

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

**Seventy-Fourth Session
April 6, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:30 a.m., on Friday, April 6, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Bob Beers
Assemblyman David Bobzien
Assemblyman Chad Christensen
Assemblyman Jerry 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

GUEST LEGISLATORS PRESENT:

Assemblyman David Parks, Assembly District No. 41
Assemblyman Harry Mortenson, Assembly District No. 42



STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Brenda Erdoes, Committee Counsel
Emilie Reafs, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Oran McMichael, Area Field Services Director, Nevada, American Federation of State, County, and Municipal Employees (AFSCME)
Danny Coyle, State of Nevada Employees Association, AFSCME Local 4041
Mark Anastas, CPM, Interim Director, Department of Personnel
Ron Cuzze, President, Nevada State Law Enforcement Officers' Association (NSLEOA)
Ronald Dreher, Government Affairs Director, Peace Officers Research Association of Nevada
Keith M. Lyons, Jr., Nevada Trial Lawyers Association
Gary Peck, Executive Director, American Civil Liberties Union (ACLU) of Nevada
James Richardson, representing Nevada Faculty Alliance
Morgan Baumgartner, General Counsel, R&R Partners
Joe Edson, Field Organizer, Progressive Leadership Alliance of Nevada (PLAN)
Maureen Cole, Deputy Administrator, Nevada Equal Rights Commission, Department of Employment, Training, and Rehabilitation
Juanita Clark, Charleston Neighborhood Preservation, Clark County
Janine Hansen, State President, Nevada Eagle Forum
Richard Ziser, President, Nevada Concerned Citizens
Father David A. Hoff, St. Paul's Charismatic Episcopal Church, Henderson, Nevada
Ronald Lynn, Building Official, Department of Development Services, Clark County
Jonathan G. Price, Ph.D., State Geologist and Director, Bureau of Mines and Geology
Walter Dimitroff, Committee on Domestic Violence, Office of the Attorney General
John McCormick, Rural Courts Coordinator, Supreme Court Administrative Office of the Courts
Keith G. Munro, Chief of Staff, Office of the Attorney General
Joshua Martinez, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department

Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence

Mandi Lindsay, Government Affairs Specialist, Associated General Contractors, Las Vegas Chapter

Vinson W. Guthreau, Government Affairs Coordinator, Nevada Association of Counties

Seth Floyd, City of Las Vegas

Randy Robison, representing Associated Builders & Contractors of Southern Nevada

Irene Porter, Executive Director, Southern Nevada Home Builders Association

Jeff Donahue, President, Fire Prevention Association of Nevada

James M. Wright, Chief, State Fire Marshal Division, Department of Public Safety

Peter J. Mulvihill, P.E., Chair, State Board of Fire Services, Assistant Fire Marshal, North Lake Tahoe Fire District

Phil Galeoto, Director, Department of Public Safety

[Call to Order, Roll Call]

Chair Kirkpatrick:

We are going to start with Assembly Bill 602.

Assembly Bill 602: Makes various changes to the state personnel system. (BDR 23-1148)

Oran McMichael, Area Field Services Director, Nevada, American Federation of State, County, and Municipal Employees (AFSCME):

We are here today to endorse and support A.B. 602, but we would like to offer an amendment ([Exhibit C](#)). There was some discussion on this bill yesterday, so we have taken the comments into consideration. The amendment should meet the requirements of the discussions yesterday. The first part of the amendment changes Section 1, the composition of the committee, from seven to five, with two members being appointed from each side: two from management, two from employee organizations, and the fifth would be nominated by the four, and appointed by the Governor.

In Section 2 of the bill, we have eliminated the salary of the chair of the committee. In Section 3, we have added the new subsection 8, which addresses the question of the leave of absence for a representative of an organization. It states that "The organization shall reimburse the State for all salary, benefits, including any and all PERS and PEBP calculations." These

changes neutralize or at least minimize any fiscal note on this bill and we therefore urge the Committee on Government Affairs to adopt the amendment.

One more change, we have eliminated the American Arbitration Association because we knew it would have a fiscal impact. In conversation with the Federal Mediation and Conciliation Service (FMCS), they have a section called Grievance Mediation; it is my understanding that they would provide that service at no cost to the State. We found out that there were 32 hearings in the last fiscal year, and we have therefore added "or a successor organization," so if there is a cost with the FMCS, we could research and find a service that was lower cost or free.

Danny Coyle, State of Nevada Employees Association, AFSCME Local 4041:

I concur with Mr. McMichael. I think the fiscal concerns of the administration have been addressed with the reduction of the membership from seven to five members, and the quick resolutions of many grievances will more than compensate and reduce the expense of hearings over the coming years.

Assemblywoman Parnell:

Thank you for incorporating the comments from yesterday. This bill will be a benefit to the workforce; when you increase the morale in the workplace and cut down the time that it takes to process grievances, you will have a more productive workforce. Our Vice Chairwoman referenced earlier in the week the appalling information that we rank 51st in the number of public employees per capita.

Chair Kirkpatrick:

Is there anyone who is neutral on A.B. 602? [There were none.] Is there anyone who is opposed to A.B. 602?

Mark Anastas, CPM, Interim Director, Department of Personnel:

[Read from prepared statement ([Exhibit D](#)).]

Chair Kirkpatrick:

I realize that you are only the messenger. What is the Governor willing to support? What compromise is he willing to take? The amendment compared to the original bill was a huge compromise for the state employees. What is he willing to do to make sure the state employees have some sort of representation? The chairman is the facilitator for the most part, so they would not schedule meetings when only three people can come. The real question is what are your suggestions?

Mark Anastas:

I can go back and talk to the Governor because I do not know.

Assemblyman Goicoechea:

I am concerned about legislation that determines how a board is going to be created by a flip of a coin. We have the six members and the arbitrator; let that person become the chair or mediator between the two sides.

Chair Kirkpatrick:

Are there any other boards that do that?

Assemblyman Munford:

I sat in on some grievance hearings over the interim, and I was interested whether others could sit in on the hearings. The employee won his grievance, and the hearing was just and fair.

Mark Anastas:

Anyone can sit in on the hearings.

Chair Kirkpatrick:

We are going to go to southern Nevada.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association (NSLEOA):

I support this bill, but I have some alternative suggestions that will reduce the cost of the Employee-Management Committee (EMC) operation by thousands of dollars a year. At the last EMC hearing, one of the committee members could not get to the Reno airport due to inclement weather in the valley so the Department of Personnel set up a teleconference. If teleconferencing is good enough for the Legislature, it should be good enough for the EMC and could save the State money. The savings could be used to increase the membership from five to seven because the EMC coordinator already has a hard enough time scheduling these meetings.

The second resource is something that our union tapped into some time ago. We have a bunch of retired, but dedicated state employees, both on management and labor. A pool of the retired state employees could sit in as alternates, via teleconference.

Assemblyman Settelmeyer:

A lot of other boards in the State will give the Governor three people to select from, so there might be a thought to amend this bill, so the EMC would select three names from which the Governor could choose his appointment.

