MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Fifth Session
May 5, 2009

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:03 a.m. on Tuesday, May 5, 2009, 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/75th2009/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 K. Kirkpatrick, Chair
Assemblyman David P. Bobzien, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Ed A. Goedhart
Assemblywoman April Mastroluca
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce
Assemblyman James A. Settelmeyer
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Steven A. Horsford, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cheryl Williams, Committee Secretary
Olivia Lloyd, Committee Assistant
Cyndie Carter, Committee Manager

OTHERS PRESENT:

Richard Daly, Business Manager, Laborers, Hod Carriers, Cement Workers, and Miners, Local 169, Reno, Nevada
Michael Tanchek, Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry
Jack Jeffrey, Henderson, Nevada, representing Laborers' International Union, Local 872, and Operating Engineers, Local 12, Las Vegas, Nevada
Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada
Randy A. Soltero, Las Vegas, Nevada, representing Sheet Metal Workers, Local 88, Las Vegas, Nevada, and Sheet Metal Workers, Local 26, Sparks, Nevada
Steve Redlinger, representing Southern Nevada Building and Construction Trades Council, Las Vegas, Nevada
Glenn Greener, representing roofing companies, Las Vegas, Nevada
Modesto Gaxiola, representing United Union of Roofers, Waterproofers, and Allied Workers, Local 162, Las Vegas, Nevada
Greg Esposito, representing United Association of Plumbers, Pipefitters, and Service Technicians, Local 525, Las Vegas, Nevada
Morgan Nolde, Oakland, California, representing Roofers, Waterproofers, and Allied Workers, Local 81, Northern California and Northern Nevada
Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors, Inc., Reno, Nevada
Robert W. Rapp, President, National Lightning Protection Corporation, Denver, Colorado
Stacy Howard, Western Regional Representative, Aircraft Owners and Pilots Association, Queek Creek, Arizona
Constance J. Brooks, representing Clark County, Las Vegas, Nevada
Ted Olivas, representing the City of Las Vegas, Nevada

Chair Kirkpatrick:
[Roll taken.] Senator Horsford needs to go last, so we will open the hearing on Senate Bill 376 (2nd Reprint).

Senate Bill 376 (2nd Reprint): Makes various changes relating to the prevailing wage requirements. (BDR 28-730)

Richard Daly, Business Manager, Laborers, Hod Carriers, Cement Workers, and Miners, Local 169, Reno, Nevada:
Senate Bill 376 (2nd Reprint) is a committee introduction bill from the Senate brought forward at the request of myself and some of the building trade unions. In this bill we tried to implement in the statute what we now do in the prevailing wage survey. There were a couple of issues raised in the Senate that have been removed, so there is no expansion of anything on that level.

The bill does several things. One is to clearly establish that we survey for public and private nonresidential construction. The bill lists the broad categories that the Labor Commissioner required the survey for. We address a technicality in regard to how an objection is made, and when the Labor Commissioner has to hold a hearing, and how we can make adjustments. There is a part about recognizing the terms in the collective bargaining agreement if the union rate prevails, and there is language that involves things that we do currently for zone rates, rate increases, and subclassifications. The final part is to address two recent Nevada Supreme Court cases that dealt with subclassifications: *Southern Nevada Op. Eng'rs v. Labor Comm'r,* 121 Nev. Adv. Op. 54 (2005), which is also known as the Aztech case, and *Labor Comm'r v. Littlefield, 123* Nev. Adv. Op. No. 5 (2007). The Supreme Court determined that they were regulations, but they were never adopted through the regulatory process. The Labor Commissioner tried to fix that problem with a regulation that was 470 pages long, which no one really cared for, so we have this bill as an alternative.

That is the essence of the bill. Some things we do by tradition, and other things are in regulation. It is a well-known process, and everyone utilizes it, and we know how it works. We just want to clarify and standardize the process with this bill.

Chair Kirkpatrick:
Does anyone have any questions?

Assemblyman Settelmeyer:

I was reading through the notes in the Senate. Were you creating a new categorization for light installers, or has that been deleted? There are actually no new categories?

Richard Daly:
Yes, there was a proposal, not by us, about a new classification for a lightning rod electrician. Our testimony on the Senate side, as it is here, is that there is no new invention or new type of electrician. That work is covered under the current broad category of electrician. We are trying to standardize what we survey for and would oppose having that classification added. It is not a new species of electrician.

Assemblyman Settelmeyer:
I appreciate that because one of the things that concerns me about the prevailing wage is that the amount of money given to electrical alarm installers doubled last year, and I do not think that anybody deserves a pay increase in this economy, period, end of the story, in any way, shape, or form. I would love to whittle down the number of classifications and make them more generic because it makes it pretty hard when you send one worker off to do a job and he does seven different things; with all the categories, it makes it problematic in deciding prevailing wage.

I agree with prevailing wage; I agree with the concept that someone should be paid the wage that is customary in that community. So, why are we adopting the union rate or codifying the utilization of the union rate? Why not simply use the surveys that come back from all the employees? Why do we use a collective bargaining rate?

Richard Daly:
The process that we currently use allows the Labor Commissioner to look to the collective bargaining agreements if the union rate prevails. In other words, we survey every year, county by county, category by category, and then a rate is determined to prevail. If that rate is determined to be a collectively bargained rate, the Labor Commissioner can recognize the economic conditions in the agreement.

Two things that were moved on the Senate side would have expanded that a little bit, but we did have those taken out. And that is fine, because we want to move forward. But we always recognize the zone rates. We recognize the subcategories of labor—that is the draft we are in—so there are laborer flagger, laborer jackhammer, and other subcategories. When there is a survey for laborer, if the union rate prevails, those other categories would be recognized with the corresponding wage rate. Flagger is a little bit lower; jackhammer is 25 cents more.

The increases that are in the agreement to match the wage rates are also recognized if they are in effect on October 1. Those things have been done since I can remember, and the Labor Commissioner is here and can attest to that.

We are not trying to change anything that is in the current process. Sometimes the union rate does not prevail. For instance, a couple of years ago in Humboldt County the union rate did not prevail. They just published "laborer," and they had one rate.

Chair Kirkpatrick:
Are there any other questions?

Assemblyman Goedhart:
I am still trying to get up to speed on the whole issue. What is S.B. 376 (R2) going to do differently than what is happening now?

Richard Daly:
The only thing that is going to be different is that the survey process and the annual publishing wage determination are not going to be a regulation. The new provision is the exemption from the Administrative Procedure Act (APA), which is the last section in the bill, so if the union rate prevails one year, the Labor Commissioner could recognize the categories. If the union rate does not prevail the next year, he is just going to present the one category. For instance, in the *Littlefield* case, which basically froze everything in time, we did not prevail in Humboldt County that year. With subsequent surveys the union rate did prevail, but the Labor Commissioner would have had to go through the rulemaking process, which involves public notice and hearings, in order to recognize the subcategories and was not able to do that.

