

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

**Seventy-Fifth Session
March 4, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:07 a.m. on Wednesday, March 4, 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:

Assemblywoman Debbie Smith, Washoe County Assembly District
No. 30

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cynthia Carter, Committee Manager
J. Renee Ekleberry, Committee Secretary
Olivia Floyd, Committee Assistant

OTHERS PRESENT:

RG Smith, Operations Manager, Nevada Property Maintenance, Reno,
Nevada
Jim Helsel, Helsel Construction Operations, Inc., Reno, Nevada
Carole Turner, Deputy Executive Director, Office of Veterans' Services,
Las Vegas, Nevada
Rick Horn, Director, Procurement Outreach, Nevada Commission on
Economic Development, Carson City, Nevada
Greg Smith, Administrator, Division of Purchasing, Department of
Administration
Gustavo "Gus" Nuñez, Manager, State Public Works Board
Ted Olivas, Director, Government and Community Affairs, City of Las
Vegas, Nevada

Chair Kirkpatrick:
[Roll taken.]

This morning we are going to hear one bill. At this time I would like to invite our
colleague, Assemblywoman Debbie Smith, to speak. Good morning and
welcome to Government Affairs.

Assembly Bill 223: Revises provisions concerning preferences for bidders on
certain state purchasing and public works contracts. (BDR 27-857)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:
Good morning, Madam Chair and Committee members. This is my first
bill this session.

Chair Kirkpatrick:
And you are in a friendly committee.

Assemblywoman Smith:

Absolutely. Thank you for hearing our bill this morning and certainly on this very important day in this Legislature when we are honoring the service of our veterans. Assembly Bill 223 creates three separate preferences of 5 percent. The preferences were intended to affect only state government, but I think the way the State Public Works preference is written, it may have unintended consequences. We will talk about that.

Sections 2 through 7 outline the state purchasing preferences for small businesses, granted to a service-disabled veteran and also for Nevada residents and Nevada-owned businesses. We have heard a lot lately about our desire to keep jobs in Nevada and to keep the tax dollars being generated in our state to be spent in our state. I think this is an important addition to this bill. Originally it was generated to support our service-disabled veterans.

The third component in sections 8 to 11 is for small State Public Works projects—under \$100,000—to be awarded to service-disabled veteran-owned businesses. The two preferences for the disabled and the local resident could be combined for a total of a 10 percent preference. The preference works the same way as in other provisions we currently are using in State Public Works contracts for in-state bidders. This preference does not overlap with the local bidders in *Nevada Revised Statutes* (NRS) Chapter 338 because of the \$100,000-or-less stipulation.

Because it is no longer needed, the bill repeals the state's inverse preference, which substituted for a local preference by penalizing bidders from a state that granted its state a local preference.

One of the important things is that the bill requires reporting on residents qualifying for local preference every six months to the Legislature or Interim Finance by the Office of Veterans' Services and the state Division of Purchasing. I think that is an important preference, so we will be able to see if it is working. A working group can look at this legislation and see if it is helping our service-disabled veterans.

There are the usual penalties for misrepresentation and falsifying information. The bill also allows the agencies to adopt the regulations necessary to set up proper procedures.

Several months ago I was contacted by the gentleman on my left, Mr. RG Smith, no relation. I do not know if he selected me out of the book because we have a good last name. He is a service-disabled small-business owner. This bill is about small-business owners, and that is clearly defined

within the parameters of the bill. Mr. Jim Helsel is on my right. He is not a disabled veteran but is a business owner. He wanted to be supportive of this idea. These gentlemen asked me if I would be interested in sponsoring this bill. After meeting with them, I decided it would be a good idea.

We have all heard how many disabled veterans there are coming back from our wars in progress right now, not to mention those who are already in our midst every day. There are many. The number of certified service-related disabled veterans who own a small business is pretty small.

I think this bill is a significant gesture to those people who have served us so well and are trying to be productive and work within our communities. It gives them a small advantage when bidding for work in our communities.

