

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

**Seventy-Fifth Session
February 13, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:01 a.m. on Friday, February 13, 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

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Scott McKenna, Committee Counsel

Cyndie Carter, Committee Manager
Cheryl Williams, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Theron LaFountain, Director of Finance and Marketing, RAFI Architecture, Henderson, Nevada
Elizabeth Trosper, MassMedia Corporate Communications, Henderson, Nevada
Paul McKenzie, Executive Secretary-Treasurer, Building & Construction Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada
John E. "Jack" Jeffrey, Henderson, Nevada, representing the Laborers' International Union of North America, Local 872
Kathy Rainey, Member, Nevada Public Purchasing Study Commission, Las Vegas, Nevada
Bramby Tollen, Director of Purchasing, Clark County School District, Las Vegas, Nevada
Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, Carson City, Nevada
K. Brad Van Woert, III, Reno, Nevada, representing the American Institute of Architects Nevada
Fred L. Hillerby, Reno, Nevada, representing the American Institute of Architects Nevada
Ted Olivas, Director of Administrative Services, City of Las Vegas, Nevada
John Slaughter, Director of Management Services, Washoe County, Reno, Nevada
Matt Leck, Assistant Management Analyst, Southern Nevada Water Authority, Las Vegas, Nevada
Javier Trujillo, Intergovernmental Relations Specialist, City of Henderson, Nevada
Randall C. Robison, North Las Vegas, Nevada, representing the Nevada State Board of Professional Engineers and Land Surveyors
Rob Joiner, AICP, Government Affairs Manager, City of Sparks, Nevada
Alexis Miller, Legislative Relations Program Manager, Office of the City Manager, City of Reno, Nevada
Nicole Rourke, Director of Intergovernmental Relations, Clark County School District, Las Vegas, Nevada
Dr. Bryn Lapenta, Senior Director, Washoe County School District, Reno, Nevada
Sabra Smith-Newby, Director, Department of Administrative Services, Clark County, Las Vegas, Nevada

Lisa Foster, Reno, Nevada, representing the City of North Las Vegas and
Boulder City, Nevada

K. Neena Laxalt, Elko, Nevada, representing the Nevada League of Cities

[Call to order. Roll call.]

Chair Kirkpatrick:

I will open the hearing on Assembly Bill 147.

Assembly Bill 147: Requires local governments to grant preference to local bidders bidding on certain contracts for goods or services. (BDR 27-753)

Assemblywoman Ellen B. Spiegel, Clark County Assembly District No. 21:

[Read pages 1 to 4 from ([Exhibit C](#)).] The unemployment figures do not count the hidden unemployment [Page 4]. They do not count those who are self-employed or who work for very small companies, those who are underemployed and are not reporting it to the state. It does not count homemakers who now need to look for work because they can no longer survive on a single income, but cannot find a job. Our unemployment situation is dire. Our safety net of home ownership is being eroded. Property values are declining, now down to 2003 levels [continued from ([Exhibit C](#))]. People are scared and need help and the state needs help [continued from ([Exhibit C](#))].

I am a firm believer that small businesses are going to help lead us out of this economic downturn [Page 6]. By helping our local businesses, we will keep more dollars in the local economy and put money directly into our local economy. As we strengthen our businesses, our labor costs will translate into dollars into the economy. Wages and benefits put disposable income into the economy [continued from ([Exhibit C](#))].

I spoke with a woman who owned a trophy store [Page 7]. Because of all of the work she had done for a community, she was going to be given an award, and a trophy was going to be presented. She wanted to bid on her own trophy, since it was her business. She was not able to bid on the trophy she was going to be presented, but the contract for it was given to a company in Arizona. The money for this project, while small, went out of state.

I also met a printer, and we discussed governmental bids. He said to me that I should be looking for contracts for the state that I could bid on, but to be careful because a lot of times one needs to price as low as possible. This is because you get undercut by out-of-state businesses who have had long-standing relationships in town. So unless the bid is as cheap as possible, the projects will go to out-of-state companies [continued from ([Exhibit C](#))].

Assemblyman Settlemeyer:

I believe Nevada has an inverse policy, meaning if California or any other state has a rule dictating that their state gives a 5 percent preference for local bidders, we do the same thing. How many other states have this? Because of the inverse policy, could we actually be doing economic harm to some of our businesses, because by implementing this rule, they no longer can compete in other states?