Chair Kirkpatrick:

I am going to ask the maker of the bill to come back up and speak.

Oran McMichael:

To address the questions about the FMCS, I have brought someone else.

Ronald Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

For clarification, for the past 20 to 25 years, I have been using the Federal Mediation and Conciliation Service (FMCS) for a variety of reasons. It costs \$15 to get a list of arbitrators online, or \$35 in regular mail. If you use the FMCS as a federal mediator it would cost nothing. It is a good thing because mediation is to address impasses, and FMCS will be available as many days as you need. It is a good service and is provided for free.

Oran McMichael:

If you look at the top of page 3 of the bill, in lines 1 and 2, it states, "The Employee-Management Committee shall adopt such rules as it deems necessary for its own management." The Committee will set a procedure and process that would accommodate both the employees and the management.

Also, the use of lost time: it is not an imposition for a department to lose one person, and if necessary, we will write an amendment to cap it at one person. The organization the person comes from is paying the freight, so there is no cost to the State.

Chair Kirkpatrick:

I am going to close the public hearing on A.B. 602. I will open the hearing on Assembly Bill 442.

Assembly Bill 442: Revises provisions relating to unlawful discrimination. (BDR 18-1052)

Assemblyman David Parks, Assembly District No. 41:

The bill draft request was a late arrival in the rush to get bill drafts completed. As a result, I came to the conclusion that Section 3 was not quite what I wanted; while it had a lot of good information, it needs to be further integrated into existing statute. I therefore request that Section 3 be deleted from the bill and what remains is a cleanup bill. I have provided a handout ([Exhibit E](#)), which shows an existing statute on the first page, and the second and third pages show a couple of screens from the Nevada Equal Rights Commission, outlining some of their services. My recommendation is that the Committee proceed

forward with A.B. 442 in its abbreviated form, which makes the various chapters and titles of *Nevada Revised Statutes* (NRS) consistent.

Assemblyman Christensen:

As a Christian, I get nervous about modifying statutes even more. I sometimes feel that I have to be careful about what I say; for example, I do not know if I can say "Happy Easter" without offending someone. You mentioned that you want to remove Section 3, but could you highlight what concerns you and why you want to pull that Section?

Assemblyman Parks:

For Section 3 to go forward, I would like it to go as an entire revamping of the statutes that are associated with it. There are a lot of other areas of non-discrimination that I would like to see combined. The Legislature tends to do things in an incremental fashion, and therefore different titles and chapters of the NRS do not have a degree of uniformity.

Assemblyman Christensen:

Uniformity and definition of terms are what you want to accomplish with this bill?

Assemblyman Parks:

Right, with other chapters of NRS.

Assemblyman Beers:

Our email boxes have been flooded with letters on both sides of this issue. Some of the concerns that have been addressed to me primarily regard Section 4, subsection 3 and Section 5. The concern is that if this bill passes, even with Section 3 deleted, that some religious practices, such as those by a typical Christian, Jew, or Muslim, may fall under the purview of this law. They fear that if they follow the tenets of their belief system, they could be in violation of the law. Is there any way to alleviate those concerns?

Assemblyman Parks:

My understanding is that those concerns are completely unfounded. There is no impact on any religious organizations. I would ask if Legal Counsel could give the Committee a definitive answer.

Chair Kirkpatrick:

Mr. Beers, will you restate the question for Mrs. Erdoes?

Assemblyman Beers:

Would this bill if enacted, with or without Section 3, have an impact on religious practices, especially those that have tenets about sexual orientation?

Chair Kirkpatrick:

Can you please be specific about the sections of the bill that you referred to earlier?

Assemblyman Beers:

Section 4, subsection 3 has a definition and then Section 5 deals with any place of public accommodation.

Brenda Erdoes, Committee Counsel:

The answer to your question, in terms of legal analysis, is that I cannot identify any such adverse impacts. If you want, you may forward me the emails. Maybe there is some religious tenet that I am not aware of, but I am more than happy to go through the bill with you. Religion is a very broad topic; to know all the tenets and what a person may even consider to be religion is undefined. Given the knowledge that I have, I do not see an impact.

Assemblyman Beers:

Not being a lawyer or a pastor, I thought the question deserved an answer.

Assemblyman Settlemeyer:

I have friends on both sides of this discussion; I have received emails on both sides of the perspective. The people of the State of Nevada voted on an initiative defining marriage. Would this bill conflict with that definition? Because of the initiative, does the *Nevada Constitution* now say that one has the right to discriminate based on marital makeup? I am confused, would this conflict or concur with the initiative that was passed?

Brenda Erdoes:

We did look at all the Constitutional provisions including that one, and the analysis is that there is no conflict. This bill and the initiative can exist without conflicting with each other.

Assemblyman Parks:

Section 4, subsection 3 is a definitional term. It is the same definition that one will find in Title 18, Title 53, and Title 54 of NRS. It is repeated here for consistency. There can be slight variations within the NRS, so this is only for consistency.

Assemblyman Claborn:

Even if Section 3 is removed, there seems to be no way for someone who has been accused and then cleared of discrimination claims to countersue for defamation of character or something similar.

Assemblyman Parks:

The penalties were in Section 3 and that is also one of the reasons I wanted to take a closer look at all of the statutes.

Assemblywoman Parnell:

I have a question about where this language is referenced in other titles. All of the language in Section 4, subsection 3, and the highlighted language in Section 5 is already in state law in other areas?

Assemblyman Parks:

That is correct. Chapter 233 and Chapter 613, which is about employment practice, already have those terms and definitions.

Assemblywoman Parnell:

So this is not a new policy?

Assemblyman Parks:

That is correct. In special session two years ago, we passed Assembly Bill No. 5 of the 22nd Special Session, which created the policy statement that supports this statutory change.

Assemblyman Munford:

I have received calls and emails from constituents who have been discriminated against, usually in terms of employment. I direct them to the Equal Rights Commission. I sometimes hear back that the Commission is so backlogged that nothing happens. Since you have them as the body to address these grievances, how effective are they?

Assemblyman Parks:

One side comment, if I had the ability to pass one bill and one bill only in my career in the Legislature, it would be to strengthen and reinforce the work that the Nevada Equal Rights Commission does. It is woefully underfunded and does not have the staff to do the necessary investigations, and it has to pass a number of its complaints to the federal government. There are a lot of things that we can do to greatly improve the operation of the Nevada Equal Rights Commission, the least of which would be to, at minimum, adequately fund it. They are very effective. In recent years they have reduced the backlog of cases. There are fewer complaints than what I had heard of many years ago.

There may be someone here or in Las Vegas who can further address your question.

Assemblywoman Pierce:

To Assemblyman Christensen who made a comment about needing to be careful about expressing celebratory comments for holidays of one's own faith and how it seems to be more dangerous these days: The idea that one should be sensitive to the fact that not everyone shares my faith and that not everyone celebrates the same holidays that I do, was in fact a family value that I learned half a century ago.

