is about taking advantage of people and contractors not paying prevailing wage.

Let the record stand, this is a big problem and not the small problem some have suggested. It is flat out exploiting the workers.

**Chair Kirkpatrick:**

Is there additional discussion?

THE MOTION PASSED. (ASSEMBLYMAN CLABORN VOTED NO.)

The next bill to be discussed is Assembly Bill 233.

**Amber Joiner, Committee Policy Analyst:**

Assembly Bill 233 was sponsored on behalf of the Commission on Mental Health and Developmental Services.

[Read from work session packet ([Exhibit K](#)).]

**Chair Kirkpatrick:**

May I have a motion on this bill?

ASSEMBLYMAN ATKINSON MOVED TO DO PASS  
ASSEMBLY BILL 233.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

**Chair Kirkpatrick:**

Is there any discussion on this bill?

**Assemblywoman Pierce:**

I would like to propose an amendment. On line 28 I propose that the "or" be changed to "and." So that it reads, "A person who has knowledge and experience in the prevention of alcohol and drug abuse 'and' the treatment of alcohol and drug abusers." I think this will produce someone well-rounded and more knowledgeable of the full spectrum of problems involved in substance abuse. That is my proposed amendment.

**Chair Kirkpatrick:**

Thank you Ms. Pierce. There was also some question regarding the ten



members. I did speak with several people who believe there were no problems that could not be resolved. They are quite comfortable with the ten. Mr. Atkinson, do you want to restate your motion as Amend and Do Pass?

[Assemblyman Atkinson declined the opportunity to re-state the motion.]

We will now take a vote on the amendment.

ASSEMBLYWOMAN PIERCE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 233.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

There is a motion to Amend and Do Pass. A.B. 233.

THE MOTION PASSED UNANIMOUSLY.

Is there any public comment? [There was none.]  
[The meeting was adjourned at 10:20 a.m.]

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Mary Kay Doherty  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn K. Kirkpatrick, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Government Affairs

**Date:** April 4, 2007

**Time of Meeting:** 8:02 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		AGENDA
	B		ATTENDANCE ROSTER
A.B. 572	C	Karen Baggett	Prepared Statement
A.B. 572	D	Karen Baggett	Facility Condition Analysis
A.B. 572	E	Cindy Edwards	Executive Agency Fiscal Note
A.B. 558	F	Nick Anthony	Copy of Reno Development Application
A.B. 558	G	Madelyn Shipman	Proposed Amendment
A.B. 12	H	Assemblyman Parks	Proposed Revisions to Public Works Board
A.B. 139	I	Amber Joiner	Work Session Document
A.B. 218	J	Amber Joiner	Work Session Document
A.B. 233	K	Amber Joiner	Work Session Document