Assemblywoman Spiegel:

As I looked through the materials and what other states are doing, many other states have been changing their policies and making it more difficult for Nevada businesses to bid. This will help and in many instances give us parity.

Assemblyman Settlemeyer:

Do you know how many other states have an inverse law like ours?

Assemblywoman Spiegel:

I can get back to you with it.

Chair Kirkpatrick:

I bet that is something we can ask our local vendors when they come up, because I personally know that 37 states are changing their policies to stimulate their own economies. I know that a few of the Western states do have the reciprocity, but we have not been able to find proof that shows it is considered in the bid.

My opinion is that Nevada businesses need to sharpen their pencils a bit, but it is frustrating to pay a parking ticket you might get in downtown to a city in Arizona. I do not understand how there is not a qualified processing center in Las Vegas.

Assemblyman Stewart:

Regarding the 5 percent, do we have any figures on how close the bids are when they are put in? Is it within a certain percentage?

Assemblywoman Spiegel:

I do not have that currently, but I understand some of our local governmental entities will be sharing some of that data with us later this morning.

Assemblyman Stewart:

Is the 5 percent a general thing across the United States, or how did you arrive at it?

Assemblywoman Spiegel:

Five percent is extremely common. The amounts typically range from 3 to 10 percent, 5 percent being the most common.

Chair Kirkpatrick:

I will follow up. Five percent is already within our statute that we use on public works, so it was selected to be consistent.

I will now open the hearing for testimony. I want to remind everyone, if you are in support of the bill as is, please speak in favor. If you are opposed as is, please speak against. If you would like to propose amendments, please testify as neutral.

Theron LaFountain, Director of Finance and Marketing, RAFI Architecture, Henderson, Nevada:

Currently, I work for an architectural firm in Las Vegas, and I serve as a Vice President of Finance and Business Development. About 90 percent of our business is government work, and lately we have found that the number of firms bidding has gone from 20 or 30 localized firms to as many as 120 regional firms because of the economic times.

As we start to look at our dollars diminishing, our goal is to keep as many dollars here within the state as possible. There are a few small adjustments in wording I would like to get into the bill.

We have about 20 employees, so we sometimes go against firms that have as many as 3,000 employees. Cost does become a factor, even though we cannot be chosen based on cost under the current *Nevada Revised Statutes* (NRS). We can be eliminated in negotiations if our costs are perceived to be slightly higher by a government agency than what they could get from another firm or entity.

We are currently a Disadvantaged Business Enterprise (DBE) with the State of Nevada and a Women's Business Enterprise (WBE) under the federal certification. We go as far as taking off all of our principal hours on bids to be competitive, and sometimes even that does not help.

In terms of helping the community, we currently do two projects a year pro bono. This speaks to Assemblywoman Spiegel's point that if you do not put the money with the local companies, the communities will lose all of the philanthropic activity that happens here currently. It is essential for a thriving Nevada.

Elizabeth Trosper, MassMedia Corporate Communications, Henderson, Nevada:

I am a partner in the firm, which provides public relations, public affairs, and advertising services locally and nationally. I support the concept, spirit, and intent of A.B. 147. We can all agree that more money in local government is good.

I moved to Nevada in 1995 and became a partner in MassMedia in 1999. Ten or 15 years ago, a bill of this nature may not have made sense, but now with the talent pool of professionals in today's business community, it is time for this type of bill.

We have worked to get through the economic hard times. We have our own nonprofit here that we support as well as others across the state. We are actively involved in our communities here, and our Reno office is as well. We support this bill and understand there are some details that need to be worked out with the local governments.

Paul McKenzie, Executive Secretary-Treasurer, Building & Construction Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada:

We are here today to support this bill. The idea of trying to keep money in our local economies is important in this day and age. We would hope that many of the local governments will appreciate this bill as they, for years, have told us their desire to do this has been blocked by a lack of legislative support.

We will follow through on the Chamber of Commerce's wish and buy locally. It is important that we help our economy before we look elsewhere.

John E. "Jack" Jeffrey, Henderson, Nevada, representing the Laborers' International Union of North America, Local 872:

Danny Thompson of the Nevada State AFL-CIO was not able to make it this morning, so I am speaking for him as well.

I put in the original bidder's preference bill when I was in the Legislature 20 years ago. The first bill we passed was a reciprocal bill, which did not work. When we first worked on the legislation that is the law now, there were some problems that had to be worked out, so frankly, what we ended up with is what we could get at the time. It is not working very well because whether or not a contractor is a local contractor is not really a consideration.