We had an outpouring of support for the bill. This group generated a little postcard campaign, and I will be providing those to you later. We have received over 350 postcards from individuals around the state supporting this legislation. These are not only veterans but include those from all walks of life and many different types of businesses who support our disabled veterans. The one thing I would like to say is that it would be really great if all bill sponsors had a group like this to work with. The supporters have worked diligently to bring this bill forward. They worked with the Economic Development Commission, State Purchasing, State Public Works, and Veterans' Services to try to figure out how all of this could work together. They worked to bring together the best information possible for this bill. We have good support from different agencies who have said, "Yes, we can make this work."

The Commission on Economic Development already has a procurement office that works with veterans. It seems appropriate that they can do the certification of business owners without a lot of problems. It is something that they already are doing. I am sure you will hear from those agencies this morning. Hopefully, they can make this process work.

The other thing I provided for the Committee is an information sheet about a concurrent resolution from the United States Senate that I think Mr. Smith will talk about. It lends support to what we are talking about today. It regards what Congress has already looked at in the way of supporting our service-connected disabled veterans. There are three other states that have already passed similar legislation. It occurred to me that it would be great if Nevada could be a leader—we can be number 4 instead of 40th or 45th or 50th. Yesterday we heard in Committee about one of our rankings where we were 54th. We were behind Guam and Puerto Rico.

I will answer any questions, and Mr. Smith will also be able to answer questions about the details of this bill, if you have any, and how they came up with the idea. Madam Chair, if you will allow me, I will ask Mr. Smith to provide his testimony.

Chair Kirkpatrick:

Good morning Mr. Smith and welcome to Government Affairs.

RG Smith, Operations Manager, Nevada Property Maintenance, Reno, Nevada:

I appreciate you having me here. Basically I am going to talk about how all this came about. I met with Kathy Agee last year. She is a Deputy Director for the Nevada Commission on Economic Development. I learned that small businesses could sign up for the Procurement Outreach Program, better known as POP. They could have emails sent to them regarding government contracting opportunities, both federal and state. I signed up with Kathy and learned how to utilize the Central Contractor Registry (CCR), which is a federal database of companies that have signed up with the federal government. It helps government contracting officers to locate businesses that are registered with the federal government. The registry has a "search" on its website where you can check a box and find veteran-owned businesses or disabled veteran-owned businesses, and other classifications.

Being a disabled veteran and small-business owner and recognized by the federal government I thought was a good idea. Federal contracting officers can find disabled-veteran-owned-businesses when the need arises or if they have a "set aside." I decided to bid on my first accounting job, and when I turned in my bid to the buyer, I let him know that my business was a disabled veteran-owned business. His response was, "We do not honor that designation here." That kind of rubbed me the wrong way. However, I turned my bid in, and a few weeks later I found out that the award went to a company outside of Nevada.

My partner and good friend, Jim Helsel, told me he had talked with a state buyer and had asked if they recognized a disabled veteran-owned business (DVOB) preference. The state buyer told him no, they did not recognize that. The procedure here is that the lowest bid gets the work, the contract, even if that company is going to be losing money on that job.

My thought was—as a disabled veteran-owned small business—there was no way I can compete if there are companies underbidding jobs. We just started up our business last year. As a new startup we cannot afford to lose money, especially in this economy. I decided that since the federal government seemed to have some legislation in place, where a contracting officer had goals to give disabled veteran-owned businesses a certain percentage, I decided to see if

there were any states doing the same thing. Believe it or not, I called all 50 states to find out if they had legislation similar to what I was thinking. There were three states that have that type of legislation—California, Michigan, and Florida.

Florida was the last state to enact their legislation and that was last year. It went into law November 11, 2008, which was, appropriately, Veterans Day. On the Internet I was also looking for the Department of Veterans Affairs (VA) legislation. The VA legislation makes it mandatory that 9 percent of the VA's contracting dollars go to veteran-owned businesses. Out of that 9 percent, at least 3 percent must go to service-related disabled veterans. While I was looking for that legislation, I stumbled upon House Concurrent Resolution 336 of the 110th Congress ([Exhibit C](#)). The resolution was created to honor the sacrifices and contributions made by disabled American veterans. It addresses four values—two of which support the legislation I am proposing to the State of Nevada today.

