

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

**Seventy-Fifth Session
April 3, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:08 a.m. on Friday, April 3, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Ellen Koivisto, Clark County Assembly District No. 14

STAFF MEMBERS PRESENT:

Scott McKenna, Committee Counsel
Susan Scholley, Committee Policy Analyst
Cynthia Carter, Committee Manager
Michelle Smothers, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Jason King, Acting State Engineer, Division of Water Resources,
Department of Conservation and Natural Resources
Jack Jeffrey, representing Laborers' International Union Local No. 872,
Operating Engineers Local No. 12, Las Vegas, Nevada
Danny L. Thompson, Executive Secretary-Treasurer, Nevada State
AFL-CIO, Henderson, Nevada
Randy A. Soltero, representing Sheet Metal Workers Union Local No. 88,
Las Vegas, Nevada, and Sheet Metal Workers Union Local No. 26,
Sparks, Nevada
Steve Redlinger, representing Southern Nevada Building and Construction
Trades Council, Henderson, Nevada
Jonathan Friedrich, Private Citizen, Las Vegas, Nevada
Paul McKenzie, Executive Secretary-Treasurer, Building and Construction
Trades Council of Northern Nevada, AFL-CIO, Sparks, Nevada
Greg Esposito, Business Representative, Plumbers, Pipefitters, and
HVACR Technicians Local No. 525, Las Vegas, Nevada
Patrick T. Sanderson, representing Laborers Local No. 872, Carson City,
Nevada
Paul Gerner, Associate Superintendent, Facilities, Clark County School
District, Las Vegas, Nevada
Doug Williams, Owner, The Plumber Inc., Las Vegas, Nevada
Brian Kerzetski, Vice President, Universal Plumbing and Heating,
Las Vegas, Nevada
Mike Cate, Chief Executive Officer, Pavers Plus, Inc., Reno, Nevada
Matthew L. Frazer, Division Manager, PAR Electrical Contractors, Inc.,
Reno, Nevada
Ted Olivas, Director, Government and Community Affairs, City of
Las Vegas, Nevada

Richard Kerzetski, President, Universal Plumbing and Heating, Las Vegas, Nevada

Bob Benedict, Executive Director, Plumbing, Heating, Cooling Contractors of Nevada, Las Vegas, Nevada

Dave Bold, Owner, Done Right Plumbing, Las Vegas, Nevada

Bob Johnson, Vice President, Helix Electric, Las Vegas, Nevada

John Madole, Executive Director, Nevada Chapter, Associated General Contractors of America, Inc., Reno, Nevada

Joshua Munns, Assistant General Manager, J & L Windows, Inc., Sparks, Nevada

Daniel Markels, Public Policy Director, Western Region, National Federation of Independent Business, San Carlos, California

Cliff Springmeyer, President, Western Pacific Electric, Inc., Reno, Nevada

Richard J. Nelson, P.E., Assistant Director, Operations, Department of Transportation

Randy Robison, representing Associated Builders and Contractors of Las Vegas, Nevada

Lisa Corrado, LEED AP, Redevelopment Project Manager, Community Development, City of Henderson, Nevada

Les Lee Shell, Administrator, Departmental Administrative Services, Department of Finance, Clark County, Nevada

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

Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors, Inc., Reno, Nevada

John Martin, Owner, Bison Construction Co., Carson City, Nevada

Dave Backman, Senior Vice President, KG Walters Construction, Santa Rosa, California

Justin Ivory, President, A-1 Steel, Reno, Nevada

Maya Smith, Administrative Executive and Forman, Kelley Erosion Control, Reno, Nevada

Shweta Bhatnagar, Management Analyst, Southern Nevada Water Authority, Las Vegas Valley Water District, Las Vegas, Nevada

Michael E. Langton, Attorney at Law, representing the Peace Officers Research Association of Nevada, Reno, Nevada

Brian W. Klopp, CEBS, Labor Economist, Research and Collective Bargaining Services, American Federation of State, County, and Municipal Employees, AFL-CIO, Washington, D.C.

