

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-fourth Session
February 28, 2007**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 1:33 p.m. on Wednesday, February 28, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Warren B. Hardy II, Chair
Senator Bob Beers, Vice Chair
Senator William J. Raggio
Senator Randolph J. Townsend
Senator Dina Titus
Senator Terry Care
Senator John J. Lee

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Michael J. Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT:

Jay David Fraser, Nevada League of Cities and Municipalities
Ted J. Olivas, City of Las Vegas; Nevada Public Purchasing Study Commission
Vinson W. Guthreau, Nevada Association of Counties
John Slaughter, Washoe County

Chair Hardy opened the meeting with the introduction of Bill Draft Request (BDR) 28-348.

BILL DRAFT REQUEST 28-348: Makes various changes to requirements for a public work involving the construction of a traffic-control signal. (Later introduced as [Senate Bill 199](#).)

SENATOR TOWNSEND MOVED TO INTRODUCE BDR 28-348.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 22-358.

BILL DRAFT REQUEST 22-358: Extends the duration of certain redevelopment plans. (Later introduced as [Senate Bill 200](#).)

SENATOR LEE MOVED TO INTRODUCE BDR 22-358.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 31-231.

BILL DRAFT REQUEST 31-231: Authorizes various governmental entities to enter into lease-purchase agreements. (Later introduced as [Senate Bill 198](#).)

Chair Hardy said BDR 31-231 removed restrictions on the number of lease purchases for the Nevada System of Higher Education. It also gave the City of Las Vegas the ability to lease purchase.

SENATOR BEERS MOVED TO INTRODUCE BDR 31-231.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 28-526.

BILL DRAFT REQUEST 28-526: Revises provisions governing public works.
(Later introduced as [Senate Bill 201](#).)

SENATOR TOWNSEND MOVED TO INTRODUCE BDR 28-526.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 18-548.

BILL DRAFT REQUEST 18-548: Revises provisions relating to the Department of Cultural Affairs. (Later introduced as [Senate Bill 196](#).)

SENATOR TOWNSEND MOVED TO INTRODUCE BDR 18-548.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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Chair Hardy opened the hearing on Senate Bill (S.B.) 139.

SENATE BILL 139: Revises provisions relating to certain cooperative or interlocal agreements. (BDR 22-485)

Chair Hardy said the bill was introduced on behalf of the Nevada League of Cities and Municipalities. He asked Mr. Fraser and Mr. Olivas to discuss the bill.

Jay David Fraser, Nevada League of Cities and Municipalities, said his organization had a legislative committee governed by a board of directors comprised of elected officials from the membership. He said the legislative committee proposed current legislative packages to the board. Mr. Fraser stated the board of directors unanimously approved introduction of S.B. 139.

Ted J. Olivas, City of Las Vegas; Nevada Public Purchasing Study Commission, discussed laws in relation to contracts in Nevada. He said he was involved in changing the purchasing statutes as related to the bidding process. He said the changes had occurred in *Nevada Revised Statute* (NRS) 332 and NRS 338. Mr. Olivas said he worked with the Nevada Taxpayers Association, construction and trade organizations, and various chambers and business organizations. He said the goal was to work with the community to establish appropriate bidding thresholds. He said most changes occurred through the Nevada Public Purchasing Study Commission (NPPSC). He said the Commission was established in accordance with NRS 332.215 to advise the Legislature on purchasing-related bills. He said NPPSC had appeared before the Government Affairs Committee over the past 12 years to discuss purchasing-related bills.

Mr. Olivas said S.B. 139 dealt with interlocal contracts and cooperative agreements. He said most purchasing departments were not involved with those types of contracts. He said most purchasing departments were responsible for contracts between local government jurisdiction and the business community, as opposed to contracts among jurisdictions. Mr. Olivas defined cooperative agreements and interlocal contracts. He said a cooperative agreement was entered into by two or more political subdivisions for the performance of any governmental function such as furnishing or exchanging personnel, equipment, property or facilities. An interlocal contract was entered into by two or more public agencies to perform any governmental service, activity or undertaking the public agencies were authorized by law to perform.

Mr. Olivas said NRS 277.180 listed authorized purposes, including joint use of law enforcement agencies, firefighting, fire protection equipment, park and recreation facilities, and road construction and repair equipment. He said an example of the use of interlocal contracts was for snow removal, although various local agencies used an interlocal contract or a cooperative agreement to

collectively use available resources. Mr. Olivas mentioned another example of the use of interlocal contracts. He said the East Fork Fire and Paramedic District and the Carson City Fire Department won an award for working together to assure appropriate fire and emergency service in their jurisdictions.