This will allow the survey to proceed, back and forth, year to year, if those types of adjustments are not to be deemed to be regulations. That would be the only change.

Chair Kirkpatrick:
Are there any questions?

Assemblyman Goedhart:
I am trying to paraphrase what you are saying, and it sounds as if it becomes less onerous by not having to go through the regulation and rulemaking process. That way the Labor Commissioner can take the surveys on an annual basis and make a quicker adjustment as to whether it is a union prevailing wage or not a

union prevailing wage. It makes it easier for the Labor Commissioner to adjust what is prevailing wage according to the results of the surveys. Is that a correct way to put it?

Richard Daly:
Yes.

Assemblyman Goedhart:
I am just trying to get my hands around the whole concept. Thank you.

Chair Kirkpatrick:
Are there any other questions for Mr. Daly?

Assemblywoman Spiegel:
I have a question related to section 1, subsection 8, paragraph (b). What would happen if there is a subclassification of workmen where the title or description is the same as an existing class of workmen?

Richard Daly:
Which section were you looking at?

Assemblywoman Spiegel:
Section 1, subsection 8, paragraph (b), on page 4, line 7. For instance, if one classification was electrician, and you had a subclassification that was laborer-electrician, and they did not have the same prevailing wages, what would happen?

Chair Kirkpatrick:
I have asked the Labor Commissioner to come because there has been a lot of conversation via emails and telephone calls on the jurisdictional issues. I think that the Labor Commissioner is the most neutral person to answer your question.

I apologize, Mr. Daly. I am going to let the Labor Commissioner answer that question because he knows the history and we have discussed this. Are there any other questions for Mr. Daly?

Richard Daly:
If I could make one last comment, and that is that we have tried very hard to keep jurisdiction out of it. I do not believe that it belongs in this building.

I forgot to mention that the Labor Commissioner does have three technical amendments that are proposed. We have reviewed those amendments, and we do not have any issue with them. I think they will make the bill better and

make the Labor Commissioner more comfortable with how he is going to proceed with enforcement.

Chair Kirkpatrick:
Assemblyman Claborn has a question.

Assemblyman Claborn:
I am looking on page 2, line 38. It says, "Operating Engineer, including, without limitation, Survey Technician, Equipment Greaser, and Soils and Materials Tester." Is that the only thing that we are going to rule on here? Because our agreement has so many classifications and we are not talking about jurisdiction.

Richard Daly:
No, sir, the reason that was put in there is that the subject of the *Littlefield* and Aztech cases revolved around soils technicians, equipment greasers, and the survey technician. As a result of those cases the Labor Commissioner used the survey for operating engineer, and then equipment greaser and soils technicians were added as separate little subcategories of the operating engineers that had to be surveyed for separately. By putting that in, all we are doing is recognizing the fact that "operator" includes all of the things that are going to be in their collective bargaining agreement if their rate prevails, but it also includes these provisions. It is a cleanup based on some of the subject's history. So, it would include all of your classifications.

Assemblyman Claborn:
I understand what you are talking about now.

Chair Kirkpatrick:
Are there any other questions? [There were none.] I have summoned Mr. Michel Tanchek, Labor Commissioner, to be the neutral party and give us a little bit of history of why we are here today and where we are headed.

Michael Tanchek, Labor Commissioner, Office of Labor Commisioner, Department of Business and Industry:
I would like to start out with a history lesson that explains how we ended up here. First of all, the current survey process that we use in the Labor Commissioner's Office is the same process that was in place when I started with the office back in 2000, except for the *Littlefield* and Aztec court cases, which have really scrambled up the way that we deal with the classification issues.

Going back a few years, when Terry Johnson was Labor Commissioner, he had a case involving an individual who worked for a company named

Aztech Materials Testing. This person came in and said he was not being paid an operating engineer prevailing wage rate, which is where materials testers were lodged in the wage rate tables. He felt he should be paid the operating engineer rate and not what he was being paid as a materials tester. The Labor Commissioner said materials testing is not really construction work the way we normally view it; this is more of a technical engineering discipline and should not be in the rate tables to begin with. As a result of that individual's case Mr. Johnson removed the materials tester classification from the wage rate tables in the middle of the year. On my website, we have the rates that go all the way back; you can see a line drawn through materials tester for that year.

The individual then took us to court. The Nevada Supreme Court looked at the case and said, "This is really a regulation; it affects a lot more people than just this one person, and you cannot change that without going through rulemaking as a result of the contested case." When I started with the State of Nevada some 19 years ago, I was a litigator at what was then called the Public Service Commission. We had a case, *Cory vs. Bell Limousine*, where the Supreme Court pretty well embedded the concept that you cannot take a case that affects a specific individual and make a broad rule out of it. What the court did in that case did not give me any heartburn because I think they decided it correctly, but there were some little tidbits in the case that I think were significant.

First of all, one of the arguments in the Aztech case was that soils and materials tester was in the wage rate survey by mistake and should not be there. The court said, if it was added by mistake, then it is in there and you need to take it out through rulemaking. Well, I would disagree with the notion that it was added by mistake, because if the collective bargaining rate prevails for that craft, it has a consequence of dragging in subclassifications when those things change.

My most recent example had to do with the Laborers' Union in Las Vegas, which through their negotiating process had changed one of their subclassifications to include the words "and metallic pipe." I can attest to the particular expertise of a laborer laying metallic pipe because I used to do that, laying storm drains and pipe systems. I did not think that there was anything special about it. The boss says, roll the pipe in the hole and put dirt on top of it, and that is what I did.

As it turns out, electricians, who get a significantly higher rate than laborers do, also deal with metallic pipe in the form of conduit. This is metal pipe that is used to carry electrical cables through buildings. Now, we have a conflict between the two, because how does that work get paid? Is it a laborer rate or

an electrician rate? The point is that modification in the prevailing wage rate classification tables was basically made without going through rulemaking, which is simply adopted as a consequence of a change made in the collective bargaining agreement. So, the subclassifications really were not added by mistake; they were just brought in inadvertently as those collective bargaining agreements changed.

In addition, in the Aztech decision the court had a footnote that says, "This court will not address those pertaining to the Labor Commissioner's subsequent deletion of the classification of 'soils tester' from the prevailing wage list." What this meant was that in the first instance the Labor Commissioner said, this guy really should not be covered by prevailing wage so we are going to take it out. However, in the following years we did not include soils tester in the wage rates, but that was as a consequence of the survey process, not a contested case. The court basically said, we are not addressing whether or not these changes can be made as part of the survey process.

Then I became Labor Commissioner. I looked at that case and I had a situation dealing with what is known as equipment greasers. In this particular case, an individual would show up on a prevailing wage job maybe 20 minutes once or twice a week, and he was moving around from job to job to job. I thought that was such a de minimis contact with that job that we will just take them out and they can go do their thing. But I did that as part of the survey process.