The two things that stood out are that Congress calls on the people of the United States to honor all disabled American veterans and the freedom for which they sacrificed, and it encourages local, state and national organizations and governmental institutions to participate in that effort. My thought was that because of the current trend, eventually, every state will adopt similar legislation and will recognize the sacrifices of disabled veterans and their families. I thought it would be great for Nevada to be the 4th state and not wait until we would be the 49th or the 50th state to adopt similar legislation. Besides honoring their sacrifices, such legislation would recognize those disabled veterans who desire to have a business and take advantage of the opportunity to bid and obtain work from the state as well as its political subdivisions.

I was able to contact Assemblywoman Debbie Smith, and because her last name is Smith and my last name is Smith, I thought that was a good omen. She agreed with me about Nevada taking a leadership role in helping our disabled veterans through legislation that three other states felt necessary, and she agreed to sponsor this bill. It is the intent of this legislation to rectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole.

This is proven when you go to the CCR Directory, the federal database. When you look at the number of veteran-owned businesses, it is many times greater than the number of disabled veteran-owned businesses. Currently, there are about 250 disabled veteran-owned businesses registered with the federal

government in the State of Nevada. Can we do any less than our fellow states in recognizing the true value of our men and women who were in uniform and now are service-disabled American veterans? I urge you to support this great piece of legislation on behalf of Congress, disabled veterans, and the people of the United States of America. Thank you.

Chair Kirkpatrick:

Mr. Smith, can you tell us your first name again for the record?

RG Smith:

RG Smith—that is my legal name.

Jim Helsel, Helsel Construction Operations, Inc., Reno, Nevada:

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

Chair Kirkpatrick:

Thank you. I think we have a couple of veterans on this Committee. Right, Mr. Stewart?

Assemblyman Stewart:

Yes.

Chair Kirkpatrick:

Does anyone have questions for any of the three speakers?

Assemblyman Settlemeyer:

I have a few questions. You repealed the section dealing with the reciprocity. I was curious why you decided to do that, considering some states have a preference and maintain their reciprocity.

Assemblywoman Smith:

I might ask if Ms. Scholley could answer that because the inverse preference was just an issue that the drafters felt needed to come out. Are you comfortable, Ms. Scholley, answering that?

Chair Kirkpatrick:

We could get a legal opinion from Mr. McKenna. I am sure he is listening.

Assemblywoman Smith:

Regarding the inverse preference question, let me say that it was not our intent, but Legal felt that was what needed to happen to make the bill meld.

Susan Scholley, Committee Policy Analyst:

I cannot speak to the legal issues. Part of that decision was a policy choice and that leaving in the inverse preference created some redundancy. As I understand the intent of the sponsor, it was to simply go with the local preference and not layer or complicate it with the inverse preference.

Assemblyman Settlemeyer:

I have a follow-up question about the definition of bona fide residents. The bill says, "established a residence in the State of Nevada." Could Legal explain to me what the requirement is to establish residence in the State of Nevada?

Assemblywoman Smith:

That is on page 5 of the bill on line 27. It outlines what a bona fide resident means.

Assemblyman Settlemeyer:

On page 3, line 29, it says a "Bona fide resident means a person who has: Established a residence in the State of Nevada." I was just curious what it takes to establish residence in the State of Nevada—for example, can you go rent a hotel room and therefore you have established residence? What does it require? Do you have to buy a home? In the next part it says a bona fide resident has actually resided in this State for at least six months or has a valid driver's license." Someone could quite literally drive into the state, trade in their California license, get a Nevada license, and meet the requirement.

Chair Kirkpatrick:

Mr. Settlemeyer, if I could jump in here. I am going to ask the State Purchasing Division to address that. I think we do need to have some consistency as we did in A.B. 147 on the business licensing portion of it. I think it makes for good policy for the future. I think perhaps Mr. Greg Smith can address that.

Assemblywoman Smith:

We are certainly open to making this bill as strong as possible and having similar language so it does not conflict with any other legislation.

Assemblyman Settlemeyer:

Thank you for the follow-up. One person joked that it is called the 530 Club. If you are a 530, as in your Social, you do not get to play.

Chair Kirkpatrick:

It might let some of us out.

Assemblyman Goedhart:

Could you clarify a point on page 3, line 37 of the bill? It defines a service-disabled veteran. Does that refer to one who has a service-connected disability of zero percent or greater, or is it greater than zero percent?