The nature of the case law at the time of the first bill made it so all it really says is that the company has to pay state and local taxes for a certain length of time. Contractors would come here, go to Las Vegas, stay in a hotel room, pay room tax, buy a few gifts, and they were eligible. We have stopped that.

I think it is a good bill the way it stands, and we are willing to work with anyone who is interested in amendments, but it is time we tightened the law to allow local contractors the bidder's preference. I am sure that you will get a lot of the same arguments I got through the years, and those positions have not changed much.

Although it is a 5 percent bidder's preference, in many of the projects we are not talking about 5 percent, just a slightly increased amount. If a bid is more than 5 percent off, people are wondering what the guy left out to make the bid so low.

I think we will see more of this type of legislation around the country. When we spend stimulus money and promote those kinds of efforts to help the local economy, we need to be wary. My business partner years ago said that when a job goes to an out-of-state contractor, the workers take a suitcase full of dirty clothes and a paycheck home. They stay here three or four to a room and get by as cheaply as they can so they can send as much money home as possible. We need to keep the money here in Nevada.

The statistics heard earlier about money recirculating through the local economy make a valid point.

Chair Kirkpatrick:

Is there anyone in Las Vegas who is neutral?

**Kathy Rainey, Member, Nevada Public Purchasing Study Commission,
Las Vegas, Nevada:**

I am the Manager of Purchasing and Contracts for the City of Las Vegas, but today I am representing the Nevada Public Purchasing Study (NPPS) Commission. Our Chairman is James Mulcahy, but he is out of town, so I am speaking on his behalf. If you are not familiar with the Commission, we operate in accordance with NRS 332.215. The Commission is comprised of all of the local governments within the counties whose populations are 100,000 or more. We are the purchasing managers of all of those organizations. Our purpose, as defined by the statute, is to study governmental purchasing practices and laws and to make recommendations to the Legislature regarding the purchasing laws.

With regard to A.B. 147, our Commission would like to take a position on this bill, but we did not have enough time to really review it and to discuss potential amendments. We would like to work on an amendment so we can accomplish the common goal and purpose of this bill. So, at this point in time we are neutral.

Chair Kirkpatrick:

Is there a particular part of the bill you do not like?

Kathy Rainey:

There is some concern about how we are going to define "local bidder." That is the major concern. We want to make sure there is equity and do not want to create confusion among bidders.

Chair Kirkpatrick:

Would you submit some language to help define that?

Kathy Rainey:

Absolutely. We have begun a number of communications with many of our members, but we have not been able to tap into all of our membership yet.

Chair Kirkpatrick:

I will get this sign-in list to Assemblywoman Spiegel so she can work with all of you.

Bramby Tollen, Director of Purchasing, Clark County School District, Las Vegas, Nevada:

We share the Committee's belief that tax dollars should be spent locally and like the idea of supporting our neighbors and community. While we support the concept, we believe the implementation of a local preference as defined is difficult, costly, reduces competition, and will actually harm Nevada businesses.

As written, this bill also restricts our ability to fairly evaluate competitive efforts. Our specific concerns are that "local bidders" is not adequately defined, and that each agency will bear the burden and costs for determining a local bidder. At a time when staffing levels are being reduced, the bill will have the effect of creating an unfunded requirement and an additional workload on our diminished staff.

Inconsistent definitions between agencies will not only create the perception of unfair or favorite treatment, but may also increase our exposure to protests and legal action.

Local preference may also conflict with federal requirements for grant funds. Millions of dollars may be lost, or inconsistent applications of local preference may result, if local preference requirements conflict with federal law. A local preference requirement may also inhibit the agency's ability to use other agency contracts and receive the benefits of jointers and cooperative purchasing agreements.

There is a financial impact as well. While Nevada is struggling to find funding for its students, local preference will increase costs. Not only will we pay up to 5 percent more for the same goods and services, but the reciprocal preference will reduce competition, increase costs, discourage out-of-state bidders from competing, and increase pricing.

Additionally, we believe the reciprocal preference will harm Nevada businesses. Thirty-five states have imposed reciprocal preferences that will give our businesses a local preference for Nevada but will put us at a disadvantage in the other 35 states.