Now it is time to sue me, so we go back to the Nevada Supreme Court and give them the opportunity to review this in the survey process. Basically they said, no, a regulation is a regulation, and it is all subject to the Administrative Procedure Act (APA), so you cannot make these changes through the survey process either. That brought us to where we are now, because they said the APA does not apply to placing persons in a specific classification. That would be like taking our materials tester from the beginning and saying he did this work and we are going to pay him as this subclassification; this is very specific.

They also said it does not apply to decisions that merely set the prevailing wage rates. Our prevailing wage rate tables have two columns, one for the work classifications and subclassifications and another for the dollar amount that is associated with those classifications. The court said that you do not have to go through the rulemaking process to establish those dollar amounts, that those come from the survey, but if you are going to change any of the classifications, you have to go through rulemaking.

Chair Kirkpatrick:

We appreciate your coming because it is helpful to the Committee to know the whole history from someone who has dealt with it.

Michael Tanchek:
The court also said that the APA does not apply to the extent that the worker classifications remain the same from year to year. This was important because, as Mr. Daly pointed out, we adopt the wage classifications and the rates out of the collective bargaining agreements, and that varies from year to year depending on the survey results.

What the court did not recognize was that the survey results change every year. The court assumed that we have fixed classifications and that they remain the same from year to year, and that is not the case. So, they said the APA applies only with respect to classifications that are added, deleted, or substantially modified. These things are always churning every year depending on the survey results.

In order to address the Nevada Supreme Court's decision in the *Littlefield* case, I developed what I call "the regulation from hell." It is 370 pages long and lists all the subclassifications that the Nevada Supreme Court determined cannot be changed without going through rulemaking. My rationale was that I have to have a rule in order to change it. This was a contentious issue; it was on the Legislative Commission's agenda twice, and I pulled it both times. The second time I pulled it to give Mr. Daly and his folks an opportunity to try to address this in statute. I think it is best handled through the administrative process, in a regulatory fashion, but if you want to sell the Legislature on doing these classifications as a result of statute, I will get out of the way and we will go there, but that 370-page rule is still pending before the Legislative Commission. The problem with that rule is it is terribly impractical for three reasons: (1) the changes in the collective bargaining agreements that rearrange those classifications, (2) the variability in the survey results, in that you never know from one year to the next whether a collective bargaining agreement is going to prevail for a particular craft in a particular county, and (3) the length of time that it takes to complete the survey and go through the rulemaking process. I charted it out once, and in order to make a change in one of these classifications, it takes approximately 18 months before it finds its way into the rate tables. That was the best-case scenario and assumed that there was no opposition or problems and it just sailed through.

So, this is where we are now. I have a regulation that I do not like; that is basically where the Supreme Court left me. Mr. Daly's bill is an opportunity to address that issue. Again, I am not actively opposing the bill. I think it is better done in a regulation than in statute, because what if someone wants to change one of these classifications? For example, a lightning protection technician would have to ask the Legislature to pass a law to change that classification.

I think it is better handled in regulation, but if the Legislature chooses to go this way, I can make it work.

Moving on to my proposed amendments (Exhibit C), Mr. Daly referred to some technical corrections that I made and that he did not have a problem with them. The first one is in section 1, subsection 5, paragraph (b), which relates to corrections that we make in the wage rates. What I try to do is have these rates published ten days before they go into effect. That gives people a chance to review them and see if we made any mistakes in the rate tables. This has proven to be very beneficial because most of our amendments turn out to be technical corrections. It could be that we transposed some numbers. Remember, we are working with tables with 6,000 different dollar amounts in them, and it is easy to put "65" when you mean "56." We also can correct an error in the data that is self evident. For example, a couple of years ago there was a project on Jacks Valley Road, which is south of here in Douglas County, and when the survey came in, the project was inadvertently listed as being in Carson City. We put it in the right county, which changed the result. But the error was self evident; why go through a hearing to correct something like that?

There is language in paragraph (b) that says "can be corrected to the rate of wages requested in the objection or information." The problem with that language is that while they may bring one of these problems to our attention, the rate that they are referencing may not, in and of itself, be the correct rate. In other words, it could be that it is right on its face and just the dollar amount is wrong. So, we did not want to be locked into that; we said we will put in the right rate regardless of whether that was the rate requested or not. So I have some new language to that effect.

The second change is section 1, subsection 8, paragraph (b), where the language says "adjust the prevailing rate of wages for the classes and subclasses of workmen to the rate of wages established in the collective bargaining agreement that are in effect on the effective date of determination." The effective date of determination is October 1. If we have to wait until October 1 to find out what collectively bargained rates we are going to use, we could really run into some problems.

The way the regulation works now is that those collective bargaining agreements, if they are going to be considered, have to be on file with my office on September 1, in other words, a month before the rates go into effect. That gives us the lead time that we need to build those rates into the tables. So, I proposed to delete "on the effective date of the determination" and replace that with what is basically in the regulation right now: "and on file with the

Labor Commissioner on or before September 1 of each year preceding the annual determination of the prevailing rate of wages."

Mr. Daly brought up a point that rather than have a drop-dead date it would be good to have a little flexibility in case the information comes in on September 2 because the mail was slow. I would not have a problem with that.

The third one is the most critical of the changes that I would make. It is in section 2, subsection 1, paragraph (n), which is the APA exemption. It says "the Labor Commissioner only in the process of determining and issuing the prevailing rate of wages in each county pursuant to *Nevada Revised Statutes* (NRS) 338.030, including, without limitation, the conduct of annual surveys." The problem with this goes back to what the court said initially, which was that establishing the prevailing rate of wages, the dollar amounts, is not subject to the APA; it is the classifications that are subject to the APA. I would recommend adding the words "and subclassifications" to make it clear that all the things that go into the collective bargaining agreements and other arrangements are not what we are talking about in terms of classifications. In other words, make it clear that part is exempt from rulemaking—that part that comes and goes every year depending on the survey results. So the new language is "the Labor Commissioner only in the process of determining and issuing the prevailing rate of wages and subclassifications in each county pursuant to NRS 338.030, including, without limitation, the conduct of annual surveys."

That having been said, I would be more than happy to answer any questions that you might have. I know prevailing wages is a complicated thing. It is really tough to get your hands around it sometimes.

Chair Kirkpatrick:
Ms. Spiegel, did your question get answered or do you need to ask it again?

Assemblywoman Spiegel:
I think it was answered.

Michael Tanchek:
If you could repeat the question, because I thought it was good question when I was sitting in the audience.

Assemblywoman Spiegel:
My question was, what happens if the description or the name of a job classification is also incorporated into a subclassification? Which one wins out and how does that work?

Michael Tanchek:
That is a good question. We have that now, and the example that I like to use is welders. A welder shows up in ten different classifications, so we would not necessarily treat that as something separate. I would look at it from a regulatory standpoint; how the Legislature would handle it in the statutes is another question. I would look at it and say, is this work substantially related to what is going on? For example, we have a classification in heavy equipment for workers who do welding on heavy equipment. So if it is a welder related to heavy equipment, it falls into the heavy equipment category. Laborers do welding as part of their cleanup work; then it goes to a laborer. There are very few classifications that do not have welding in them one way or another. So we ask, is this really part and parcel of this other classification, or is this entirely new and needs to be addressed separately? I hope that answers your question.