Mr. Olivas said S.B. 139 aligned the threshold for approval of contracts by the governing bodies making it consistent with the bidding threshold in NRS 332. He said the threshold in NRS 332 was \$25,000, which was used for goods and services; there was no threshold for the requirement of a governing body to approve a cooperative agreement or interlocal contract. He said as an example, a \$5 contract theoretically needed approval by both governing bodies. He said commerce occurred between governing bodies which were not using provisions in the law correctly. Mr. Olivas said by enacting a threshold of \$25,000 or under, staff could act on the contract. A contract over \$25,000 was required to go to the governing body for approval. He said nothing in the bill precluded local governmental jurisdictions from seeing all contracts. Mr. Olivas said Senator Care asked about references in the bill relating to the wording "if it is reasonably foreseeable that the contract will exceed \$25,000." He said in practice, reasonably foreseeable was only a good guess. He said if a contract exceeded the limits of NRS 332 or NRS 338 the appropriate authority was required for approval. He said there was no specific way to foresee the value of a contract.

Senator Beers said even small government jobs let without going to bid were written. He said it was a fundamental characteristic of any contract. All contracts were written. He said the bill appeared to eliminate need for a written contract if the amount was under \$25,000. He said a written document was evidence of an agreement.

Mr. Olivas said local governments typically used a purchase order as a contract for goods and services under \$10,000. If the contract was \$10,000 to \$25,000, a minimum of three bids was required and used as the contract. He said a check was written for a service without an actual contract.

Senator Beers reiterated an agreement in writing was necessary.

Mr. Olivas said it was a policy decision. He said the more expensive items contracted for among jurisdictions were the amounts the governing bodies would see. He said nothing precluded saying every contract under \$25,000 needed a written agreement.

Chair Hardy asked Eileen O'Grady, Committee Counsel, to search for other statutes dealing with written contracts.

Senator Beers said it was common business law that contracts were written.

Senator Care said contracts were written or oral. He said a written contract was an exchange of letters, e-mails or an order. He said it required a meeting of the minds and some paper form demonstrating agreement between parties.

Chair Hardy said a purchase order was a legitimate contract.

Senator Raggio said an oral contract required an offer and acceptance. He said he did not see a problem with the bill. He said emergencies occurred which needed interlocal action, and \$25,000 was a reasonable threshold.

Chair Hardy asked Mr. Olivas if there was a point where governing bodies were notified of the agreement.

Mr. Olivas said the governing body did not see agreements under \$25,000. He said the governing body might know of the agreement or the events around multi-jurisdictional events.

Chair Hardy said governments needed an awareness of agreements. He said whatever form the contracts, they needed legal recognition.

Vinson W. Guthreau, Nevada Association of Counties, said his organization supported S.B. 139.

Chair Hardy closed the hearing on S.B. 139 and opened the work session.

Senator Raggio disclosed he was a licensed attorney and shareholder in the firm Jones Vargas; partners from Jones Vargas were paid lobbyists who might testify before the Committee. He was a member of a gaming company in southern Nevada, a former member of the board of Sierra Health Services, a member on the board of trustees of a public foundation and a trustee under his family trust. He said he would disclose anything that affected him in a pecuniary manner, as required by law.

Senator Beers disclosed his wife was a full-time, paid employee of Clark County. He submitted a written disclosure statement ([Exhibit C](#)).

Chair Hardy disclosed he was president of the Associated Builders and Contractors of Las Vegas. He said the organization had two full-time lobbyists and a volunteer lobbyist who might testify before the Committee.

Senator Titus disclosed she was a professor of political science at the University of Nevada, Las Vegas (UNLV) and her husband was a professor of Latin American history at UNLV.

Chair Hardy opened discussion on S. B. 56 in the work session documents. He said the bill dealt with the applicability of building codes more stringent than other codes in the area ([Exhibit D](#)). He said S.B. 56 only affected Clark County.

SENATE BILL 56: Revises provisions relating to building codes. (BDR 20-378)

SENATOR TOWNSEND MOVED TO DO PASS S.B. 56.

SENATOR BEERS SECONDED THE MOTION.

Senator Care asked about testimony given earlier concerning the bill.

Mr. Guthreau said Mr. Lynn testified on two bills at the previous meeting.

Chair Hardy asked the Committee if there was any further discussion on the motion.

THE MOTION CARRIED UNANIMOUSLY.

Chair Hardy asked Senator Care if he wanted the bill held for several days to allow for additional questions before going to the Senate Floor. Chair Hardy asked Mr. Olivas to contact Senator Care.

Senator Raggio said the testimony reflected a lack of building codes in unincorporated areas. The testimony referenced a building in Clark County on

the Las Vegas Strip. He said the County codes were applicable and not the adjacent city code.