We have three suggestions for an amendment. The first is to have the bill more clearly define "local bidder." The second suggestion would be to institute a reciprocal preference similar to that is currently in NRS Chapter 333. The third is to institute a provision where local bidders are given a preference for a tie bid, which would align Nevada with the other 34 states that have tie-bid provisions.

We are happy to work with you and the NPPS Commission to define "local bidder."

Assemblyman Stewart:

Can you give us a rough breakdown of what percentage of bids you do accept that are out-of-state?

Bramby Tollen:

I do not have that at this time, but I will get that for you.

Chair Kirkpatrick:

How does the tie-bid process work currently?

Bramby Tollen:

I believe it is up to each agency to decide. I know that one agency pulled out a deck of cards and the high-card bidder got the job.

Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, Carson City, Nevada:

The Nevada Association of Counties (NACO) is neutral on this bill at this time. We support the concept of helping local businesses and local economies. We are willing to work with others in crafting language that our membership can support.

Chair Kirkpatrick:

Are there parts of the bill you do not like, or have you not gotten that far yet?

Wes Henderson:

We have not gotten that far yet.

Chair Kirkpatrick:

The sooner you could get Assemblywoman Spiegel your suggestions, the better.

K. Brad Van Woert, III, Reno, Nevada, representing the American Institute of Architects Nevada:

I am an architect from Reno and the president of a firm there. I am here on behalf of the American Institute of Architects Nevada (AIA Nevada). Twenty years ago our firm bid the Sparks headquarters fire station. There was a tie bid, to the penny, and a cut of the cards selected the contractor. It is appropriate to the discussion today that an out-of-state contractor drew the high card.

Chair Kirkpatrick:

That is ridiculous.

K. Brad Van Woert:

Architects, planners, and engineers tend to be the precursor to the health of the construction industry. About two years ago we bid a major project in northern Nevada. There were three bidders, one of whom dropped out, and the project came in way over budget. This Tuesday we have a small project for a nonprofit called Fallon Industries, a \$2 million prefabricated metal building. There are 31 general contractors on the list to bid the project.

It is very competitive right now. With the shrinking capital improvement programs and the freezing of credit, architects are finding jobs less and less available. The unemployment rate, though maybe 8 to 9 percent statewide, is just about to pass 40 percent in the architectural industry. There are just not enough projects. We therefore support, in theory, a selection preference.

When the work becomes available, we do think the economic impact should stay in Nevada. We are legislated by NRS 623.140, which states that the selection for professional services is by a qualifications basis. That way the best and most qualified firm is selected, and then a fair and equitable price is negotiated. I can assure you that at the state and municipal levels the negotiations are fair.

If anything comes of this bill, and if professional services are to be included in this bill, could the preference perhaps be on a point basis. So theoretically on a

100-point basis, the local, Nevada-licensed professional would get five extra points for being licensed and paying taxes in the State of Nevada or the out-of-state entity would get five points less.

Fred L. Hillerby, Reno, Nevada, representing the American Institute of Architects Nevada:

I would like to express our appreciation for the bill. We would like to work with the sponsors of the bill to make this work for professional services as well.

Ted Olivas, Director of Administrative Services, City of Las Vegas, Nevada:

We would like to thank Assemblywoman Spiegel for working with us on this bill. We have a handout ([Exhibit D](#)) which defines from the start to finish of the bill some opportunities to consider. I am testifying today as neutral. The handout is a section-by-section breakdown of our concerns. Some you have already heard, and some you will probably hear later.

The first item is to have a threshold consistent with NRS Chapter 338, which is how we use a bidder's preference for public works bidding. For public works, it is for projects over \$250,000. In this case our bid limit is \$50,000 and over, so \$50,000 could be the threshold.

Section 1, subsection 2 covers competitive bidding exceptions. We do not always solicit bids. Projects are sometimes awarded through negotiation. The section also references if we have a choice of one or more vendors. We always have a choice, but sometimes we have to go to the professional service provider we think is the best for a particular procurement. That is, of course, with the exception of sole source procurement. The American Institute of Architects (AIA) clearly identified the concerns with architects and engineers and the fact that NRS Chapter 623 states that their awards have to be based on qualifications.

Section 1, subsection 3 states that we would have to make an ordinance or regulation for this. If we craft this legislation appropriately and define exactly what the bidder is, et cetera, there is no reason for us to do an ordinance that duplicates what you have already told us to do. We could save a step there.