Chair Kirkpatrick:
Are there any other questions?

Assemblyman Stewart:
I am aware there are certain classifications like carpenter, welder, and so forth that require specific training, and the unions provide an apprentice program. Then there are others like a fence erector, where you raise a hand and now you are a fence erector. You used the situation where you were down in the trench putting pipe together, and then a person putting pipe together and pushing electrical cable through it all of a sudden became an electrician without going through the apprentice/journeyman program. How could that be?

Michael Tanchek:
That is an excellent question as well. The rates that are paid on prevailing wage are not necessarily related to your particular skill set. The rates are related to the tasks that you are performing. In that particular example, historically there is a particular set of skills related to electrical wiring. You pay that work regardless of who does it. I do not care if it is an electrician who does it. I do not care if a laborer or an accountant does it. If it is what is normally considered electrical work, you pay the electrician's rate. The idea is that if you have to pay the electrician's rate anyway, you may as well hire an electrician to do that work and have that skill set available.

There are circumstances where one person is paid several different wage rates during a single shift because the tasks vary. It is the way that the system is set up. Basically the idea is to match the skill sets with the wage rates. Is it a perfect system? No, but it works, and that is where it is at. It is based more on the task than on that individual's particular skill set. I would like to say that the operating engineer who is in his first 15 minutes of operating a backhoe

gets the same rate as someone like Assemblyman Claborn, who has years and years of experience. That distinction does not get made.

Assemblyman Stewart:
Who determines the classifications of guys down in the ditch putting pipe together when one grabs the electrical cable and sticks it through the pipe, and another guy pulls it out, so they are both electricians for that nanosecond?

Michael Tanchek:
This question came up recently. How finely do you parse these things? The only thing that I can say is that it has to be reasonable. Can you ask your question again?

Assemblyman Stewart:
There are guys down in the ditch, putting together pipes, when one goes to the end of the pipe and shoves through some electrical cable, and the other guy pulls it out, so for that moment they are electricians.

Michael Tanchek:
Right, that is one of the things that makes prevailing wage difficult to work with. On the other hand, if those guys are not getting paid the electrician's rate, I am going to end up in a hearing arguing over whether they should have been paid that rate. That is the most common issue that we deal with—whether a person like our materials tester was placed in the proper classification for the work that was performed.

The initial determination has to be made by the worker himself: what classification am I working in? Then he, of course, gets second-guessed by his supervisor. The supervisor gets second-guessed by any monitoring groups that are watching as well as the entities that awarded the contract. Then they all get second-guessed by the Labor Commissioner, and I get second-guessed by the Nevada Supreme Court. It makes it much more complicated. We do our best to steer people in the right direction at the front-end so that we do not run into those problems. It is just the nature of the beast.

Assemblyman Stewart:
Thank you, I think.

Chair Kirkpatrick:
Are there any other questions?

Assemblyman Goedhart:
You talk about getting second-guessed by so many different people at different levels of the job. We heard testimony on an Assembly bill earlier in the session where if an individual was doing tasks of three or four different classifications, some project managers, to eliminate the second-guessing would say, you did four specific tasks so we will just pay you at the highest rate for the whole day. People were doing that because of the difficulty with all the record keeping between the different classifications. Is that something you have seen being done?

Michael Tanchek:
Yes, that happens. Different contractors will approach this in different ways. One way is to ask what is the highest classification that this person is going to fall into? And it becomes a lesser included issue in everything that is less than that falls into it.

I have had that practice challenged, where the contractor was accused basically, of falsifying his time records because the worker had worked a lower-paid classification. Quite frankly, I just threw that out as being ridiculous. The guy got his money, and that is what we are looking at. If he wants to pay him a higher rate to do that, that is fine. That is a question that does come up. What happens if the rate is lower than what would normally be paid for that work? Do you have to pay him a lower rate? The answer is no. These things set a floor that you basically cannot go below.

Other contractors, such as Advanced Insulations in Reno, which does a lot of soundproofing for the airport, basically set up a time card that lists the different classifications that they use in their work process. Then each employee, depending on what they are doing at the moment, will associate their task with the proper classification. That is another way to approach it. We try not to dictate to the contractors how they are going to deal with it. We just say, you have to figure out a way to get there.

Chair Kirkpatrick:
Are there any other questions? Would it be fair to say that the jurisdictional issues could be addressed through the regulation process even if the bill was passed, or does it need to be specified?

Michael Tanchek:
I think the jurisdictional issues would have to be dealt with in the statute. An example for other jurisdictional issues, I think, would be on page 3 of the bill.

Chair Kirkpatrick:
Can we go back? I am trying to understand it myself. I understand the operating engineers and how they do different things. If they did all those different tasks jurisdictionally that would be a precedent that the tasks are part of their job. Right?

Michael Tanchek:
Yes, but you have disputes between the unions themselves over whose work should be what. On page 3 an example would be paragraphs (aa) and (bb), on lines 3 and 4, where it says "roofer (excluding metal roofs)" and below that "sheet metal worker." Essentially that is a jurisdictional distinction. I tried to find out where that metal roof distinction came from, and I was never able to track it back to its original source.

But if you put a metal roof on a building, you have to pay sheet metal worker rates, not roofer rates, even though roofers do metal roofs as a common practice. They have sheet metal roofing as part of their apprenticeship program, but the way that jurisdictional issue got resolved way back was they said, sheet metal roofs go to sheet metal workers. That is an example of a jurisdictional issue. I think the subclassifications would probably have to be solved statutorily rather than from a regulatory standpoint. It would depend on where the jurisdictional issue fell in the process.

Chair Kirkpatrick:
If we did that, we would have a 370-page bill, right?

Michael Tanchek:
You folks have some flexibility that I do not have. In theory this list could expand over time. Assemblyman Settelmeyer brought up the question of the lightning protection technicians, who would like to have their own classification because they feel that their job is unique and that it is not the same as an electrician. You would have to hear the arguments from both sides in order to determine whether or not I would survey for that particular classification.

If you look on page 2, lines 38 and 39, we are taking survey technician, equipment greaser, and soils and materials tester and rolling those into heavy equipment operator. We are going to say surveyor, equipment greaser, and soils tester are the same as a heavy equipment operator; that is how it is handled because generally those jobs fall under the operating union, although in one of my previous lives I was a renegade unlicensed surveyor, and I might argue that is really not the same as operating heavy equipment and maybe I should have my own classification. In which case that would be the type of issue that you would have to address.

Chair Kirkpatrick:
Are there any other questions? [There were none.] Is there anyone in Las Vegas who would like to testify in support of S.B. 376 (R2)? [There were none.] Is there anyone in Carson City in support of S.B. 376 (R2)?