Dennis Mallory, Chief of Staff, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Carson City, Nevada

Jim Richardson, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Carson City, Nevada

Chris Sanseverino, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Reno, Nevada

Aldo Vennettilli, Area Field Services Director, Western Region Office, American Federation of State, County, and Municipal Employees, AFL-CIO, Las Vegas, Nevada

Kevin R. Ranft, Region 1 Vice-President, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Carson City, Nevada

Joni Drahos, Region 3 Vice-President, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, McGill, Nevada

Ken Corzine, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Reno, Nevada

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, Las Vegas, Nevada

Denise Kelley, Member, American Federation of State, County, and Municipal Employees, AFL-CIO, Las Vegas, Nevada

Dolores Gabay, President, Retiree Subchapter 153, American Federation of State, County, and Municipal Employees Retirees, AFL-CIO, Boulder City, Nevada

Steve Barr, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Reno, Nevada

W.J. (Bill) Birkmann, Vice President and Chief Organizer, Nevada Alliance for Retired Americans, Carson City, Nevada

Andy Anderson, Commissioner, Local Government Employee-Management Relations Board, Las Vegas, Nevada

Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada

Sam McMullen, representing Las Vegas Chamber of Commerce, Las Vegas, Nevada

Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce, Reno, Nevada

Taylor Anderson, Sparks, Nevada, Intern to Assemblyman David P. Bobzien, Washoe County Assembly District No. 24,

Richard D. Perkins, Henderson, Nevada, representing Nevada System of Higher Education

James W. Penrose, Attorney, Dyer Lawrence Law Firm, Carson City, Nevada, representing Nevada State Education Association, Carson City, Nevada

Malani Kotchka, Attorney, representing the City of North Las Vegas, Nevada

Ronald P. Dreher, Director, Government Affairs, Peace Officers Research Association of Nevada, Reno, Nevada

Chair Kirkpatrick:

[Roll called.] We will be starting with our work session and then move through the bills for the hearing today. Here are the bills that have been withdrawn by the bill sponsors: Assembly Bill 91, which is the Lieutenant Governor's bill regarding tobacco; Assembly Bill 142, which is Mr. Hogan's bill on housing districts; and Assembly Bill 444, which was mine on insurance abatements for headquartered companies.

Chair Kirkpatrick:

We will open the hearing on Assembly Bill 87.

Assembly Bill 87: Revises provisions concerning the collection of debts owed to the State. (BDR 31-494)

Susan Scholley, Committee Policy Analyst:

The Committee heard this bill on February 25, 2009 ([Exhibit C](#)). We will begin with A.B. 87, which was submitted on behalf of the State Controller. This bill expands the State Controller's role in debt collection in the state. The mock-up in your work session document is virtually identical to the one that was presented and discussed at the hearing ([Exhibit D](#)). The only changes I would bring to your attention are on page 7 of the mock-up, line 6, subsection 4, which deals with some additional clarification regarding turning over debts when they are being administratively contested. And at line 29, subsection 7 recognizes the situation where the state is not collecting a debt on behalf of the state, but rather is collecting the debt on behalf of someone else. That was to address a concern raised by the Labor Commissioner. There was a revised fiscal note requested and those were all resolved, so there is a zero fiscal impact with the exception of a fiscal impact on the State Controller's Office.

Chair Kirkpatrick:

The Committee received the mock-up yesterday afternoon, so I want to make sure everyone has had plenty of time to read it. If there are not any questions, I would entertain a motion.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 87.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Chair Kirkpatrick:

Is there any discussion?

Assemblyman Settlemeyer:

During testimony we heard that when money is collected it is supposed to go to the state and then be distributed. So I am a little concerned with section 7, which says that the State Controller shall transfer the money to the agency in which the debt is owed. That bothers me, so I will be voting no on the bill.

Chair Kirkpatrick:

We can meet with Mr. DiCianno before it gets to the floor and address some of your concerns. Does anybody else have any questions? [There were none.]

THE MOTION PASSED. (ASSEMBLYMEN GOEDHART, SETTELMAYER, AND WOODBURY VOTED NO. ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR THE VOTE.)

Chair Kirkpatrick:

We will now hear Assembly Bill 229.

Assembly Bill 229: Enacts provisions governing fire-safe cigarettes.
(BDR 42-568)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 229 is sponsored by Assemblyman Ocegueda and others; the joint sponsor in the Senate is Senator Parks. This bill was heard in this Committee on March 30, 2009. In essence, it requires that one year after the passage of the bill, all cigarettes sold in Nevada must be fire-safe cigarettes. There were two amendments proposed at the hearing and accepted by the sponsor ([Exhibit E](#)). The Department of Taxation requested clarification in section 15, which is on page 9, lines 13-19, to clarify that it has the power to seize cigarettes which do not comply. Then the Retail Association of Nevada requested a provision be added requiring notification to wholesale and retail dealers regarding which cigarettes are certified and legal for sale.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 229.

ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

Chair Kirkpatrick:

Is there any discussion?

Assemblyman Settelmeyer:

I found an article on the website that they make smoke-free cigarettes too. If our goal is to make sure they are fire-safe, we can amend the bill and go to smoke-free cigarettes. But I think that a person has the right to choose what type of cigarettes they want, and I dislike the government telling people what to do, so I will be voting no on A.B. 229.

Assemblyman Goedhart:

I read some information on the Internet regarding fire-safe cigarettes. We heard during testimony that there was absolutely no difference health-wise between the fire-safe cigarettes and regular cigarettes, but there was a Harper study that had pretty telling statistics that indicate that statement is not true. There are higher levels of benzene and carbon monoxide in the fire-safe cigarettes, 11 to 14 percent respectively. I think that beyond being a nanny state, this makes a deadly thing even more deadly, so I will be voting no on A.B. 229.

Assemblyman Stewart:

Likewise, I will be voting no on this bill.

Chair Kirkpatrick:

There are many other states that are requiring fire-safe cigarettes, so I will support it. Is there any other discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN GOEDHART, SETTELMAYER, STEWART, AND WOODBURY VOTED NO. ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR THE VOTE.)

Chair Kirkpatrick:

We will now open the hearing on Assembly Bill 377.

Assembly Bill 377: Revises provisions governing the approval of an application for the beneficial use of water. (BDR 48-887)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 377 is sponsored by Assemblyman Bobzien and was heard in this Committee on March 24, 2009 ([Exhibit F](#)). The bill, as originally proposed, was amended during the hearing, adding a condition on approval of applications, so the bill amends the water policy of the state as set forth in the mock-up ([Exhibit G](#)).

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 377.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.
THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS
ABSENT FOR THE VOTE.)

Chair Kirkpatrick:

We will now open the hearing on Assembly Bill 416.

Assembly Bill 416: Requires the State Engineer or a person designated by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater under certain circumstances. (BDR 48-732)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 416 requires the State Engineer, prior to approving certain interbasin water transfers, to conduct an inventory of water in the exporting basin ([Exhibit H](#)). The sponsor proposed several amendments, as set forth in the attached mock-up. The key changes relate to a limitation of the inventory requirement to interbasin transfers greater than 250 acre-feet, and the clarification of certain terms and procedures, which is on page 2 of the mock-up ([Exhibit I](#)). Also, there is a clarification that the bill applies only prospectively, that is, going forward.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 416.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

Assemblyman Claborn:

I would like to know how they are going to inventory this water.

Chair Kirkpatrick:

I can bring Jason King up to the table to address your question.

Assemblyman Claborn:

There are so many water basins, and they direct how much water you can take out of each basin. I would like to know how you are going to do this.

Jason King, Acting State Engineer, Division of Water Resources, Department of Conservation and Natural Resources:

What we envision we will be doing with A.B. 416 is, if there is going to be an interbasin transfer of 250 acre-feet or more of water, our office would either have to begin an inventory or require the applicant to pay for the inventory to be done by a third party that we approve of. The first part of the inventory we

would query our database for that particular basin, since we have a list of all the water right holders in that basin; we would get the names of all those people. We know where those points of diversion are, whether they are underground or surface water. That would be a major part of the inventory.

The next thing to do would be to get people out on the ground, probably with topographic maps, maybe infrared maps, looking for other water resources. I am specifically talking about surface water, such as springs, that do not have an appropriation on them. We would go to those sites and take measurements to get baseline data, so that if an interbasin transfer is approved, we can see whether there is an effect. But yes, it is going to be a combination of querying our database and putting men in the field to identify other sources.

Assemblyman Claborn:

Thank you very much, but I think that would be quite a task to do that for the whole State of Nevada.

Chair Kirkpatrick:

Is there any other discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS ABSENT FOR THE VOTE.)

Chair Kirkpatrick:

We will now hear Assembly Bill 480.