Assemblywoman Smith:

Madam Chairman, I am going to ask Mr. RG Smith to answer that question, because I had the exact same question when we first met, and he knows the answer.

RG Smith:

I came up with zero percent minimum service-connected disability, ranging up to a maximum of 100 percent. There are a few reasons I used that terminology. When I was communicating with those in Florida who enacted their legislation, and I believe California is the same way, they indicated their bill stated that the service disability had to be a minimum of 10 percent. When I was talking to the lady in Florida, she advised me not to make the same mistake that Florida had made in making it 10 percent—that it should be zero percent.

I understood when she said that, because a zero percent disability rating by the VA means that they have service-connected you, but they have not rated the disability yet. For example, on my disability, I was awarded zero percent, and the whole process actually took five years before they rated me at 30 percent. So being at zero percent does not mean you have no disability. If they have service-connected you at zero percent, and if you go to a VA hospital, they will care for you. It just means you are not receiving any monetary amount at that point.

Chair Kirkpatrick:

Does that answer your question, Mr. Goedhart?

Assemblyman Goedhart:

It does, thank you.

Assemblywoman Spiegel:

Is it possible to include professional services in here as well? My next-door neighbor is an architect, and since his business has kind of fallen apart, he has gone back into the military. He is serving right now, and I am hoping when he returns he is not service-disabled, but would he be able to benefit from this as well?

Assemblywoman Smith:

I did not realize that professional services would not be included in this group, so we can certainly look at that.

Chair Kirkpatrick:

Does anyone else have any questions? Ms. Smith, in which section of this bill do we want to preclude local governments on the public works, so it is clear?

Assemblywoman Smith:

In section 8, because it encompasses NRS Chapter 338, I think it inadvertently brings local government into this. We could clarify that issue with an amendment that says this is for state public works only. I did not catch that right away, and so I did not have a chance to ask about it, but if I am correct, we can take care of the issue.

Chair Kirkpatrick:

Does anyone else have any questions? Thank you, gentlemen, for coming today. We are going to take testimony from others. Ms. Smith, will you stay and come back up if there are any questions?

Assemblywoman Smith:

Madam Chairman, I will. I would like to thank you and the Committee members for hearing this bill. I would also like to thank the gentlemen here with me today. Did they not do a great job with their testimony?

Chair Kirkpatrick:

They did and I want to applaud you for your research because that was a huge job. Not only did you save our staff time, but then we can get a little more personally involved. I do research a lot and they beat me up about it, so I am glad to see other people out there like me.

Assemblywoman Smith:

I told RG Smith I was sure our staff was really glad when they heard that he personally called 50 states.

Chair Kirkpatrick:

At this time we are going to ask Carole Turner to testify. She is speaking in support of the bill.

**Carole Turner, Deputy Executive Director, Office of Veterans' Services,
Las Vegas, Nevada:**

I am here this morning in support of A.B. 223. I am a service-disabled veteran, and the primary purpose of my testimony this morning is to establish support for

this bill. Overall, we feel that this is a very small debt of gratitude we can show our disabled veterans who have raised their hand in defense of our country. In fact, while their competitors were in a position to attend business schools and now have the competitive edge in competing for contracts and public works bids, our veterans were out defending our freedoms. I feel this is something we should extend to them.

Enacting this legislation would level the playing field somewhat and extend our disabled veterans, as we said earlier, a hand up versus a handout. The Nevada Office of Veterans' Services wholeheartedly supports this legislation and feels this would be a great benefit on behalf of Nevada's disabled veterans.

Chair Kirkpatrick:

Thank you. Does anyone have any questions? We appreciate you coming and giving us your input. I am sure you will be a part of future discussions on this.

Is there anyone who is against A.B. 223 who would like to speak? Would anyone in Clark County like to testify on this bill? [There were none.] I just want to make sure that I do not miss anyone.

I would like to call up those who are neutral on this bill. I have yet another Mr. Smith. Mr. Nuñez, and sir, would you like to come up to the table to speak?