Jack Jeffrey, Henderson, Nevada, representing Laborers' International Union, Local 872, and Operating Engineers, Local 12, Las Vegas, Nevada:
We are in favor of the bill.

Chair Kirkpatrick:
Perfect. Does anyone have any questions? [There were none.]

Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada:
We are also in favor of the bill. We feel that by codifying these major classifications in the NRS, rather than being a regulation, that it will simplify the process for doing the surveys and actually in the end will make the job easier for the Labor Commissioner. It does take a little control away from him, which he might have a problem with.

Chair Kirkpatrick:
Are there any questions? [There were none.]

Randy A. Soltero, Las Vegas, Nevada, representing Sheet Metal Workers, Local 88, Las Vegas, Nevada, and Sheet Metal Workers, Local 26, Sparks, Nevada:
This has been a long time coming. We have been working on this. If you look at the mock-up from the Senate side, or even how long it took for us to get to where we are today, I think you will see that it has taken a lot of effort. We worked with the Labor Commissioner and other folks to get the best thing for bottom-line workers in Nevada. We have had problems, court cases, when it was in regulation. Those problems may not be completely solved, but we will be going in the right direction with this bill. On behalf of the sheet metal workers all over the State of Nevada we strongly encourage you to support S.B. 376 (R2).

Chair Kirkpatrick:
Are there any questions? [There were none.]

Steve Redlinger, representing Southern Nevada Building and Construction Trades Council, Las Vegas, Nevada:
We see a lot of good things in this bill, and we support it.

Chair Kirkpatrick:
Is there anyone else who would like to testify in support of S.B. 376 (R2)? [There were none.] Is there anyone in Las Vegas who is in opposition to S.B. 376 (R2) and would like to testify?

Glenn Greener, representing roofing companies, Las Vegas, Nevada:
There is a little bit of an anomaly in that I represent commercial roofers and am also in support of Roofers Local 162. The problem I have with the bill is what was recently addressed on page 3, in subsection 3, paragraph (aa): "roofer (excluding metal roofs)." I am concerned that we are changing legislation that had a very specific intent to it as far back as the mid-1990s. How the roofers were previously defined is part of the issue involving the Labor Commission and also the Division of Insurance regulations. They were given the task in 1994, 1995, and 1996 to develop definitions for roofers, which included all kinds of roofing. The issue of excluding sheet metal from roofs is a very serious issue, because one of the things we have to address is the actual risk and exposure that the work involves.

I am in support of the prevailing wage, and collective bargaining agreements, but we have to look at the risk that is involved because it deals directly with the Division of Insurance regulations. Even in an interoffice memo in 1994, a state employee directed that the classifications be fair and equitable to all parties. I have copies of a memorandum dated September 11, 1997, to the "PHS staff" (Exhibit D) from Frederick H. Klund, Risk Classification Supervisor. To summarize, it said, "What we are to do in every case where specific guidance is absent is to ensure that whatever action we take, the classification specialists [are] to ensure that each risk we rate is done so equitably. In addition to rating the risk, we must ensure that we are (1) fair to the employer, (2) fair to his competitor, and (3) fair to the system." That is on page 2 of the memo, which goes on to reference a prior memo from Lonnie Nelson dated July 21, 1994.

We have the entire manual that was developed for the State Industrial Insurance System, which again defines a roofer and the classifications associated with it.

My concern also is that the U.S. Department of Labor has clearly defined, and supports, to the best of my knowledge, the classification of a roofer, which this bill would in essence change by excluding sheet metal. I believe that the federal regulations take precedence over the state's and we should be consistent with the U.S. Department of Labor. It is my understanding that they are in support of maintaining the current roofing regulation because, in fact, there is no exclusion as to sheet metal. It refers to all roofing. That would be the argument that we would make.

Chair Kirkpatrick:
Could you do us a favor? I do not need the manual, but regarding the two items [(Exhibit D) and (Exhibit E)] that you have, could you ask one of our staff members there to fax copies to us so that we can see what you are referring to?

Glenn Greener:
Yes, I will be more than happy to do that. Again, we support S.B. 376 (R2) but feel that there should be an amendment to the bill. The amendment would be the classification of roofers (Exhibit E).

Chair Kirkpatrick:
Are there any questions from the Committee? [There were none.] Is there anyone else in Las Vegas who would like to testify in support of S.B. 376 (R2)? [There were none.] Is there anyone in Carson City who would like to testify in the neutral position on S.B. 376 (R2)? [There were none.] Is there anyone in Las Vegas who is neutral on S.B. 376 (R2)?

Modesto Gaxiola, representing United Union of Roofers, Waterproofers, and Allied Workers, Local 162, Las Vegas, Nevada:
On April 30, 2009, we requested an amendment to S.B. 376 (R2). I am here before you today to reaffirm our request. For quite some time roofers in the State of Nevada have been misclassified as sheet metal workers when installing sheet metal works on prevailing wage jobs. This misclassification was caused by the codes being used for the definition of roofer, which excluded metal roofs. The United States Department of Labor has since replaced those codes with O*NET (Occupational Informational Network) as a primary source for craft classifications. For O*NET's current classification, metal roofs are no longer excluded from the definition of roofer. We are therefore requesting that S.B. 376 (R2) be amended to delete "excluding metal roofs" from the current classification of roofer.

For the record we are not opposing the bill. We are neutral on the bill. We would like to have the bill pass but with the amendment containing the clarification for the definition of roofer as recognized by the United States Department of Labor. Your consideration for our request would be greatly appreciated.

Chair Kirkpatrick:
Does anyone have any questions? I believe that you emailed everyone a copy of the amendment. Is that correct?

Modesto Gaxiola:
That is correct.

Chair Kirkpatrick:
If any of the Committee members did not get one, let me know, and I will get a copy for you. He emailed it last week.

Greg Esposito, representing United Association of Plumbers, Pipefitters, and Service Technicians, Local 525, Las Vegas, Nevada:
We support this bill because it does a lot of good things. I have to agree with Mr. Soltero, that while it does some very helpful things that will move the industry along, it is not perfect. The imperfection is something that the Labor Commissioner, Mr. Tanchek, spoke at great length about, which is the opening of the collective bargaining agreements after the surveys are completed. There are often changes to collective bargaining agreements, and subclassifications are often added to them from one negotiation period to another.

Right now, as the Labor Commissioner testified, he can take a look at what the subclassifications are and what the true intent of the survey is while it is in regulation. If this language is inserted into statute, it will take away his ability to look into the subclassifications and their true intent. He brought up the example of the differences between a laborer doing metal pipe and an electrician doing conduit. The Labor Commissioner can look into those questions and make decisions. To put this bill into statute, the way it is written, takes away the Labor Commissioner's ability to do that.

The Labor Commissioner also mentioned that you have to pay the wage rate for an electrician, so why not have an electrician? If you have competing classifications and subclassifications, a contractor can pick and choose what type of employee they hire.