Assembly Bill 480: Makes various changes relating to fees collected by the State Engineer. (BDR 48-1161)

Susan Scholley, Committee Policy Analyst:

Assembly Bill 480 was sponsored by the Assembly Committee on Government Affairs and heard on March 24, 2009 ([Exhibit J](#)). The bill increases certain fees for applications and permits in the Office of the State Engineer. There were discussions with the sponsor and several representatives of water purveyors and the State Engineer's Office subsequent to the hearing, so there are some minor adjustments to the fees, as you see in green on the mock-up ([Exhibit K](#)). Due to an error in drafting instructions caused by me, the filing protest fee was incorrectly shown as going up to \$40 in the original bill; it is back down to \$25, where it was supposed to be originally. The discussions also uncovered some additional categories of fees, which are set forth on page 3 of the mock-up beginning at line 35.

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 480.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

Assemblyman Bobzien:

I need a clarification on line 33 on page 2. This is a change in use for wildlife purposes to \$200, plus \$50 for each second-foot of water approved or fraction thereof. So we are dealing with cubic feet per second (cfs) on the wildlife use, but then we are dealing with acre-feet in the above fee change, which is \$250 plus \$3 per acre-foot approved or fraction thereof. Could you explain why we are differentiating between the two? Is it because we primarily have surface water in play on the wildlife use, but then we have groundwater in play on the other one? What is the reason for splitting that?

Chair Kirkpatrick:

I know the Governor's position on this and I do not want to put Jason King out there. We requested information from Jason and asked him to give us his best estimate. I take the blame for this whole bill, but I think it is time we start looking at increasing some of the things we have not increased for years. At our request, can you justify why we went with the second-feet?

Jason King:

It primarily comes from the standpoint that these are from springs and have been very small amounts, not even close to an acre-foot, so it was much easier to quantify in terms of 20 gallons per minute and to convert that to cfs and not .0001 acre-feet. It has to do with the amount of water and the fact that most of them are from a surface water source.

Assemblyman Bobzien:

Operationally that makes a lot of sense. I want some assurance that between the two types of changes in use that we are dealing with a burden that is more or less the same in compatibility. I just want to make sure that the wildlife change in use is on more or less on an equal footing with the other change in use.

Jason King:

Yes, that is a true statement; they are.

Chair Kirkpatrick:

Is there any other discussion? Thank you, Mr. King, for spending a lot of time with me to get these fees right and to Mrs. Mastroluca and Mr. Goicoechea for being part of the discussion.

Assemblyman Settlemeyer:

When is the last time we increased these fees?

Jason King:

All but a couple of the fees were last raised in 1989, so 20 years ago.

Chair Kirkpatrick:

Quite honestly, it will not bring in even a million dollars by raising the fees this way, but at least it is a start on catching up with the times. Does anybody have any questions? [There were none.]

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

Mr. Goedhart, can you do the floor assignment for A.B. 480? Ms. Spiegel, can you do the floor assignment for A.B. 87? Maybe you can meet with Ms. Scholley because it is a long, detailed bill. There is nothing else today on work session, so we will move into our regular Committee meeting.

We will now open the hearing and consider Assembly Bill 392.

Assembly Bill 392: Requires the use of project labor agreements on certain large-scale public works. (BDR 28-135)

Assemblywoman Ellen Koivisto, Clark County Assembly District No. 14:

I am bringing Assembly Bill 392 forward because this is the way it used to be done, and it was done that way by gentleman's agreement. The gentlemen here will explain the necessity of this bill and what it does.

Jack Jeffrey, representing Laborers' International Union Local No. 872, Operating Engineers Local No. 12, Las Vegas, Nevada:

I was a part of the legislative committee that negotiated the first project labor (PLA) agreement for public works with the Southern Nevada Water Authority (SNWA). Mr. Claborn might have been part of that committee, too. There are several advantages to using a project labor agreement, and we have used them in the private sector for many years. You may have heard that government, as a whole, ought to operate more like a private enterprise, and this is one of those cases. The amount on A.B. 392 is too low; I think it needs to be set at a higher level because these jobs are ordinarily large and require a lot of labor. In many cases, it is a specialized labor that would not be available in the area without these agreements. In fact, with the SNWA project, there were objections at first, but the agreement was very successful, and the projects came in under budget and actually ahead of time.