Rick Horn, Director, Procurement Outreach, Nevada Commission on Economic Development, Carson City, Nevada:

When I was approached last year by Mr. RG Smith with regard to our input on the set-aside and so forth to preference service-disabled veterans, there was no federal certification program in place for service-disabled veterans. There is now, through the Center for Veterans Enterprise, part of the Department of Veterans Affairs, in Washington D.C. There is no use in recreating the wheel. I am saying that service-disabled veterans can go on the Internet to the Center for Veterans Enterprise and get certified. That certification is recognized by the federal government, and anyone—the prime contractors, the general contractors for the federal government, and states that have preference clauses—can find it.

There is no reason for our agency's Procurement Outreach Program (POP) to do that. I am really not in the certification program or process. Within the State of Nevada right now, any certifications are done by the Small Business Administration, Minority Business Development Agency, and similar agencies. It is their responsibility to do these types of certifications. The purpose of the Procurement Outreach Program is to create the tools for the companies to get

into these markets to develop these contracts. The federal spending website has a chart showing Nevada's track record since 2000. You can see that Nevada has had a steady climb in the participation of companies in federal contracts.

Our program is quite active. Companies go through a clearing house of more than 1,500 databases of contracts per day. We put the companies' profiles there using industry codes and key words. The bids are sorted for them and downloaded directly to their emails every day. Every business in this state should be linked to the Procurement Outreach Program. It is a great tool.

We put out an electronic newsletter every Friday. It includes bids and information about what is going on in Nevada. We try to give people as much information as we can. In relation to Nevada companies' certifications, there is nothing worse than to hear about contracts going out of the state. I have been in government contracts for 43 years—I am a retired contracting officer from the military. I have been on every side of the fence you can think of. I can appreciate the position of the Purchasing Division on these things. I am sure Greg Smith will talk about that.

There is no reason for the POP program to get into a certification process, as the bill suggests. That process should be done at the purchasing level when the bids are submitted. I guess I do not quite understand that.

Chair Kirkpatrick:

I do not know, but I could ask the sponsor of the bill. We are trying to make sure that the process ensures that only valid certifications come before Purchasing. I do purchasing all day long in my business. I see a lot of minority bids. Sometimes you can pay \$10,000 and get certified because there are many things on the Internet. I would bet that the bill's sponsor—and I do not want to speak for her—was trying to create a process within our own state that would be valid and hold up in our purchasing departments.

Perhaps language can be inserted to address this in reference to the Federal Code. I was unaware of the certification issues. Maybe it is simply a matter of recognizing what types of certifications could be submitted to Purchasing. You can print an identification card off the Internet, so I think that provision was put in to protect the state and make sure we were getting the right disabled veterans. We will ask the bill's sponsor. The Government Affairs Committee has a great working relationship with Economic Development and we want to do everything we can to give you the tools to bring more service-disabled veteran-owned businesses to Nevada because we will give

them a hand up in our state. We do not want to put extra work on you, but we want to make sure we are getting the proper certification.

Rick Horne:

As far as service-disabled veterans are concerned, I do not understand why we would want to recreate certification in Nevada if the Center for Veterans Enterprise is doing it for everyone now. They just started February 1.

Chair Kirkpatrick:

I am sure this bill was submitted some time ago, so perhaps that could be similar to the Department of Defense Form 214 that must be submitted now. Perhaps certain sections could be revisited and look at a smoother transition. We were just trying to make sure that we got the right folks getting the right contracts. There is a lot of deceptive trade out there. I know NRS Chapters 597 and 598 like no tomorrow. I believe you probably support the concept.

Rick Horn:

Yes, I am a retired military person, and I was in Vietnam, so I can definitely appreciate the intent. That is one of our major focus points because we only receive \$88,000 from the State of Nevada for our entire program. The rest of our money is provided by the Department of Defense. I report to the Defense Logistics Agency in Alexandria, Virginia. This has been a defense-focused program from day one in 1986.

Chair Kirkpatrick:

Very good.

Assemblywoman Spiegel:

Would you send us information about the certification process? I was looking online as you were speaking and found an April 2008 Small Business Administration publication that states there is no federal certification program. So the program is probably newer than that.

Rick Horn:

It is on the Department of Veterans Affairs website under the Center for Veterans Enterprise. That is the part of Veterans Affairs that works for the businesses. I will be glad to provide that for you.