We would also like to propose an amendment (Exhibit F), which Chair Kirkpatrick has. It is a simple one-sentence amendment that prevents any subclassifications from being created when there is currently an existing class of workmen. It does not change anything; it just prevents confusion between classifications and subclassifications.

Chair Kirkpatrick:
Let me read the amendment. I thought you were going to propose a whole thing. I did get the amendment, and it says, "No subclassification of workmen may be created or prevail whose title or description of work is an existing class

of workmen." Are there any other comments? Questions? [There were none.] We will get a copy of that amendment out to the Committee.

Is there anyone else in Las Vegas who would like to testify in the neutral position on S.B. 376 (R2)? [There were none.] Is there anyone in Carson City who would like to testify in the neutral position on S.B. 376 (R2)? [There were none.] Is there anyone in Las Vegas who would like to testify in opposition to S.B. 376 (R2)? [There were none.] Is there anyone else in Las Vegas who would like to speak at all? [There were none.] Is there anyone in Carson City who would like to speak in opposition to S.B. 376 (R2)?

Morgan Nolde, Oakland, California, representing Roofers, Waterproofers, and Allied Workers, Local 81, Northern California and Northern Nevada:
Just for the record, we are not in opposition to the bill; we are neutral. I did not want to sound like a broken record, but I want to add to the sentiments of my counterpart in southern Nevada, Modesto Gaxiola of Roofers Local 162. We just want the amendments that delete "excluding metal roofs" from the roofer category. If that was taken out of the bill, that would be okay with us. It just brings it up-to-date with the O*NET codes. We train for metal roofing, we train metal roofers, and there is no reason that should be included in the bill.

Chair Kirkpatrick:
Does anyone have any questions? [There were none.]

Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors, Inc., Reno, Nevada:
I have prepared testimony (Exhibit G), but I am going to keep this brief. I was vacillating between neutral and opposition because I commend Mr. Daly for trying to rectify the Nevada Supreme Court decision, but the result—over 400 pages and hundreds of classifications—went far beyond what I think anyone's original intent was.

However, I would encourage this body to have the Labor Commissioner establish that process so that roofers or electricians or any other trade classification can come forward, in that public environment, so that we can establish the 38 classifications. Now there are 33, and different classifications have been grouped with others without having a posted notice and following APA. So although the spirit of what Mr. Daly is trying to do is commendable, the practicality of it is not realistic.

The time constraints that you are all under and the things that you have to do, quite frankly, are very challenging, and I think coming before you to justify various trade practices may not always, other than Mr. Claborn, afford that type

of work experience. I do not think that the *Littlefield* decision really understood what it was doing to the Labor Commissioner. We have to have an open process so that we can establish those 38, 36, or 35 classifications and only survey for those classifications. I absolutely agree with a lot of the concept, but I do not think this is the way to do it. I think we will have unintended consequences, and two years from now we are going to have a packed room because the federal government created a green energy classification that is not in Nevada. I think such matters are better resolved in the Office of the Labor Commissioner than here at the legislative body, although there is a lot of experience here. I think the time constraints prevent that from having the full and open process that the *Littlefield* decision anticipated.

Chair Kirkpatrick:
Does anyone have any questions?

Assemblyman Claborn:
What you are saying is that you think that the Labor Commissioner should have the latitude to make some of these decisions locally?

Clara Andriola:
I am not suggesting that the Labor Commissioner be given an open license. He should not have the ability to arbitrarily put in a classification, but the reality is that the classifications have been in place.

However, there have been changes, and this would be a great opportunity for folks to decide what those 38 classifications are, and what the process is, and let that be determined through rulemaking. From that point the process would be agreed upon by all interested parties in the construction industry.

Assemblyman Claborn:
So you might be talking about some problems that we have with jurisdiction regarding different crafts running the same equipment or in the same classifications. I think the Labor Commissioner does have the latitude to make some of these decisions; the state gives him that role. I do not thing that we need to go to courts and spend all kinds of money for a decision that the Labor Commissioner gets paid to make. The Labor Commissioner should make those decisions and then deal with the ramifications after he makes his decision.

Chair Kirkpatrick:
Is there anything else, Ms. Andriola?

Clara Andriola:
No.

Chair Kirkpatrick:
I think that what Ms. Andriola was saying is that there needs to be a process put in place so that we can determine those factors.

Robert W. Rapp, President, National Lightning Protection Corporation, Denver, Colorado:
I am the lightning guy that they have been talking about.

Chair Kirkpatrick:
For the record, your daughter called me last Thursday, and I did send her an email back saying that we do not change our hearings on this side. We are glad to have you here.

Robert Rapp:
I appreciate it. She is my daughter, and she is very conscientious.

I would like to talk about a subcategory for a lightning protection technician. I have made copies (Exhibit H) of different wage determinations around the United States.

Our company, National Lightning Protection, of which I am president, installs lightning protection all over the United States, so we have to go in for wage determinations down into Florida, up into Colorado, over to Nebraska, wherever the job takes us. Our company is based out of Denver, Colorado. I live in Mesquite, Nevada. I sit on the National Fire Protection Association (NFPA) Committee that writes the standards for lightning protection and have been on that committee for over 12 years, so I understand and know the standards and what they are meant to do.

[Read from prepared text (Exhibit I).]

Chair Kirkpatrick:
Mr. Rapp I am not an electrician and I do not have a clue as to what you are talking about. If there is a layman's explanation, that would be most helpful to the Committee.

Robert Rapp:
I will try. The National Electrical Code is a set of standards by which the electrical trade works and installs anything electrical, from the main electrical gear to light fixtures and coaxial cables. The trade is expanding continually.

There is a committee with the NFPA that has hundreds of members who write these standards for work quality and safety. Electricians have to study this

document to become licensed. It is 882 pages long. In the four or five years that they are out in the field, they learn aspects of their trade like having to bend the conduit, how to install fixtures, whatever it may be that is electrical that goes into building a building. They have to pass those skills tests out in the field. They have to show that they can bend conduit correctly, that they know exactly how to pull cable.

Electricians study completely different things than what we have to study as lightning protection technicians. We have to study not only NFPA 70, which is a document (Exhibit J) for the National Electrical Code, but we have to study NFPA's 780, another document (Exhibit K); instead of being 882 pages this document is about 80 pages. It is a completely different set of standards and has very little overlap with NFPA 70. Does that help?

Chair Kirkpatrick:
It does. Is this a new industry that just came about? Has it been around for a while? Because I am thinking Statewide Lighting has been on...

Robert Rapp:
Lightning.

Chair Kirkpatrick:
No, I am going to give you a reference. There is a company named Statewide Lighting which has been at 853 East Sahara, Las Vegas, since I was six years old. They do exactly what you talk about. So, what changed in this industry that needs to be different? The other question is, how many different projects do you do within our state? Because I hate to see people come to Nevada and say, in Virginia we have this, in Arizona we have this, in Utah we have this, and use Nevada as a place to compare. So, what in Nevada has changed to make this relevant at this point?