Assemblywoman Parnell:

I pulled up Assembly Bill No. 5 of the 22nd Special Session. It might be informative for our freshman members. Final passage in the Assembly was 32 to 7 and 21 to 0 in the Senate.

Assemblywoman Womack:

I went through my emails for the past two weeks, and I received more to vote for than against this bill. Anytime we can make the law uniform and make its intent clearer is good.

Chair Kirkpatrick:

First, I am going to lay some ground rules, which I always do when we have more than a few people to speak. Please be mindful of the time, we have other bills and a work session; please stick to the merits of the bill, remember that Section 3 is being removed by the sponsor; and I will move on if the rules cannot be followed. I am looking for people to speak in support of the bill.

Keith M. Lyons, Jr., Nevada Trial Lawyers Association:

I have practiced in two primary fields in Las Vegas, labor and family law, for the last 14 years. We support this bill; it is good for the citizens of Nevada. Some of the remedies in Section 3 are not available under the existing *Nevada Revised Statutes* and do not exceed the remedies that are available under the law. In Section 3, subsection 4(a)(1)...

Chair Kirkpatrick:

Since the bill sponsor has decided to pull that section, I prefer that we stay with his recommendation.

Keith M. Lyons, Jr.:

Okay, I would ask that Assemblyman Parks reconsider his position. We support

the bill, especially if he reinstates Section 3. The remedies that he is withdrawing are not available in other statutes in Nevada. In regard to concerns that other legislators may have, like those relating to churches: there are specific exemptions for churches from employment statutes. An example is that a Christian church would not be required to hire an atheist as an employee, and it is simple to insert that language if Nevadans feel it is necessary.

Chair Kirkpatrick:

I will state again, please speak to the merits of the bill and the bill's sponsor has withdrawn Section 3.

Gary Peck, Executive Director, American Civil Liberties Union (ACLU) of Nevada:

I am here to speak in support of the bill. As Assemblyman Parks mentioned, last special session, you all passed A.B. No. 5. That bill helps this State to be viewed around the country and world as a welcoming place for all people from all sorts of backgrounds. This bill brings consistency to the *Nevada Revised Statutes* and state policies and does so in a way that is not only right, but is good for business because we want to remain a welcoming place. This bill only deals with public accommodations. The ACLU many times has defended the rights of individuals and organizations to religious freedom and we would speak out forcefully if we believed that anything in this infringed on those rights. Passing this bill is the right thing to do and the right thing to keep the welcoming business climate for our State.

James Richardson, representing Nevada Faculty Alliance:

We want to be on record supporting this bill. We have supported the efforts of Assemblyman Parks over the years to make this a more welcoming state, and that helps with the recruitment and retention of faculty at the universities, community colleges, and the state college.

Morgan Baumgartner, General Counsel, R&R Partners:

Since 1999, I have been privileged to work with Billy Vassiliadis, my boss, and Assemblyman Parks on this type of legislation. We are grateful to Mr. Parks for his efforts to take incremental steps to make Nevada a state where personal freedom is honored and respected.

Joe Edson, Field Organizer, Progressive Leadership Alliance of Nevada (PLAN):

We urge your support of this bill. The PLAN has supported efforts to guarantee personal freedoms and liberties for all citizens of Nevada, including the Employment Nondiscrimination Act seven years ago and A.B. No. 5 of the 22nd Special Session. This bill is in the same spirit. We applaud any effort to continue making Nevada an open, welcoming, and affirming state for all of its citizens and visitors. I have heard and read many of the oppositions' arguments

and they are many of the same arguments that were heard seven years ago. The arguments tend to be based on belief systems of people who feel that their actions will be impinged upon by the public accommodation parts of this bill. I see nothing in this bill that impinges on personal or religious beliefs that are not already exempted in other areas of law.

Maureen Cole, Deputy Administrator, Nevada Equal Rights Commission, Department of Employment, Training, and Rehabilitation:

I speak in favor of A.B. 442. We support any effort to create a clear and consistent statutory framework for the enforcement of equal opportunity for employment, public accommodations, and housing. We would be pleased to work with Assemblyman Parks or any of the members of the Committee for a more comprehensive overhaul of the statutory system that we have right now.

Assemblyman Munford:

Where are the offices of the Equal Rights Commission, and how many offices do you have?

Maureen Cole:

We have two offices, one in Reno on Corporate Boulevard and one in Las Vegas on Tropicana Boulevard.

Assemblyman Munford:

Can we direct anyone to your office to file a complaint?

Maureen Cole:

They can come in person, or contact us via telephone or email. We would be pleased to work with them and see if we can help.

Juanita Clark, Charleston Neighborhood Preservation, Clark County:

The Charleston Neighborhood Preservation is a group consisting of thousands of members. Boy Scouts is a major thing in my family and we are all involved in that and we are very concerned with the effect this bill would have on this organization.

Chair Kirkpatrick:

I would ask that you speak to the merits of this bill. Section 3 has been deleted, and I think that you are opposed to this bill. So please wait a minute.

Is there anyone who is neutral on A.B. 442? [There were none.] Is there anyone who is opposed to A.B. 442?

I am going to lay the ground rules one more time. The sponsor of the bill has agreed to remove Section 3, so there is no discussion on that; and secondly, be mindful of the time and stick to the merits of the bill.

Janine Hansen, State President, Nevada Eagle Forum:

I have a handout ([Exhibit F](#)). We have several questions that have been brought forward in this hearing that we would like to have addressed. We are concerned about page 2, line 12, about employment being added to that section and on the top of page 3, line 1, employment being added there. We respect the opinion of Ms. Erdoes, but we would like the specific citations in law where churches would be exempted from this bill, so that their particular religious point of view would not be jeopardized. I gave you a copy of the *Nevada Constitution* Ordinance which states that it is "irrevocable without the consent of the United States and the people of the State of Nevada." It later states "That *perfect toleration* [emphasis added] of religious sentiment shall be secured, and no inhabitant of said state shall even be molested, in person or property, on account of his or her mode of religious worship."

In the State *Constitution*, Article 1, Section 4 says, "Liberty of conscience. The free exercise and enjoyment of religious profession and worship without discrimination or preference shall be forever allowed in this State... but liberty of conscience hereby secured." We want specific laws that exempt churches from being forced to hire people who are antithetical to their religious beliefs. Also, many churches run other organizations like employment, adoption, counseling, welfare services, and daycare centers which may not be directly part of the church, but are sponsored by it. We would like to know if these types of things are also protected from reverse discrimination and intolerance, which this bill will create.

Chair Kirkpatrick:

Ms. Erdoes will get that information to you.

Janine Hansen:

I would also like to mention Section 1, line 7 and line 15. This is for people who want employment; they cannot be discriminated against because of their religion, but there is no mention that an employer's right to religion is protected. We think that critical passage is left out of the bill. Employers do hold specific religious beliefs beyond churches and church-sponsored organizations. We will be looking forward to answers to our questions.