In section 1, subsection 4, Mr. Jeffrey mentioned this, and it is a concern for all of us, we need to better define "local bidder." Right now it is based on taxes or fees paid, so as I read it—this is probably an extreme example—if I come in from California, buy some things, submit my bid, and use my receipt as proof of paying taxes, I would qualify as a local bidder. I do not think this is what we want to do.

In the case of public works bidding, NRS Chapter 338 has a stringent process. While I am not suggesting we do that for goods and services, what I want to focus on is that the legislation requires the bidder to show proof of the payment of sales and use tax of \$5,000 or more over a five-year period. While this is extreme, you may want to look to see if the bidder has had a business license in one or more Nevada jurisdictions for some term.

The bill also says the local governments can define the geographic area as to where the taxes or fees are paid. We are concerned about that because we do not want to have different geographic areas for different jurisdictions, such that the City of Las Vegas, for example, will only accept payments in the City of Las Vegas, and Henderson does the same, and Reno does the same, and Washoe County and Clark County follow suit. What we are really doing here is supporting Nevada businesses, no matter if it is Eureka, Ely, or Las Vegas, that is what is most important. We do not want turf wars.

Section 2 provides the criteria upon which the lowest responsive and responsible bidder is selected. The word that is in NRS 332.065 currently, and has been for many years, is "may" be selected based on this criteria. The bill has changed that to "must." I recommend that we change it back to "may" because each procurement is different; one size does not fit all. So if we put "may" look at those items that are provided in NRS 332.065, which are price, conformity to specifications, qualifications, past performance, and so on, sometimes delivery may be the most important thing. Who can get me the product next week? That may be weighted more. We need to have that flexibility.

The effective date is "upon passage and approval." I do know that the local governments would need a little time to implement this, both in preparing their bid documents and letting the business community know how it is going to work.

There may be a need for an exception if the funding source would prohibit the use of preferences, perhaps some sort of federal funding. It was discussed earlier, by Assemblyman Settlemeyer, that in NRS Chapter 333—which is for state purchasing, which is different from local government purchasing—there is a provision for an inverse preference. The provision essentially states that if Arizona is going to have a bidder's preference against Nevada businesses, then when an Arizona business comes to us, we are going to enforce the same preference against you.

I call this next thing a second-chance provision. It would say that if the lowest bidder is from Arizona, and the second-lowest bidder we consider is local and

within 5 percent of the lowest bidder, we would go to the second lowest, saying, "Will you match that price?" That way we get the Nevada bidder, and we get the same price as the lowest bidder submitted.

You may also consider a sunset provision to allow for review, to see how the legislation is working in a few years and force us to bring the data or just require it anyway. We could provide that data so it can be weighed against the economic benefit.

I was asked to try to gather the data from most of the local governments, but it will take a little more time. The statistics I have today are that in Clark County over the last three months, 75 percent of their awards went to Nevada businesses. In the City of Las Vegas two-thirds were to Nevada businesses. These data need to be evaluated beyond the numbers because there are some things that we cannot buy locally. We have to look at each of the procurements and determine whether or not there was competition and whether or not we could buy it from a Nevada business.

Assemblyman Settlemeyer:

I see that Nevada has this tie-bid law. Could we pass it down to local governments? Could Legal look into this? We have a law that gives the 5 percent preference if they use recycled products on the bid and 10 percent if they use recycled manufactured products from the State of Nevada. What is the Nevada law on tie bids?

Scott McKenna, Committee Counsel:

I am not personally aware of a tie-bid provision. As other people have testified, in NRS Chapter 333, the state purchasing chapter, we do have the inverse preference provision. In NRS 332.065, we have a preference for the use of recycled goods. The origin for a lot of the bidder's preferences that have been suggested for purchasing, which are NRS Chapters 332 and 333, derives from the fact that for years there has been a bidder's preference in NRS Chapter 338 for public works.

Chair Kirkpatrick:

Does that answer your question?

Assemblyman Settlemeyer:

Not necessarily. I will send the links I have which say that the State of Nevada does have some tie-bid provision. I am curious where these websites are getting this misinformation or what the information is.

Chair Kirkpatrick:

I would bet that the state has some rules and the local governments have a lot more flexible rules, so maybe we should try to tie the two together to make the rules more consistent.