Chair Kirkpatrick:

If you can just send us the link, that will be fine. Does anyone else have any questions? Thank you very much; we appreciate your input.

Greg Smith, Administrator, Division of Purchasing, Department of Administration:

I am no relation to the previous speaker Smith. I would not mind if I was. It has been an absolute pleasure and a joy working with him on this.

I am a member of the Board of Directors of State Procurement Officials and, as such, should tell you that the profession has long opposed the use of bidding preferences when awarding state contracts. The profession believes that the application of preferences restricts suppliers from bidding on an equal basis, thereby inhibiting competition and discriminating against suppliers from other states. That is the company line. Before you think I just brought a big, dark cloud into the room, I would like to tell you that I fully acknowledge the noble intent of this proposed legislation. I am here to work with you and your staff cooperatively to ensure that A.B. 223 meets your intent without experiencing those evil things that I just referenced.

While I have some reservations on the bill as it is written, our office has quietly watched the discourse that has occurred within Assembly Bill 147—a kind of companion piece of legislation on the local side—and I hope that much of the language agreed upon for that bill makes its way to this bill. Most all of the targeted vendors certainly hope to sell to both state and local jurisdictions. I believe it would be in all our best interests if the processes mirrored each other as much as possible.

There are a few areas, mentioned by my counterpart Mr. Horn, that are also a concern to me. Section 3, subsection 2 seems to require our office to develop and administer a rather onerous process of making determinations, issuing certificates, and so forth. We prefer the language that we understand has been agreed to in A.B. 147, whereby the existing business license process is utilized. The more our office can simply take certifications, verify them, and then go on down the road, the less onerous this will be on us.

I did make the comment to RG Smith that I want to compliment these folks. I absolutely know they contacted all 50 states. There was a period about three or four months ago when I would get calls from my peers from around the country telling me there is some guy who wants to do a veterans' preference thing and he was asking all kinds of questions. I know he contacted every single state. The good thing about that was that he also contacted me, and it was a pleasurable discussion. He came to my office, asked questions about our input. Our office feels we have been consulted and have been a part of this bill every step of the way. We also have had conversations with Assemblywoman Smith.

If our office is simply verifying certifications and applying that preference, and I do not need to ask for five new people or a new computer system, we can make it work for you. There is one item I would like to highlight. On the bottom of page 5 the word "higher" appears. I think that is supposed to say "lower." That may have been a typo at the bottom of section 3, subsection 2 at the very bottom of the page.

The last thing I would like to bring up is that the state's formal bidding threshold is still set at \$25,000. Last session the locals came in and asked to have theirs raised to \$50,000. We were not a part of that then. Perhaps this is the time to make those two mirror each other if you so chose. Again, it must be recognized that many vendors sell to both of us. The more we can make our processes mirror each other, the better off we will be.

Again, I admire what is being attempted here. It does not take too much wordsmithing—no pun intended—to push me over to the support column. These folks have been absolutely wonderful, and our office can make this happen in a matter of moments once we know which certificates are acceptable. We can work with the people at Taxation and the Secretary of State. We can check with a lot of different things as long as we are not creating the process. That would be a little bit onerous.

Chair Kirkpatrick:

Mr. Settelmeyer, do you want to ask your question about the inverse preference?

Assemblyman Settelmeyer:

Regarding the inverse preference, some states got rid of the reciprocal law. Some states kept their reciprocal law and gave a preference on top of it, just in case the other state was too onerous and was beyond 3 percent or in some states 5 percent; I think Florida is an example.

Greg Smith:

Good point. There are a number of states—perhaps 35, 37 states; we are not one of them—which still have the inverse preference law. I have mixed feelings. I can see it going either way. I prefer to have the language taken out if we are going to go in this direction. Inverse preference is what a lot of us in the procurement profession joked about after everyone started to do this. We joked that the purpose of our law was to try to make the neighboring state change their law. Some states are now doing that when they are doing these preferences. I personally think a preferable way to do it probably is to remove that provision so that our businesses do not get penalized when they try to do work in Arizona or Utah or other neighboring states.

That issue is probably going to have to sort itself out over a number of years. I can see it being argued either way.