Richard Ziser, President, Nevada Concerned Citizens:

The Committee members received a packet of information from our organization ([Exhibit G](#)). I know Section 3 was eliminated, which was a concern to us

because of the penalties involved. It does not appear that there are any exemptions in this bill. I know exemptions were in place when Assembly Bill No. 311 of the 70th Session was passed. It protected 501(c)(3) [nonprofit] organizations, but it did not protect other employers who happened to have religious beliefs. We stand opposed to this bill.

Janine Hansen:

In the bill previously passed, the Boy Scouts received an exemption under the employment issue in the State of Nevada. However, other people did not receive an exemption. I do not know if this bill would override that exemption.

Chair Kirkpatrick:

We will get a legal opinion to address today's questions, but with deadlines looming it is not something I want Ms. Erdoes to do today. The opinion will get to you in the next week.

Juanita Clark:

I concur with the testimony already presented this morning regarding being in opposition to this bill.

Father David A. Hoff, St. Paul's Charismatic Episcopal Church, Henderson, Nevada:

I am speaking in opposition to this bill. We have existing Nevada law that already speaks to the issues of discrimination. It is moot to add sexual orientation to something that is already in place and working. Once we start adding riders to laws that include sexual orientation, as the saying goes "Once the camel gets his nose in the tent, the rest of the body follows." The homosexual agenda realizes this fact. Assembly Bill 442 would put the state government in the position of adopting a view at odds propounded by the major faiths of Christianity, Judaism, and Islam. It would also prohibit employers from taking into account sexual conduct in the hiring of education and child care workers. It would also afford special protections to an already privileged group.

Chair Kirkpatrick:

Is there anyone else opposing A.B. 442? [There were none.] We are going to call the bill's sponsor back up to the table.

Assemblyman Bobzien:

Perhaps this is a question for Brenda Erdoes. I was trying to recall what exactly the exemptions were and how the balance was struck when it came to public accommodation. The case that relates to this is *Boy Scouts of America v. Dale* [530 U.S. 640 (2000) 160 N.J. 562, 734, A. 2d 1196, reversed and remanded.] in which the Supreme Court ruled that when there are expressive

organizations that have a viewpoint, there is an overriding First Amendment right that exempts them from public accommodation. Some of the arguments about religious and private organizations are straw man arguments that do not have a lot to do with the merits of this legislation.

Assemblyman Parks:

The intent of this bill was to create uniformity amongst the various chapters of NRS. I agree with Mr. Ziser that the \$25,000 penalty was excessive. You have heard a lot about employment legislation, which is under NRS 613 and there is nothing in the bill that covers employment nondiscrimination.

Chair Kirkpatrick:

We are going to close the hearing on A.B. 442. I would like to recognize North Las Vegas City Councilwoman Stephanie Smith. We are going to move to Assembly Bill 326.

Assembly Bill 326: Establishes certain requirements relating to buildings constructed of unreinforced masonry. (BDR 28-716)

Assemblyman Harry Mortenson, Assembly District No. 42:

I serve on a University of Nevada, Las Vegas (UNLV) advisory committee for the College of Science. At one of the meetings there was a discussion of the seismic activity in Nevada and the drastic consequences that could happen. I thought it was grist for a good bill. I got in touch with a lot of people, like Mr. Ronald Lynn, who is a specialist in seismic activities. Jonathan Price is the Secretary of the Nevada Earthquake Safety Council. I will turn the discussion over to them.

Ronald Lynn, Building Official, Department of Development Services, Clark County:

I am also Chairman of the Nevada Earthquake Safety Council. This bill states the need to identify unreinforced masonry structures. Unreinforced masonry structures are structures that are built without benefit of steel reinforcement. They are brick, hollow clay tiles, stone, concrete block, or adobe and are very likely to damage during an earthquake event. Severely cracked or leaning walls are some of the most common earthquake damages. Earthquake damage to unreinforced masonry structures can be severe and hazardous.

The lack of reinforcement coupled with poor mortar and inadequate roof-to-wall ties results in substantial damage to the building as a whole, as well as specific sections of it. Also hazardous, but slightly less noticeable is the damage that may occur between the walls, roof, and floor diaphragms. Separation between the framing and the walls can jeopardize the vertical support of roof and floor

systems which can lead to the collapse of structures. Both the Federal Emergency Management Agency (FEMA) and The Masonry Society (TMS) have identified unreinforced masonry as the most dangerous structure type in an earthquake incident.

The State of Nevada is the third most seismically active state in the United States, behind California and Alaska. California passed a bill in the late 1980s to inventory, design for mitigation, and implement said mitigation for 25,800 buildings. There are virtually no unreinforced masonry structures in the unincorporated areas of Clark County.

Construction of unreinforced masonry became common between 1933 and 1955. Anchors to the floor and roof are generally missing and the use of low-strength lime mortar was common. In 1961, reinforced masonry became a requirement of the uniform building code, which has been adopted by various jurisdictions throughout the State of Nevada. Therefore, the unreinforced problem is older structures. The bill currently exempts historical buildings; I am not sure that is the best idea, but historical buildings are often identified as a higher level of risk. The Mormon Fort in Las Vegas is an example; it is a historical building and thus has almost no occupancy other than employees. The risk therefore is low.

There is one change ([Exhibit H](#)) in Section 3, we have added the word "unreinforced" once again. We deleted the reference to the seismic provisions adopted pursuant to *Nevada Revised Statutes* 341.143. This was a bill sponsored by the Nevada Earthquake Safety Council, which was to keep current with the earthquake provisions. As some of these buildings are very old, it did not seem appropriate to bring them up to today's standards, but at least to the 1961 uniform building code masonry standards.

Assemblyman Mortenson:

What lit a fire under me was that I was told that there are a lot of unreinforced buildings in rural Nevada. Many of these are schools and when disasters like seismic events occur, people run to the school for protection.

Jonathan G. Price, Ph.D., State Geologist and Director, Bureau of Mines and Geology:

[Read from prepared statement ([Exhibit I](#)).]

The bill is a good step forward in reducing future losses of lives from earthquakes.

Assemblyman Christensen:

[To Assemblyman Mortenson] It might have been in 2003 when the Southern Nevada Home Builders were in and they addressed liquefaction and how that works. I just saw something on Discovery Channel about something bad happening in Las Vegas. They addressed the 1954 earthquake in Fallon and the earthquake in the late 1980s, in California, when buildings Californians thought were solid, collapsed. As we refer to reinforcement, I have seen the parking structures built with the reinforcing bar (rebar) that is put together like a puzzle and then the concrete is poured over it. Is that what we are referring to or are there other materials that can be used for reinforcement?

Ronald Lynn:

There are other materials. Typically it is the rebar, but there are some new fiber-carbon components and other types of wrapping that can be used in retrofit. Generally the most cost-effective method in initial construction is to put in the rebar steel and tie it off in a way that it resists lateral loading.

Assemblyman Christensen:

For retrofit of older buildings, it is a matter of wrapping certain parts of the building?