There was a case where a nonunion contractor from Arizona bid part of that pipeline. One of the provisions in that project labor agreement was that anybody on the job had to sign that agreement, not the master labor agreement, and they did not have to become a union contractor, but they had to sign the agreement for that particular job. This person did that, and he found out very quickly that without the agreement, he could not have found the manpower to do his work. He was a pipeline contractor and required certified pipe welders, and there are not a lot of certified pipe welders walking the streets of Las Vegas or any other city. I am sure the guy would never go on the record, but he told the business manager of the Plumbers and Pipefitters local that he could not have completed that project without them.

The advantage that all these contractors have, as far as labor is concerned, is they get the best-trained labor force in the state. We spend millions of dollars a year on apprenticeship training, and we have state-of-the-art equipment for apprentices to work with. It is basically a labor-oriented matter. We guarantee that there be no work stoppages, and potential problems are discussed periodically during the course of the job. We met with the general contractor for the water authority project monthly or quarterly; we did not have any labor problems on the job because we discussed things before we got to that point. There is an absolute prohibition against work stoppages. It makes for a more efficient job, and frankly, they have to pay the prevailing wage anyway. Especially in these times of economic stress, it is probably the best guarantee that local labor will be on that project. When the SNWA project started, there were probably more nonunion contractors than union contractors involved.

One objection we had from non-union contractors, and it was fairly short-lived, was that the agreement required that the workers be hired from the local hiring hall of various unions that are involved. The agreement allowed for supervision from the company that was a successful bidder and very limited numbers of workers outside the hiring-hall procedure. The agreement was challenged and went to the Supreme Court, which said it was a legal agreement, and that is where we have been since.

The \$250,000 amount is too low to negotiate these agreements. It probably costs more than \$250,000 in itself, and by the time both sides bring their attorneys in, the cost rises. It is not an economic benefit to anybody for an agreement to be put on a job with that low of a figure. I do not know what the correct figure would be because it varies by job, but it should probably be \$20 million. It is not only a function of money that brings these agreements into play, but also the kind of work. With the SNWA project, that could have been be a fairly small job, and it would be an advantage for the pipeline contractor to have a project labor agreement (PLA). In other general building and

highway construction, the amount probably needs to be higher, but is a blanket figure. I would say somewhere in the neighborhood of \$20 to \$50 million. We negotiated agreements with SNWA, the Las Vegas Convention Authority, and the airport, and they are all fairly sizeable jobs that require quite a bit of labor.

Chair Kirkpatrick:

Are you talking about section 1, subsection 4, on line 36? Is that the amount you are referring to, or are you just talking in general?

Jack Jeffrey:

Yes, I am talking about the \$250,000 figure; it is too low. It does not make sense to negotiate an agreement for that low amount of money.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Goedhart:

How many of these public works projects, say, over the \$1 million or \$2 million threshold, have the labor agreements appurtenant to them? What percentage would you say it is—50 percent or 33 percent?

Jack Jeffrey:

It would be a fairly low number because a lot of public works projects are small in scope, and it would not make sense to negotiate an agreement with that low of a figure. The U.S. Supreme Court took this up several years ago, but I have been out of it now for almost ten years. In that period of time there may have been other litigation, but there were specific parameters that the Court said had to be met before a project labor agreement could be negotiated. Time had to be of the essence, and there had to be some kind of experience with labor problems. Somebody from SNWA could tell you because they deal with it every day. There are several conditions that have to be met before one of these agreements can be negotiated. If it is a small project, say \$50 million or less, there is probably not a great advantage to them. It is when they are bigger that the advantages kick in.

Chair Kirkpatrick:

Are there any other questions? [There were none.]

Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO, Henderson, Nevada:

Mr. Jeffrey covered it. The thing to remember is that a project labor agreement is a negotiated agreement on that particular job. In the case of the SNWA project, that was the largest public works job ever done in the history of the

State of Nevada. They had immediate needs in that we had only a single way to get the water out of Lake Mead at that time. There had been lightning strikes and possibilities of outages with the water coming over the river and the mountains, so Mr. Jeffrey negotiated a project labor agreement. Most of the Las Vegas Strip has been built under the terms of PLAs.