Chair Hardy said Senator Care needed an answer to a question on a different bill.

Senator Beers stated Mr. Guthreau was in favor of the bill, and there was no opposition to the bill.

Chair Hardy opened the discussion on S.B. 83.

SENATE BILL 83: Revises provisions governing the Grants Management Advisory Committee of the Department of Health and Human Services. (BDR 18-593)

Chair Hardy said the bill authorized current members of the Grants Management Advisory Committee to designate a person to serve in their place on the Committee ([Exhibit E](#)).

SENATOR TOWNSEND MOVED TO DO PASS S.B. 83.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on S.B. 136

SENATE BILL 136: Designates the month of May of each year as Archeological Awareness and Historic Preservation Month in Nevada. (BDR 19-213)

He said the bill designated the month of May as Archeological Awareness month in Nevada ([Exhibit F](#)).

SENATOR TITUS MOVED TO DO PASS S.B. 136.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Hardy opened the discussion on S.B. 137.

SENATE BILL 137: Revises provisions relating to local governmental purchasing.
(BDR 27-365)

Chair Hardy said the bill needed additional discussion. He said the \$25,000 amount was confusing. The question concerned the increase from \$25,000 to \$50,000 and whether it was an aggregate amount over life of the contract. He said the concern was a ten-year contract renewing annually for \$50,000 became a \$500,000 contract ([Exhibit G](#)).

Mr. Olivas said the question was not addressed in statute. He said from an operational perspective, an annual requirements contract reflecting the needs of the jurisdiction had a \$20,000 annual contract for two or three one-year renewals. He said if the annual amount was less than \$25,000 it was not presented before the governing body. He said it was not a \$100,000 contract because the annual amount was less than \$25,000. He said if the annual amount went over \$25,000, the contract would be terminated and the job advertised.

Chair Hardy asked Mr. Olivas if a \$250,000 contract could be let at \$25,000 a year and applied under the \$25,000 cap. Mr. Olivas replied it could not occur.

Chair Hardy asked if there was a problem with the legal department drafting a statute stating an aggregate amount.

John Slaughter, Washoe County, said his organization wanted the Committee to be comfortable with the bill.

Senator Care asked if a contract with an option to renew on an annual basis had a renewal figure higher than the \$25,000 cap in succeeding years, would the contract be renewed or renegotiated.

Mr. Olivas responded if the contract began at less than the \$25,000 cap but exceeded the cap in another year, it could not be renewed. He said the contract

needed to be written as "not to exceed" the \$25,000 cap with the option to renew at a determined number of one-year periods. It was at the option of the local government to allow for escalation in the contract. If the contract exceeded the cap, it terminated the contract.

Chair Hardy said it was illegal to write such a contract. He said the increase made the contract illegal. He said with a contract for \$10,000 the first year, \$12,500 the next and \$15,000 the following year, that after 7 years, the contract reached \$25,000 with an aggregate in excess of the cap. He said he was concerned about a \$100,000 purchase paid for in \$25,000 increments. He said he did not have a problem with a renewing contract.

Mr. Olivas responded a governing body was not allowed to break up a contract in order to meet the requirements of a local government purchasing act. He said a requirement for a commodity that cost \$20,000 could be covered in the original contract for 5 years. If the sum spent did not exceed the cap in any given year, one renewable contract could be used.

Chair Hardy said renewing contracts occasionally provided a better cost to the purchaser. He did not want to prohibit that ability. He asked Ms. O'Grady to further research the questions and do a mock-up of the proposed changes for the Committee.

Chair Hardy reopened the discussion on S.B. 139. He said the Committee heard the bill earlier in the afternoon.

SENATOR TOWNSEND MOVED TO DO PASS S.B. 139.

SENATOR RAGGIO SECONDED THE MOTION.

Chair Hardy asked if there was any discussion on the motion.

Senator Beers said small interlocal agreements needed to be in writing. He said they did not have to appear before the governing body.

Senator Townsend withdrew the motion on S.B. 139.

Senator Raggio withdrew the second on S.B. 139.

Senator Care said S.B. 56 could be moved to the Senate Floor.

Senator Lee asked a question about agreements between local governing bodies as applied to S.B. 139. He said agreements always took place that had writing or contracts between the bodies. He asked Senator Beers to explain his views.

Senator Beers said sections 2, 3 and 4 of the bill eliminated the requirement that interlocal agreements smaller than \$25,000 be in writing.

Senator Lee said he would support Senator Beers.

Chair Hardy asked Senator Beers to work with Mr. Olivas and Mr. Fraser to come to an agreement.

Chair Hardy asked if there was any further discussion. As there was none, he adjourned the meeting at 2:21 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____