Ronald Lynn:

There are a number of ways to retrofit. One is to wrap columns, which is common in California where they even did it on bridges. Another method is to anchor back with big tie-back anchors. A third method is to use reinforcing beams inside the building, so it does not detract from the architectural effect of the outside, but the building is still reinforced. Any and all of these methods can be used. In some cases, the owner of a building may say that the structure has had its life expectancy and therefore demolish it and rebuild a better building.

Assemblyman Settlemeyer:

I understand the concept of including the state buildings, but not taking it on to all other buildings. There are buildings on my ranch that are masonry.

Mr. Mortenson, you mentioned that this bill came about from schools, but schools are held to a higher seismic code. The high school my father went to had to be abandoned; it was retrofitted to the point that it could be used as a museum, not a school. There are clearly different rules in existence. I was wondering why the existing rules are not enough for public buildings. Could we allow people who have historic buildings on their property to not fall under this bill?

Ronald Lynn:

It is true that schools, police stations, fire stations, and hospitals each have different seismic ratings called importance factors. With some buildings it is not economical to bring them up to a certain standard. It was a voluntary initiative to go back to upgrade. This bill exempts single-family dwellings or homes; from my point of view I would like to do everything. The loss of life in the Loma Prieta earthquake was almost exclusively from unreinforced masonry structures. The Whittier earthquake deaths were solely from unreinforced masonry. The bill says anything that has five or fewer dwelling units is not covered, so the structures on the farm are not affected by this bill.

Assemblyman Stewart:

The original Las Vegas High School is both a landmark and a school. Would that meet the qualifications? How many schools throughout the State would fit into this bill? Bishop Gorman High School was built before 1961 and is still being used.

Ronald Lynn:

Part of the bill is an inventory, and then there are several years to design the fixes. The thing right now is that we do not know how many schools and that unknown number is the risk.

Let us use Bishop Gorman as an example. The Clark County School District realizes they have a lot of fire and structural safety work to do before they can use the building. Some of the other schools, like Las Vegas High School, have had newer areas built, but there has been a review through the Nevada Earthquake Safety Council where some nonstructural retrofit was done. They received an award two years ago for their activities. It is not that schools are blind to the problems, but there is no formal policy of inventory to figure out what the costs are going to be. This bill provides that policy.

Assemblyman Stewart:

Safety should be the prime consideration. If this is as widespread as Mr. Mortenson and I think it is, this could cost an enormous amount of money, but it is important to keep kids safe.

Assemblywoman Pierce:

I lived in San Francisco for about 15 years, but the strongest earthquake I ever felt was here. There is a line in the bill that repeats several times and I wanted to know what it means. It first appears in Section 1, subsection 3(b): "Change the use of the building so that the building does not qualify as an unreinforced masonry building."

Ronald Lynn:

Use and occupancy are often the determining classifications of the seismic or lateral resistance of a building. As Assemblyman Settelmeyer stated before about the school that was brought up to museum standard but could not again be used as a school, if a building could not be brought up to school standards, it could be used as something else. This allows for a change or reduction of use so the building is not occupied; for example, historical buildings we may want to keep but not use as offices anymore.

Assemblyman Goicoechea:

This bill will wipe out all the downtown areas in my district.

Assemblyman Mortenson:

The federal government will give \$3 for every \$1 for some of the retrofitting. It is not a question of if there will be an earthquake, but rather when there is an earthquake. That might, too, destroy downtowns.

Assemblyman Goicoechea:

We have done a number of seismic retrofits in some of rural areas, especially courthouses and schools. We are talking about the private sector here. There are hotels like the Brown Hotel and the Ely Hotel that would fall under this bill.

Chair Kirkpatrick:

This is similar to our energy audit that I requested to start with public buildings. If you ask everyone to do it, you get nothing. Are we making strides in building departments? Are hotels and homes figuring in seismic standards, so we just need to look back?

Ronald Lynn:

All of the jurisdictions in southern Nevada including Pahrump and Nye County have adopted the *2006 International Building Code*, which has incorporated criteria in a state-of-the-art, national earthquake hazard reduction program. In 1999, I think, it became state law that all jurisdictions must adopt the current seismic provisions incorporated in the International Building Code.

Chair Kirkpatrick:

Do you know the time frame the jurisdictions had to implement? Last session we heard that some jurisdictions do not even have building departments.

Ronald Lynn:

My recollection was that it was immediate. They were to adopt the Code in the next adoption cycle. We did in Clark County.

Chair Kirkpatrick:

Let us say that we started with the public buildings. Would it be something that was included in the energy audits? What would have to happen to get the information?

Ronald Lynn:

All state buildings are being built to the *2003 International Building Code*. What we are looking for is an inventory, but it will not show up on the energy audit. These are different types of buildings. For the local jurisdictions, the easiest thing to do would be to look at their assessor's records and determine which buildings were built before 1961, then send out letters to the private individuals stating, "Please look at these buildings and identify if they are unreinforced masonry." The next portion is the more complex, which is to design a remediation process. It would require an engineer in many cases to conduct the analysis and cost-benefit study. The bill then gives a number of years to implement the action.

Chair Kirkpatrick:

I am trying to determine what tools local governments would need to put this process in place. It sounds like the assessor's office could get them started.

Ronald Lynn:

That is where I would go first.

Assemblyman Settlemeyer:

There are possible solutions already within the rule. The State Historic Preservation Office (SHPO) dictates that anything over 40 years old is a historic building.

Ronald Lynn:

I am unaware of that as being a broad-based comment.

Assemblyman Settlemeyer:

We ran into that when dealing with concrete structures in the field. They consider any structure to be historic after 40 years. The bill does not include any building that is five or fewer dwelling units or any historic structure as defined by NRS 349.485. If I am correct, that is the SHPO statute. So all of Ely would be thrown out because it is more than 40 years old, is that correct?

Ronald Lynn:

I would have to defer this to the Legislative Counsel because it was not from us.

Assemblyman Mortenson:

I talked in an untechnical way to many people, particularly in the southern part of the State. I asked how the casinos are doing in constructing their buildings. I was told that they are building very robustly. The new casinos are going up with great attention to seismic details.

Assemblyman Goicoechea:

I think new construction should comply, but the cost to retrofit the buildings in rural Nevada would be exorbitant.

Chair Kirkpatrick:

Is there anyone who would like to speak in support of A.B. 326? Is there anyone who is neutral? Is there anyone who is in opposition? [There were none.]

Assemblyman Mortenson:

This is not a bill that is life and death to me, but I think it is important. We are balancing lives against dollars. It is a question of how much can we protect our citizens before the next big earthquake.

Brenda Erdoes, Committee Counsel:

Page 3, subsection 2, line 6 provides for an exception. It says that the term "unreinforced masonry building" for the purposes of the sections that are added to NRS 278.580 does not include buildings that are five or fewer dwelling units, is a warehouse or other building not used for human occupation, or is a historic structure as defined in NRS 349.485. It uses the conjunction "or" so any one of those things would be excluded. This is from the provisions of Sections 4 and 5 of the bill.