Assemblyman Settelmeyer:

I would like to follow up with a different question. I understand what you said at first, that the company line from procurement is that this is onerous and raises costs. My father was a Vietnam veteran and never wanted any accolades, acknowledgement, or anything. He just wanted to forget. He never applied for anything. I was about 30 years old before I found out he was ever in the military. There are a lot of veterans like that. I understand exactly what you indicated—they are not asking for a leg up; they are not asking for an unfair advantage.

What about the concept some states use by saying that if the bidder places a bid within X percent of the low bid, he is allowed the ability—the first right—to meet the low bid. That way you are not giving any economic advantage beyond what the low bid was, so there is no additional cost to the state, and we are also finding a way to help out veterans and other individuals. What are your thoughts on that concept?

Greg Smith:

I think that probably sounds better in theory than it might end up being in reality. I honestly think that sounds and looks good on paper. RG Smith has indicated the types of businesses he is trying to help. I doubt those types of businesses would be able to climb over that bar. Giving them the option of being able to meet the low bid is certainly one thing. I wonder if the actuality of that might be a little different.

Chair Kirkpatrick:

Does anyone else have any questions?

Greg Smith:

I would like to say one last thing regarding this bill. We absolutely support the requirement to report every six months to the Interim Finance Committee (IFC) or to this Committee. We did a list-serve question across the country with your Analyst, Susan Scholley, to try to find out what other states are doing. Many other states are having these discussions right now. We are very hesitant to give you concrete numbers regarding what the cost will be or how it is going to work out. I think we all recognize this is a pilot or a proof-of-concept project and that we would report back to you with facts and figures. Maybe we will look at it two years from now, and if it is not working as intended, make a few tweaks at that point. We are excited about the possibility of working with you folks on this.

Chair Kirkpatrick:

Thank you. I think that is great. I think the whole point of this bill and others is to give smaller businesses the ability to compete. Often they do not have the purchasing power to go out and bid on some of these contracts. I would bet, for example, RG's company does not have the ability to buy three palettes of batteries simply in hopes of getting a state or local contract. That would be all of his up-front cash. I would bet if he could purchase three palettes of batteries, he would get a much better price than if he bought six batteries. I think that is the key to this. In the long run, we are trying to help the smaller businesses compete with some of the larger out-of-state companies.

Rick Horn:

I would like to make one comment on Assemblyman Settelmeyer's questions. Something to look at now is that small businesses—whether they are owned by a service-disabled veteran or not—have a tough time getting into these markets. The government markets are even more difficult to get into. I can tell you, with all the money available right now, I am getting hundreds of companies each week trying to get into the Procurement Outreach Program. Before the economy got bad, none of them wanted to even come and see me. They had the commercial markets. Now, the Procurement Outreach Program is the most popular program in town because we deal mainly with government contracts. Another aspect of this is that we deal with secondary markets, because all of these general contractors and prime contractors have to have subcontract plans for service contracts over a half million dollars and construction contracts over a million dollars. At the federal level that is the only way these people can get in.

Look at the consolidation and the bundling that is going on with the federal government. One business cannot do all of these contracts. We are putting teams together. A few months ago we had an engineering contract at Nellis Air Force Base. We ended up with nine companies on that team to go after that contract. We are concentrating on mentor/protégé programs where the big businesses take the small businesses on as their protégés.

Besides service-disabled veterans, the federal government currently is concentrating on the HUBZone Empowerment Contracting Program. HUBZones are historically underutilized business zones established by the Census Bureau. There is going to be a new census in 2010. Right now, we have seven or eight entire counties in the State of Nevada that are classified as HUBzones. I assume that after 2010 we may all be HUBzones or there may not even be a HUBzone program.

There are a lot of things to look at in the big picture. No doubt, if there were no preference programs, many people would not have a fair shot at these contracts. No way. Thank you.

Chair Kirkpatrick:

We appreciate that. Mr. Munford, you are going to have some competition with the rest of the state pretty soon.

Assemblyman Munford:

I have been listening very intently. He makes some very good points.

Gustavo "Gus" Nuñez, Manager, State Public Works Board:

I would like to thank RG Smith for coming in last fall and discussing this bill with us and going over our concerns about it. I would like to make two points. We already have a 5 percent bidder's preference available for other contracts, so we are well set up for that. We do not see any impact on our operations. We can do that as we do on any other contracts.