John Slaughter, Director of Management Services, Washoe County, Reno, Nevada:

Washoe County is neutral on the bill. We agree with the handout Mr. Olivas provided ([Exhibit D](#)). We are all well served by Assemblywoman Spiegel, who is very passionate and has done a tremendous amount of research on the issue, and by having a subject expert like Mr. Olivas at our disposal.

We, too, have a little bit of research, and in the preliminary information from the last six months, we found that in Washoe County about 64 percent of our vendors are in-state, but more importantly about 83 percent of those dollars have gone to Nevada vendors. We agree with the concept, and we would like to go further than just agreeing with it. We would like to help implement it and push those numbers higher. We understand the multiplier effect.

Chair Kirkpatrick:

Yes, I did want to tell Mr. Olivas he did a good job with his concepts.

Assemblyman Bobzien:

I appreciate that you had to hustle to put this data together and have it here today, so we thank you for that. I am curious; you mentioned the breakdown between the dollars in the state and out of state, or local and non-local, and the total number of contracts. Anecdotally, are there patterns that seem to emerge for sectors or types of services, anything you could share?

John Slaughter:

Quite frankly, I have not had the chance. We will do that research and find out if there are any patterns.

Matt Leck, Assistant Management Analyst, Southern Nevada Water Authority, Las Vegas, Nevada:

We are currently neutral on the bill. We have seen Mr. Olivas's handout ([Exhibit D](#)), and we agree with the concepts and provisions that he has put forward. We do have issues with the definition of "local bidder" and the changing of permissive language to "must" in section 2. We would appreciate the opportunity to work with the sponsor and the other members presenting today to come to an agreement that we can move forward.

Javier Trujillo, Intergovernmental Relations Specialist, City of Henderson, Nevada:

The City of Henderson is neutral. We echo the comments of Mr. Olivas, and we look forward to working with the sponsor of the bill.

Randall C. Robison, North Las Vegas, Nevada, representing the Nevada State Board of Professional Engineers and Land Surveyors:

The Nevada State Board of Professional Engineers and Land Surveyors is the statutorily created board responsible for the public health, safety, and welfare of the professional engineering and land surveying occupations. We do that through licensure and regulation of the industry. The folks from AIA outlined our concerns earlier about professional engineers and land surveyors, architects, and others. We compete based on competence and qualification rather than on competitive fees.

For the Committee's information, I will quote from NRS 625.530, section 3: "The selection of a professional engineer. . . must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees." We understand that there will be some work done on this bill in regards to professional services, and we would like to participate in that. We, too, would like to echo the comments of Mr. Olivas.

Rob Joiner, AICP, Government Affairs Manager, City of Sparks, Nevada:

I wanted to thank Assemblywoman Spiegel for reaching out to us; you have been wonderful to work with. In checking with our contracts and purchasing officers, they, too, had the concerns that Mr. Olivas went over. We had a good working group meeting yesterday, and I think that many of our concerns have been taken care of. If there are any others, we will bring them forward.

Mr. Olivas asked us to provide some background as to what we have done out of state in the last several months. I can report that the City of Sparks had no out-of-state vendors in the last few months, but things are very lean right now. We will keep that information coming to you, but we looked only at contracts over \$50,000 in our services.

Chair Kirkpatrick:

Did you all in Las Vegas get a copy of Mr. Olivas's handout ([Exhibit D](#))? [They indicated yes.]

Assemblyman Bobzien:

I am surprised that you said there were no out-of-state vendors.

Rob Joiner:

That is the last-minute information that I got, so maybe they did not understand the question, but that is contracts in the last 90 days, over \$50,000, other than construction.

Assemblyman Bobzien:

Okay, that may be a calendar issue, because there was one recently in the paper that raised some eyebrows in the advertising community. It was the out-of-state company to do the City of Sparks branding. Is that not included?

Rob Joiner:

Yes, because they have been under contract for over a year.

Alexis Miller, Legislative Relations Program Manager, Office of the City Manager, City of Reno, Nevada:

We are neutral on this bill. We have the same concerns as expressed by Mr. Olivas, and we look forward to working with the sponsor to address them.

Nicole Rourke, Director of Intergovernmental Relations, Clark County School District, Las Vegas, Nevada:

You have already heard from our purchasing director. We just wanted to declare we are neutral and look forward to working with the Committee.