Chair Kirkpatrick:

We will close the hearing on A.B. 326.

[Ten minute recess.]

Mr. Kihuen, I would like you to present your bill.

Assembly Bill 381: Revises provisions related to domestic violence. (BDR 18-962)

Assemblyman Ruben Kihuen, Assembly District No. 11:

[Read from prepared statement ([Exhibit J](#)).] All this bill does is replace one of the members of the Domestic Violence Committee, a spot which has not been filled in ten years, with a municipal judge or a justice of the peace.

Walter Dimitroff, Committee on Domestic Violence, Office of the Attorney General:

I am the mental health representative for this committee. I would like to go on record as supporting this bill.

John McCormick, Rural Courts Coordinator, Supreme Court Administrative Office of the Courts:

I am here on behalf of the Judicial Council of the State of Nevada, which represents judges from all over the State and all levels of the judiciary, to formally withdraw the Council's letter of concern regarding A.B. 381. The Council has had the opportunity to obtain more information and engage in further discussion since the letter dated April 2 was forwarded to you and has come to the conclusion that having a judge participate on the Committee would serve to enhance communication and cooperation around the serious issue of domestic violence. The Council formally changes its position from one of concern to one of support.

Assemblyman Stewart:

My concern is that the courts are already overworked; will the judge have time to fulfill this obligation? Will the position be rotated so it will not be a burden on one judge?

John McCormick:

In discussion with the judges last night, they did not express the work as a concern.

Assemblyman Claborn:

[To Assemblyman Kihuen] There is no place in this country for domestic violence and I commend you for bringing this bill. It takes a lot of courage for a man to do what you are doing, so you have my support.

Chair Kirkpatrick:

Is there anyone who would like to speak in favor of this bill?

Keith G. Munro, Chief of Staff, Office of the Attorney General:

I would like to echo the comments of Assemblyman Kihuen, and we request your support.

Joshua Martinez, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We support this piece of legislation, as well.

Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence:

You have a copy of my statement ([Exhibit K](#)). I urge a Do Pass on this bill.

Chair Kirkpatrick:

Is there anyone else who would like to speak in support of this bill? Is there anyone who is neutral? Is there anyone who is opposed? [There were none.]

Assemblyman Kihuen:

Domestic violence is a problem across the nation and the world, and it needs to be addressed. This is part of the solution. Thank you for your support.

Chair Kirkpatrick:

I will entertain a motion to Do Pass.

ASSEMBLYMAN BOBZIEN MOVED TO DO PASS ASSEMBLY BILL 381.

ASSEMBLYMAN CHRISTENSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will open the hearing on Assembly Bill 529.

Assembly Bill 529: Clarifies the applicability of regulations of the State Fire Marshal concerning building codes. (BDR 42-375)

Ronald Lynn, Building Official, Department of Development Services, Clark County:

This is a bill that has been aired before in different versions. This deals only with the building codes in counties with populations over 400,000. The *Nevada Revised Statutes* (NRS) Chapters 244 and 278 authorize counties to adopt building codes regulating the design, construction, maintenance, and safety of buildings, structures, and property within their counties. However, NRS 477.030 confuses and limits that authority by requiring counties of

50,000 or more to enforce the State Fire Marshal's building codes and regulations adopted in the *Nevada Administrative Code* (NAC) 477.281 and 477.283. These regulations have a totally different adoption process.

Currently in southern Nevada, adoption is vetted through the county and all of the incorporated cities and even Pahrump and Nye County have come in this past year. We have participants from all of the technical disciplines, whether it be fire, structural, plumbing, mechanical, electrical, swimming pool, et cetera. When there are conflicts between the county's buildings codes, ordinances, or regulations and the State Fire Marshal's building codes, rules, and interpretations, NAC 477.280 requires the most stringent to apply.

Stringency is an interesting term; if you say that a guardrail should be no lower than 32 inches, 34 inches is clearly more stringent and 30 inches would be less stringent. When dealing with the holistic composition of a building, it is far too nebulous a term. Stringency is not an appropriate approach and it is not even recognized within the body of the code in the same manner as used here. We talk about alternates and equivalencies and performance-based designs. The redundancy of codes and competing authority confuses developers and contractors as to which code to build to and potentially doubles the county's building department workload by requiring county staff to review plans and inspect construction to two sets of building codes, the county's and the State Fire Marshal's. The redundancy does not improve building safety in any way. Clark County has the building code enforcement expertise to adopt and enforce the correct building codes for the conditions in Clark County.

Chair Kirkpatrick:

I will invite those in support of this bill to come and speak.

Mandi Lindsay, Government Affairs Specialist, Associated General Contractors, Las Vegas Chapter:

We support A.B. 529. Having duplicative building codes is burdensome and unnecessary. Furthermore, the cities and counties in southern Nevada are already doing the work and being held accountable for that work. It is good public policy to afford the cities and counties the respective authority to supplement that accountability.

Vinson W. Guthreau, Government Affairs Coordinator, Nevada Association of Counties (NACO):

We support A.B. 529. This bill was introduced on behalf of Clark County by the Nevada Association of Counties and was unanimously approved by our Board of Directors.

Assemblyman Goicoechea:

I am sure you have had discussions with the counties whose population is between 25,000 and 100,000, like Elko and Humboldt Counties.

Vinson W. Guthreau:

The NACO representatives who represent those members have indicated their support for this bill as it only applies to Clark County.

Assemblyman Goicoechea:

In counties under 25,000 it is automatic that the State Fire Marshal's code is in place, the question is for those between 25,000 and 100,000.

Vinson W. Guthreau:

It is my understanding that they are okay with this bill. I have not heard any opposition, and when it was presented to the Board, before I was with NACO, they did not have any problems with it.

Assemblyman Goicoechea:

I wanted to make sure that I did not get blindsided afterwards.

Chair Kirkpatrick:

I thought we had a bill similar to this last session.

Ronald Lynn:

That is correct. This bill is streamlined. Last session the bill passed, but it was vetoed by the Governor.

Chair Kirkpatrick:

What are the potential impacts on schools? Would it make school construction move a little faster rather than having inspectors trying to enforce two sets of codes?

Ronald Lynn:

This does not specifically address the schools. The schools are going to have their own bill. We streamlined this bill down to counties of 400,000 or greater and even made it a "may."

Seth Floyd, City of Las Vegas:

I want to echo the comments of the previous speakers and offer our support of the bill.

Randy Robison, representing Associated Builders & Contractors of Southern Nevada:

We also support this bill.

Irene Porter, Executive Director, Southern Nevada Home Builders Association:

We also support this bill.

Chair Kirkpatrick:

Is anyone else in favor of this bill? Is anyone neutral on this bill? [There were none.] Is there anyone who is opposed to this bill?