Robert Rapp:
We have opened an office in Mesquite.

Chair Kirkpatrick:
Okay, and who do you service?

Robert Rapp:
We service mainly commercial; we do very little residential business.

Chair Kirkpatrick:
On the lighting side what has changed? I am trying to understand why you need a subclassification if nothing has changed.

Robert Rapp:
It is not lighting. It is lightning.

Chair Kirkpatrick:
What has changed that you need to do this differently?

Assemblyman Claborn:
I am confused with the whole issue here. I do not know what Mr. Rapp is trying to do. Is he trying to get a classification through this Committee or the state? We have procedures to do what he is doing. He would go through the Labor Commissioner and submit records for determination. I do not think that we grant classifications or jurisdiction in the state.

Chair Kirkpatrick:
I am trying to ask that question myself, Mr. Claborn. I am trying to understand what has changed.

Robert Rapp:
What has changed is that lightning protection is no longer under the National Electrical Code; it is now under NFPA 780. That is the difference. It used to be a broad category where a wide brush was put underneath the National Electrical Code; now it is not. We do not have electrical inspectors do inspections; we have the Underwriters Laboratories (UL) inspectors come to do it. Different people are involved than what you have in the state. You cannot have an electrical inspector come out and inspect it because he is not educated in the trade.

Chair Kirkpatrick:
Is that a process that goes through the Labor Commissioner and the surveys? No? Do we have to put it in state law?

Robert Rapp:
I cannot answer that. My technicians take about a year compared to the four or five years it takes for an electrician to get his license. We also do not take the National Electrical Code. We have UL give us schools for our certification. We do not go to anyone involved with the electrical trade. If you look at the National Electrical Code that the electricians have to study, it mentions lightning protection five times, including references to ground point and separation distance.

So an electrician would not know anything about how to install these systems safely. One of the things we need to look at is safety. That is what NFPA is for. That is why we have electrical standards. If an electrician goes through

five years of studying to get his journeymanship and studies only five minor references to lightning protection, I find it very difficult to imagine that he can install one of these systems like my technicians can. He would have to go through a whole UL set of schools to do that.

If you cannot learn the job requirements from the National Electrical Code, I think there needs to be a subcategory where you have people who are licensed and certified by the proper bodies in the United States. That is what we are doing, that is what we are trying to do, and that is why I am here.

We have only one group that certifies our training. When I got a license here in the State of Nevada they could not give me a test for lightning protection technician. They gave me a test for doing business. When I went to California, it was the same thing. There are no tests that are available from the states. We are licensed in Washington and Colorado, and we have a hard time doing this. So, I am looking for some type of subcategory that works for lightning protection technician. We need to have that subcategory, instead of electrician, because an electrician cannot do the job.

Chair Kirkpatrick:
Are there any questions?

Assemblyman Aizley:
Mr. Rapp, who currently would put in the lightning protection on a new building?

Robert Rapp:
Typically, what I see from my study of this industry in Nevada, it is a lightning protection installer.

Assemblyman Aizley:
And do we have that category here now?

Robert Rapp:
No.

Assemblyman Aizley:
So, who would do it? What category would they fall into?

Robert Rapp:
Right now we have to pay electrical wages.

Assemblyman Aizley:
The wages are a separate question. What is the category that they fall into? Are they under the system we have?

Robert Rapp:
It must be electrical.

Assemblyman Aizley:
So you want us...

Robert Rapp:
I want a subcategory for a lightning protection technician, which is happening in many other areas in the United States.

Assemblyman Aizley:
As far as ability is concerned, can an electrician do the work?

Robert Rapp:
I am not saying that they cannot do the work. I am saying that they are not educated in how to do the work. Some of the things they have to learn are completely opposite from the way that we have to install things. Let me give you one...

Assemblyman Aizley:
Let me finish my idea because I am trying to separate categories. So, if a person can do the lightning protection, would he also be an electrician?

Robert Rapp:
No.

Assemblyman Aizley:
So we have two totally separate categories?

Robert Rapp:
They are separate.

Chair Kirkpatrick:
Are there any other questions? [There were none.] Mr. Daly, are you ready to wrap it up?

Richard Daly:
I will try to wrap it up quickly. What we attempted to do is to match exactly what happens. There were 38 categories, and now there are 31. Those have

been the categories we have surveyed for as long as I have been doing this. Right now we cannot change them because of the *Littlefield* case. What Mr. Rapp wants cannot be done. Electricians, by his own testimony, performed this work before it got split out. Electricians still perform the work. The main thrust of his issue, if you go into this deeper, is that there is a $12 an hour rate difference between what he is proposing and what the electricians pay.

Chair Kirkpatrick:
As far as the bill, please wrap it up.

Richard Daly:
We worked very hard to keep all of the jurisdictional issues out of this bill. There is broad-based support to address the specific issue that we encountered in the *Littlefield* case, and we need to move forward with that portion. That is what we are supporting. We accept the Labor Commissioner's three technical amendments; we do not accept any other amendments that were proposed.

Chair Kirkpatrick:
Does anyone have any questions for Mr. Daly? [There were none.] Is there anyone else who would like to testify on S.B. 376 (R2)? Whether you are in Las Vegas or Carson City? [There were none.] With that I will close the hearing on S.B. 376 (R2) and open the hearing on Senate Joint Resolution 3 (1st Reprint).

Senate Joint Resolution 3 (1st Reprint): Urges the Federal Aviation Administration and the Clark County Department of Aviation to convene a stakeholders' group to develop and make recommendations to improve flight safety standards at the North Las Vegas Airport, particularly with respect to experimental homebuilt aircraft. (BDR R-803)

Senator Steven A. Horsford, Clark County Senatorial District No. 4:
I would like to thank Madam Chair, as my Assemblywoman, for sponsoring this legislation with me. This issue has become an increasing concern for you and me, as well as the residents in the area, due to the growing number of residents who live near the airport and within its flight paths. Due to a dramatic crash that occurred in August of 2008, the situation necessitated action and bringing forward a resolution to address safety at the North Las Vegas Airport.

Again, Assemblywoman Kirkpatrick and I sponsored this resolution, which calls for the establishment of a stakeholders' group. The stakeholders would include representatives from the Federal Aviation Administration (FAA), because only the FAA has authority over these issues, and despite attempts by Commissioner Weekly and some others at the local level to improve

some of these conditions, it is really something that requires the FAA's participation. Other stakeholders would be the Clark County Department of Aviation, as they are the operator/administrator of the North Las Vegas Airport; the Clark County Aviation Association, which represents all of the pilots; the City of North Las Vegas; the Aircraft Owners and Pilots Association; tenants of the North Las Vegas Airport; and residents of the neighborhoods surrounding that airport.

The stakeholders group would convene by June 1 and issue a preliminary report on their recommendations by August 1. Then the group would develop and make recommendations to improve flight safety standards at the North Las Vegas Airport and submit the report to the appropriate entities, because different agencies can do different things to help address the overall problem.