Another point I would like to make is that many public works contracts under \$100,000 go through an informal process per *Nevada Revised Statutes* Chapter 338. We would like to have from the Commission on Economic Development, or whoever is responsible for the certification program, a list of qualified veteran-owned businesses. When we go through the information process we will be able to contact those individuals who qualify for that work. We need that list. We maintain a live, current list of qualified contractors on our website. There are other local governments and agencies that use our list and our process for their bidding process. The day the bid opens, we make sure all those who are qualified to bid as of that date are notified. That list would be the thing we need to make this really work for the veterans. Thank you.

Chair Kirkpatrick:

I see the two men nodding their heads, and that gives me comfort because that means that government is talking to government and we are going to do what is best for our state. Does anyone else have anything to say? I am sure, with the bill sponsor, Government Affairs will address the concerns that have been raised. Is there anyone else who like to speak as neutral on A.B. 223?

Ted Olivas, Director, Government and Community Affairs, City of Las Vegas, Nevada:

First, I would like to thank the bill sponsor. Assemblywoman Smith was gracious enough to work with me and provide some clarification on the bill. Clearly, we support and respect our service-disabled veterans and all veterans. With the clarifications that were made, I just wanted to bring up a few things.

Mr. Greg Smith has very well represented State Purchasing for many years. I have worked with him for a long time. His comments are to be commended.

If there is going to be an amendment, you may wish to consider the reporting provisions. While we are neutral and it essentially does not relate to us, in reading this bill there appears to be a disconnect among the reporting requirements for the Office of Veterans' Services and the Purchasing Division and the State Public Works Board. Basically, it says those groups are going to go do their thing and use this process, and then it says the Office of Veterans' Services is going to report on that. We have to get the information from point A to point B so they can report. This is just something to consider. We would be happy to assist in way we can.

Chair Kirkpatrick:

Does anyone else have any questions? [There were none.] Is there anyone else who would like to testify on A.B. 223? Ms. Smith, would you like to come back up?

Assemblywoman Smith:

We have heard great ideas here. There was some new information regarding the certification process, so we will get all the parties together and work on clarifying the language. We will figure out how we can simplify and streamline. We all agree, the less onerous, the better. We do not need a bunch of new processes. We just need to use what we have in place. We will get together and take into consideration the comments from the Committee members and come back with an amendment.

Chair Kirkpatrick:

Our next work session, will be in about two weeks. Are there any follow-up questions for Ms. Smith?

Assemblyman Stewart:

I appreciate that you have worked on this great bill. On page 3, line 42, it states that at least 51 percent of the business is to be owned by one or more service-disabled veterans. That seems kind of low to me. I would be concerned that it would become a figurehead or something. Others would take advantage. This is just something you may want to look at.

Assemblywoman Smith:

We will look at that. Madam Chair, I think that language was model language taken from the other locales. However, we will consider that question.

Chair Kirkpatrick:

I will just say, even with minorities, only 51 percent is usually needed to qualify. It is that final one percent that determines who owns it. It is pretty standard in the business sector. I am sure that was probably what Legal was thinking. Does anyone else have anything? [There was nothing said.] Thank you, Ms. Smith.

We are closing the hearing on A.B. 223.

I do have a couple of things for the Committee. Tomorrow's work session will start at 9:00 a.m. You have all been emailed the documents and have the opportunity to review it today. If you have any questions, you can certainly meet with me today. Tomorrow you will have a hard copy. There will be binders with your materials. The Committee has been asking a lot of folks to do a lot of homework. We will put all that homework in a folder and give it to you on Friday. It makes it easier for staff and for me to do it that way.

[Meeting was adjourned at 10:05 a.m.]

RESPECTFULLY SUBMITTED:

J. Renee Ekleberry
Committee Secretary

Patricia Blackburn
Editing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 4, 2009

Time of Meeting: 9:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 223	C	Assemblywoman Debbie Smith, Washoe County Assembly District 30	110th Congress, House Concurrent Resolution 336
A.B. 223	D	Jim Helsel, Helsel Construction Operations, Inc., Reno, Nevada	Prepared Statement