Jeff Donahue, President, Fire Prevention Association of Nevada:

The Fire Prevention Association of Nevada is made up of approximately 270 members who are fire safety officers, fire prevention officers, building inspectors, fire protection engineers, fire and life safety contractors, and members of the general public who have an interest in fire and life safety.

When we received notification of this bill, I sent requests out to our membership throughout the State and asked for their input. It came back from many of our members that they are opposed to it. It is important that we retain our mission, and that is to enhance fire and life safety to the citizens and visitors of Nevada. One of the ways to support that mission is to support the state fire and building codes throughout the State. The State Fire Marshal's Office is responsible for setting the minimum standard within the State and we should not be isolating specific counties or jurisdictions throughout the State for setting a minimum standard.

Chair Kirkpatrick:

Are the fire codes that have been adopted by local governments the minimum standard or is there something different?

Jeff Donahue:

Local jurisdictions can increase the standards from the state minimum through local ordinances. The building and fire codes that the State Fire Marshal adopts set a minimum for the entire State.

Chair Kirkpatrick:

Let me use an example. Mobile homes adopt the latest revision of the *International Fire Codes*, which is 2006. Are those less stringent than the State Fire Marshal's codes?

Jeff Donahue:

No, the standards adopted by the State Fire Marshal would be those international codes. The difference is that local jurisdictions can adopt stronger codes than the State Fire Marshal. We are saying that we support the State Fire Marshal's Office in having the ability to adopt codes that set a minimum standard for all jurisdictions within the State.

Chair Kirkpatrick:

I feel like we are backwards when you say that local governments can adopt stronger codes.

Jeff Donahue:

I am not clear on your question. The way that we have interpreted this bill is if it was approved, the jurisdictions within Clark County would not have a minimum standard to go by.

Chair Kirkpatrick:

Would you be comfortable if we included some language that stated that the jurisdictions within Clark County must meet the state-adopted minimums?

Jeff Donahue:

There are a couple of nationally recognized standard codes, the international code, and also the National Fire Protection Association (NFPA) standards, which are NFPA 1 uniform fire code. Those are what are called model codes; they are base codes which local or state jurisdictions can modify to meet their own needs.

Chair Kirkpatrick:

You are not willing to bend on this, is that correct?

Jeff Donahue:

I am representing the membership. The response I got from the membership is that they are not in favor of this bill. The comments that I got from members throughout the State were that they wanted to support the State Fire Marshal's ability to set a minimum standard throughout the State.

Chair Kirkpatrick:

My husband is a plumber, so I know the code books. I know there are strict standards for the international codes, and I agree that local governments should stay with those codes. The standards for things like toilets and fire sprinklers are the same across the United States. I thought the fire department, the fire safety, and the structural people all did the same thing.

Jeff Donahue:

The State Fire Marshal's Office is responsible for setting the minimum standard in building and fire codes that affect the entire State. Local jurisdictions can take that base code, which is either the international code or the National Fire Protection Association (NFPA) code, and modify it to a tougher standard. It is never prudent to go less than the base. By NRS the State Fire Marshal has a responsibility for setting a base. What my members are concerned with is Clark County has asked to be exempt from what the State sets. That jurisdiction now or at some future date may adopt standards less stringent than the state minimums.

James M. Wright, Chief, State Fire Marshal Division, Department of Public Safety:

[Read from prepared statement ([Exhibit L](#)).]

Peter J. Mulvihill, P.E., Chair, State Board of Fire Services, Assistant Fire Marshal, North Lake Tahoe Fire District:

The Board of Fire Services is charged in NRS to provide recommendations to the Legislature on matters related to the fire service and firefighters. Our board has discussed this measure several times. This is the third or fourth session that this bill or a version of it has come before you.

In January 2005, the Board of Fire Services passed a resolution that was reconfirmed in the January 2007 meeting. I will read it to you ([Exhibit M](#)).

As the Chair of the Board of Fire Services I consider this a reckless measure. The State Fire Marshal, with a few amendments, adopts the base document, the *International Fire Code*, and a mechanical code. The local jurisdictions may adopt their codes with amendments. Clark County's amendments are quite extensive, approximately 110 pages. If there is confusion and if there are inconsistencies within those, it is my opinion that the fault does not rest with the State Fire Marshal; it is with what Clark County has done with its own building code, so Clark County needs to deal with it on that level.

As a Washoe County fire agency that following the next census will fall under this bill, I do not want my county to have the ability to adopt and write what they want. Mr. Lynn says the legislation applies only to the building code, but that is not exactly the wording in the document. He says that it applies to the maintenance of buildings and their protection systems in construction as found in the fire code. This bill drastically affects building and fire code adoption in the larger counties.

Phil Galeoto, Director, Department of Public Safety:

As the individual held accountable for public safety throughout the State, and therefore for the Fire Marshal's Office and their accomplishments and upholding the state statute, I am concerned that this is a slippery slope measure. As this State has grown exponentially over the last several years, various areas of the State have their own local concerns, we understand that, but we have state law for a reason of consistency. As one county carves out different treatment, will others follow in other sessions? The State of Nevada needs a baseline, which the State Fire Marshal provides.

Assemblyman Stewart:

Are the regulations in Clark County greater or lesser than the current state regulations?

James M. Wright:

To my knowledge, they are at least as stringent as the State. It has been discussed that it has provisions that are stricter. I would expect jurisdictions that have more complex facilities to have stricter codes.

Assemblyman Stewart:

How many fire marshals do you have in Clark County?

James M. Wright:

Right now we do not have any assigned due to vacancies because of the restructuring of the State Fire Marshal's Office. We are proposing some positions further in the budget process.

Assemblyman Stewart:

How many does Mr. Lynn have?

Ronald Lynn:

We have 180.

Chair Kirkpatrick:

I would like to see a copy of the *International Fire Codes* as well as the state fire codes because I want to see what the differences are.

Does anyone else have any questions? Is there anyone else who would like to speak against A.B. 529? Mr. Lynn, you have the final word.

Ronald Lynn:

This bill was not meant to mitigate anything in the fire code. This is the building code, and if additional language needs to be added to make it clear, we will do so. I provided this to the State Fire Marshal a few months ago in order to be open for communication.

As Washoe County moves into the 400,000 population range, I expect the cap will change so this bill will apply only to Clark County. Let us look at the MGM fire; I came out with the department as part of the investigation, so I have a good idea what has happened in the modernization of codes. I sit on the Board of Directors of the International Code Council which promulgates the International Building Codes. Clark County has some of the most restrictive standards in the United States. Nothing in this bill diminishes the NRS provisions which require sprinklers, and if there is anything the fire service considers sacrosanct in the NRS, I am happy to support that.