I understand that some of the initial steps that are called out in this resolution have already been taken and the implementation has already started. I really appreciate that, because it shows that when we bring forward an issue that our constituents care about, it gets attention, and it can also reach a resolution, which is ultimately what we want. After input from constituents, pilots, and other concerned representatives regarding this resolution, we believe that this is a solution that will meet the people's needs and increase safety, which is our primary objective and what we have been trying to do for several years.

Chair Kirkpatrick:
It was tough when we first tried to address the situation and the constituents did not know who to call because everyone said, it is not my job. This bill creates a good dialogue for us to have with our constituents, and to address their concerns on safety, so I appreciate that. I appreciate the Aircraft Owners and Pilots Association. The first month was tough for me, but the Association was helpful in explaining to the pilots that we were just trying to get some safety measures. Thank you for letting me cosponsor with you, Mr. Horsford.

Are there any other questions or comments?

Senator Horsford:
Assemblyman Atkinson lives in the area. I do not get to vote for him, but we walk together.

Chair Kirkpatrick:
This bill helps Assemblyman Atkinson's constituents as well. Is there anything else that someone would like to bring up?

Stacy Howard, Western Regional Representative, Aircraft Owners and Pilots Association, Queek Creek, Arizona:

The Aircraft Owners and Pilots Association (AOPA) is the world's largest general aviation association, with over 415,000 members nationwide. That is about 75 percent of all the pilots in this country and includes about 4,500 here in Nevada. Our organization is focused on promoting general aviation and safe aviation practices as well as advocacy on issues relating to pilots and aircraft owners worldwide.

We are here today as a result of some unusual and tragic accidents that occurred near the North Las Vegas Airport. It is natural that these circumstances would prompt local officials to search for opportunities to do what they can to ensure safe practice at the North Las Vegas Airport.

On behalf of the aviation community we urge you to pass S.J.R. 3 (R1), which creates a real opportunity to develop meaningful safety improvements at the North Las Vegas Airport.

The United States has the largest and safest aviation system in the world. Responsibility for managing this national aviation system lies with the Federal Aviation Administration and, although none of us has a perfect record, over many years this agency has placed safety at a premium and worked to ensure that pilots are well trained and that their aircraft are tested and airworthy.

Senate Joint Resolution 3 (1st Reprint) recognizes the legitimate concerns of all those who have an interest in safety at North Las Vegas, not the least of whom are the pilots and the people who live near the airport. This resolution uses a model process that the FAA encourages and uses in other communities, with responsible government authorities and stakeholders, such as neighbors, pilots, and airport businesses, coming together to identify issues of concern and develop appropriate measures to mitigate those problems.

This is a process that works, and AOPA is committed to remain involved to ensure its success. Since the tragic events last summer AOPA has already been actively engaged in Clark County on two fronts. We worked through the AOPA Air Safety Foundation to educate local pilots and improve aviation safety by conducting a safety seminar which focused on flying over urban neighborhoods. I am pleased to report that more than 400 local pilots attended this event. Additionally, we have been working with the local pilots and the Clark County Aviation Association to help local officials and airport neighbors better understand what is happening at their community airport. That included a very successful open house that was held at the airport during which hundreds of

area residents were able to visit the airport and learn about operations in Clark County.

We would also like to share with you some of the efforts that we have made to date with local officials in the Las Vegas area. Aircraft Owners and Pilots Association staff visited Las Vegas and Carson City on several occasions to meet with county commissioners, state legislators, and Clark County aviation officials. As a result of those meetings we have agreed to work cooperatively with the Clark County Department of Aviation to bring all stakeholders together to find local solutions to the safety concerns that are within the current legal and regulatory framework.

We also met with the manager of the Federal Aviation Administration's Flight Standards District Office. He expressed his strong interest in working cooperatively with the Clark County Department of Aviation and his belief that their mutual efforts could resolve the safety concerns at the airport. The AOPA worked to bring these officials together, and I understand that a very positive meeting has already taken place.

We continue to follow up these efforts with senior Clark County Department of Aviation staff and other local officials and are committed to working with the Las Vegas aviation community using local resources to address everyone's concerns. We strongly believe that this approach is the best to obtain long-lasting and rapid results for improving safety at the North Las Vegas Airport.

Finally, I would like to say thank you to Senator Horsford and Assemblywoman Kirkpatrick, whose concern for the people they represent brought us here today. We appreciate your efforts to work with us, and in turn we pledge to continue working with you. Thank you.

Chair Kirkpatrick:
Are there any questions? [There were none.] Is there anyone else who would like to testify in support of S.J.R. 3 (R1)? [There were none.] Is there anyone in Las Vegas who would like to testify in support of S.J.R. 3 (R1)?

Constance J. Brooks, representing Clark County, Las Vegas, Nevada:
We are wholeheartedly in support of this measure. We would like to commend the efforts of Madam Chair and Senator Horsford for being responsive to your constituents and for calling attention to this grave issue in regards to improving flight safety standards. The Clark County Department of Aviation looks forward to collaborating with other stakeholders as we all work together to ensure safety in our community and in the air.

Chair Kirkpatrick:
Does anyone have any questions for Ms. Brooks? [There were none.]

Ted Olivas, representing the City of Las Vegas, Nevada:
We too wanted to thank Senate Majority Leader Horsford and Chair Kirkpatrick for bringing this very important issue forward. You might ask, why is the City of Las Vegas involved with this? For those of you who do not know, the City of Las Vegas is right across the street, on the south side, from the North Las Vegas Airport. So when those planes take off, oftentimes we would be the first responder, so we are very concerned about what happens at the airport.

The only reason that I wanted to testify today was to mention that we were not listed on the list of stakeholder groups, but we do not believe that there is anything in this bill that precludes us from attending those very important meetings. We do not believe that anything is required to change this. We just want to let everyone know that we are very concerned about this and we would like to be a part of those deliberations.

Chair Kirkpatrick:
Are there any other questions or comments? With that we will close the hearing on S.J.R. 3 (R1). Is there any public comment? [There was none.]

Meeting adjourned [at 10:35 a.m.].

RESPECTFULLY SUBMITTED:

_____
Cheryl Williams
Committee Secretary

APPROVED BY:

_____
Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: May 5, 2009 **Time of Meeting: 9:03 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 376 (R2)	C	Michael Tanchek	Amendments
A.B.376 (R2)	D	Glenn Greener	Classification and Rating System
A.B. 376 (R2)	E	Glenn Greener	Roofer Definition
A.B. 376 (R2)	F	Greg Esposito	Amendment
A.B. 376 (R2)	G	Clara Andriola	Prepared Testimony
A.B. 376 (R2)	H	Robert Rapp	Lightning Protection Technician Definition
A.B. 376 (R2)	I	Robert Rapp	Prepared Testimony
A.B. 376 (R2)	J	Robert Rapp	"NFPA 70 (NEC) References to Lightning Protection"
A.B. 376 (R2)	K	Robert Rapp	Lightning Protection Technician