Dr. Bryn Lapenta, Senior Director, Washoe County School District, Reno, Nevada:

We, too, are neutral on this bill. I would like to echo the concern about federal grants and the provision they have about the lowest bidder. Also, regarding the ability in section 1, subsection 5, for the local government to not award the contract to the bidder, we would like to include not just bids but contracts.

Chair Kirkpatrick:

What do you mean by contracts? Could you elaborate?

Dr. Bryn Lapenta:

In section 1, subsection 2, there are the items that are not required to go out for preferential bidding, and we felt that, perhaps, subsection 5 was limited by the fact that it says "bid."

Sabra Smith-Newby, Director, Department of Administrative Services, Clark County, Las Vegas, Nevada:

Mr. Olivas did state many of our concerns. There are just a few that I did not hear him go over. In section 1, subsection 1, we have a concern regarding new small and minority businesses that may be start-ups. As a start-up, a legitimate

Nevada business may not have a record of paying taxes. We echo his concerns about uniformity in the discussion of what is a "local bidder" and the standards for which that is determined.

In section 1, subsection 4, we had a concern regarding the implementation of those tax standards. Who would do that? Would it be determined at the local level? Do we need to hire an auditor to go over their tax records? We just have some implementation questions there. We echo the concerns about NRS Chapter 623 regarding architects and NRS Chapter 625 regarding engineers and professional services. We are excited to work with Assemblywoman Spiegel and happy that she has been so willing to work with local governments. We are looking forward to working further with her.

Mr. Olivas also covered a bit of our research on the past three months of our contracts, and I have handed out that spreadsheet ([Exhibit E](#)). Most of the contracts went to in-state bidders. Forty-four of the 64 were in-state, but when looking at the dollar amount it is closer to 75 to 25 in favor of in-state.

Assemblyman Settlemeyer:

From the data of the ones that were out-of-state, how many of them were within the 5 percent?

Sabra Smith-Newby:

I do not know, but I will get back to you.

Assemblyman Bobzien:

I have the same question as I asked to John Slaughter: Any anecdotal observations on the mix in terms of sectors, industries, et cetera?

Sabra Smith-Newby:

I did look over the contracts very briefly, and the ones that went out-of-state were very large national companies. One of them is NaphCare; they provide the medical services to our inmates in the detention center. Others are from the courts trust account reconciliation, legal services for nuclear waste, which is a very specialized service, and Cigna, which does the review services for the self-funded health benefits plan. For our legal research services, we use Thomson West, which, I think, is the national search engine for legal services, based out of Minnesota. Other than that, you are looking at a lot of cars purchased, concrete, things like that, which are all from Nevada-based organizations. The other sectors that seem to use out-of-state services are planning and design for a trail study for Moapa Valley and the town of Goodsprings, and again program administration from the Loomis Company, and

infrastructure for wireless from InnerWireless out of Texas. It looks like where there clearly are in-state services, we have used them.

Assemblyman Munford:

I appreciate you bringing up the minority aspect of this entire bill because I know in bidding there is some concern about minority participation. Like you said, some are start-up businesses just getting their feet on the ground, and sometimes they cannot meet all of the requirements.

Lisa Foster, Reno, Nevada, representing the City of North Las Vegas and Boulder City, Nevada:

We are neutral on this and thank Ted Olivas for doing the work on this issue. We especially thank the sponsor for allowing us to have some input, and we are looking forward to working with her on it.

K. Neena Laxalt, Elko, Nevada, representing the Nevada League of Cities:
Ditto.

Chair Kirkpatrick:

Is there anyone to testify on A.B. 147? [There were none.] Ms. Spiegel, will you come back up. There is some work to be done on this bill, and I want you to work with everyone else. Mr. Olivas has addressed most of everyone's main concerns.

I will close the hearing on A.B. 147.

Is there any public comment or comment from the Committee?

Assemblyman Settelmeyer:

Just for the Committee's information, regarding NRS 333.300, someone was listening in Nevada State Purchasing. We do have a tie-bid provision, so I will email that to the members.

Assemblyman Munford:

I am proud of Ted Olivas, too; he was a student of mine.

Chair Kirkpatrick:

Meeting is adjourned [at 9:14 a.m.].

RESPECTFULLY SUBMITTED:

Cheryl Williams
Committee Secretary

Emilie Reafs
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 13, 2009

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Assemblywoman Spiegel	Prepared Statement
	D	Ted Olivas, City of Las Vegas	Proposed changes
	E	Sabra Smith-Newby, Clark County	Spreadsheet