If something goes wrong in Clark County, I have the accountability, but I do not have the authority. That is a bad practice. I have 100 to 200 alternates to the code submitted each year, which the *International Building Code* allows me to evaluate on a stand-alone basis, predicated on the latest scientific evidence and engineering documentation available. Each one of these, by virtue of the way the law is written, needs to go to the State Fire Marshal to determine whether it is less or more stringent than existing code. I am not talking about speculative items that deal with compromises in the building—for example, putting in sprinklers with more intensity that cover more area—I am talking about structural issues. This is not an attack on the State Fire Marshal. I support the State Fire Marshal and I support his office. He does not have the competency and the manpower to do some of the things that we need to do on a daily basis. An example: the code is specific that it does not allow tensile [stretching] in rebar steel greater than 60 kips [unit of weight equivalent to 1,000 pounds] or compression greater than 80 kips. Yet a new product, MMFX steel, can withstand up to 100 kips, which is less stringent but clear scientific evidence proves MMFX is better. Four past presidents of the American Concrete Institute and S. K. Ghosh Associates, Inc., have all come to me with scientific evidence that this can be used in buildings.

I am asking, as I am given the accountability, that I be given the authority so that the jurisdictions in Clark County that choose to opt out of the State Fire Marshal's regulations also have that opportunity. This bill is supported by the Clark County Fire Department. I have four fire protection engineers, many structural engineers, mechanical engineers, and all of the technical disciplines to maintain state-of-the-art capability on staff. The comment that the bill could jeopardize federal funding is not true. I met with Mike Mahoney, who is head of

the National Earthquake Hazards Reduction Program in Washington, D.C., less than two months ago. He said that is not true, that it goes back to a presidential article in the Clinton Administration, in which Federal Emergency Management Agency stated that it does not want to rebuild communities of older codes up to newer standards. Clark County adopted the 2006 building codes and the State Fire Marshal is still on the 2003 codes for new construction.

Chair Kirkpatrick:

We will close the public hearing on A.B. 529 and open the work session.

Assembly Bill 289: Exempts the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions. (BDR 44-344).

Amber Joiner, Committee Policy Analyst:

[Read from work session document ([Exhibit N](#)).]

Assembly Bill 289 authorizes a city or airport authority located in a county whose population is less than 40,000 to rent or lease space for the parking or storage of aircraft without conducting an appraisal or public auction. This measure was sponsored by Assemblyman Grady and was heard April 2, 2007. There were no amendments proposed for this measure and there was no testimony in opposition.

ASSEMBLYWOMAN PARNELL MOVED TO DO PASS
ASSEMBLY BILL 289.

ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

The Floor statement will be by Assemblyman Grady. I am going to hold Assembly Bill 373 as some members want to investigate General Improvement Districts (GIDs) this weekend.

We will move on to Assembly Bill 533.

Assembly Bill 533: Revises provisions governing notaries public. (BDR 29-543)

Amber Joiner, Committee Policy Analyst:

[Read from work session document ([Exhibit O](#)).]

Assembly Bill 533 resolves the conflict between two provisions currently in statute regarding the procedure used by notaries public. It adds the use of a credible witness as a form of identification in Section 240.155 of the *Nevada Revised Statutes* (NRS) to match provisions in NRS 240.1655.

This measure was sponsored on behalf of the Secretary of State and heard on March 30, 2007. There was one amendment proposed by the Secretary of State's Office, it would require training for new and certain current notaries public. The mock-up is attached and is the same mockup that was presented originally. There was no testimony in opposition to this measure. Also in your work session document is a follow-up memo from Nicole Lamboley from the Secretary of State's Office regarding the term "credible witness."

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 533.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

Mrs. Womack, will you please do the Floor statement? We will move on to Assembly Bill 558.

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

Amber Joiner, Committee Policy Analyst:

[Read from work session document ([Exhibit P](#)).] Assembly Bill 558 authorizes the governing bodies of cities and counties to reject land use applications if the applications are incomplete. It also requires governing bodies that have rejected incomplete applications to return each application with a description of the additional information required, if practicable.

The amendment offered during the hearing by the Southern Nevada Home Builders Association adds the requirement that any incomplete application must be accepted or rejected for processing within three working days and, if rejected, include a written description of the additional information required. It would also remove the requirement that the application be returned only "if practicable." The attached language is a revised version of the amendment originally offered by the Home Builders Association, and it adds the word "processing" to clarify the concept during the hearing.

Legal Division has also included a mock-up of this concept in your work session document. Since this was printed, the City of Reno and the Home Builders Association have had a chance to look at it, and they are in support of the concept. Their one concern is with the word "clerically" on page 2, line 22. They think it is too narrow to include, for instance, larger errors than typographical errors, such as if an entire document is missing. So if we remove the word "clerically," they would be okay with it.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 558 WITH THE LAST MODIFICATION.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

Mr. Kihuen, will you do the Floor statement? Our last bill is Assembly Bill 559.

Assembly Bill 559: Authorizes the Governor to designate a temporary replacement if the State Controller or the State Treasurer becomes temporarily incapacitated. (BDR 23-700)

Amber Joiner, Committee Policy Analyst:

[Read from work session document ([Exhibit Q](#)).] Assembly Bill 559 authorizes the Governor to designate a temporary replacement if the State Controller or the State Treasurer becomes temporarily incapacitated. It was sponsored on behalf of the State Controller and heard on March 30, 2007. There were two amendments proposed by members of the Committee; one was by Assemblyman Goicoechea, who asked that "incapacity" be more narrowly defined, and the other was by Assemblywoman Parnell, who asked that a physician's determination of incapacitation be made before the Governor may appoint a replacement. Both of the amendments have been integrated into a mock-up in your work session document, and there was no testimony in opposition.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 559.

ASSEMBLYMAN CHRISTENSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

Ms. Parnell, will you do the Floor statement, since I think you will have to explain incapacitated? Is there any public comment? [There was none.] Monday we will start at 8:00 a.m., we are adjourned. [11:32 a.m.]

RESPECTFULLY SUBMITTED:

Emilie Reafs
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: **Committee on Government Affairs**

Date: **April 6, 2007**

Time of Meeting: **8:30 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 602	C	Oran McMichael AFSCME	Proposed Amendment
A.B. 602	D	Mark Anastas, Department of Personnel	Prepared Statement
A.B. 442	E	Assemblyman David Parks, Assembly District 41	Handout
A.B. 442	F	Janine Hansen, Nevada Eagle Forum	Handout
A.B. 442	G	Richard Ziser, Nevada Concerned Citizens	Handout
A.B. 326	H	Ronald Lynn, Building Official, Clark County	Proposed Amendment
A.B. 326	I	Jonathan Price, State Geologist and Director of State Bureau of Mines and Geology	Prepared Statement
A.B. 381	J	Assemblyman Ruben Kihuen, Assembly District 11	Prepared Statement
A.B. 381	K	Susan Meuschke	Statement
A.B. 529	L	James Wright, State Fire Marshal	Prepared Statement
A.B. 529	M	Peter J. Mulvihill, P.E., Chair, State Board of Fire Services	Resolution
A.B. 289	N	Legislative Counsel Bureau	Work Session Document
A.B. 533	O	Legislative Counsel Bureau	Work Session Document
A.B. 558	P	Legislative Counsel Bureau	Work Session Document
A.B. 559	Q	Legislative Counsel Bureau	Work Session Document