In the case of SNWA, and I think Mr. Jeffrey said it very well: we sell qualified workers. If you want 5,000 certified master electricians, we will give you them. If you want 2,500 certified welders, we will bring them to you. These agreements have been used in the private industry. When somebody wants the job done on time and under budget, which is the case in most properties on the strip, they have sought one of these out. I agree with Mr. Jeffrey that the amount needs to be higher, because I do not know if you could get any contractors to bid a \$250,000 job. You might be able to today in these economic times, but not long ago you had a very limited pool of people who would even bid a job that small. So we are here today to speak in favor of Assembly Bill 392.

Randy A. Soltero, representing Sheet Metal Workers Union Local No. 88, Las Vegas, Nevada, and Sheet Metal Workers Union Local No. 26, Sparks, Nevada:

I am here in support of A.B. 392, and we believe that it is very beneficial to workers. In section 1, subsection 2, paragraph (b), these points are very important to be cognizance of. It says, "Allow all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to a collective bargaining agreement." The biggest argument we hear is that this is a union thing, it is all about unions, but it is not. Paragraph (c) says, "Include guarantees against a strike, lockout, work stoppage or any other labor dispute during the term of the project labor agreement." As Mr. Jeffrey said, being on time and on budget are key elements of project labor agreements, and this section covers that quite well. Paragraph (d) says, "Set forth effective, prompt and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement." These parts guarantee that the project will run smoothly.

Assembly Bill 392 is not about union verses nonunion; it is about putting Nevadans to work, and in these times, that is what is most important. I applaud the efforts of this Committee and all the others for looking for ways to put Nevadans to work. I see this as another way of doing that. It not only affects the workers here in Nevada, but it also affects their families and those dollars that are generated and put back into the community.

Assemblyman Claborn:

To answer Mr. Jeffrey's question, yes, I was on all those negotiations, even the ones that Mr. Thompson spoke of. There is one big project that is still going on, called Lake Las Vegas. Many Nevada citizens are living off that project. Project labor agreements work and I support them 100 percent. Thank you, Mr. Jeffrey and Mrs. Koivisto, for bringing this bill forward today.

Jack Jeffrey:

The use of a PLA on public works projects is not mandatory; it is optional. One county project, the Regional Justice Center in downtown Las Vegas, chose not to use a PLA, and in retrospect they would agree that it was a mistake. There was quite a bit of shoddy work done there. If the contractor had been under a PLA, those problems might not have occurred. There is closer scrutiny on those jobs because the unions are involved in them. There is a section in the bill for arbitration or other procedures if there is a labor dispute, but because of the meetings we had on a regular basis with a general contractor, we never got to the point where we had to send anything to arbitration during my time.

Chair Kirkpatrick:

Are there any questions? [There were none.] With that, I am going to ask the people who are in favor of A.B. 392 to come to the table.

Steve Redlinger, representing Southern Nevada Building and Construction Trades Council, Henderson, Nevada:

I am here to speak in favor of A.B. 392. The primary purpose of a PLA is to save the owner of a project a significant amount of money by dramatically reducing the risk of delay and cost overruns due to labor disputes, and by assuring that an adequate number of skilled craftsmen are available to complete the project on time. A lot of the benefits of PLAs have already been expanded upon by the previous speakers. Nevada public agencies currently using PLAs include the SNWA, Clark County's McCarran International Airport, the Nevada Test Site, and the Las Vegas Convention and Visitor's Authority. The Clark County Government Center was built on time and under budget with a PLA. Hoover Dam was built using an early form of PLA. Private local projects that have used PLAs include Mandalay Bay, the Paris Hotel and Casino, the Apex Generation Station, the Gold Strike, the Aladdin, Turnberry Place, and the Venetian/Palazzo Hotel and Casino Tower Project. With that, I would answer any questions you might have.

Chair Kirkpatrick:

Are there any questions? [There were none.]

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

The portion of A.B. 392 that includes guarantees against a strike, lockout, or work stoppage would ensure that a project moves forward without any delays. The same type of agreement was done when they built the World Trade Center, which was about a ten-year project, and there were no labor problems there. I feel that is an important aspect of this bill on a large project.

Chair Kirkpatrick:

The section of the bill that you are referring to is section 1, subsection 2, paragraph (c).

Jonathan Freidrich:

Yes, that is correct.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] Is there anyone else in Las Vegas who would like to testify in support of A.B. 392?

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

I am here today to support A.B. 392. I also agree with Mr. Jeffrey that the \$250,000 threshold is a little low. We are currently winding up the first public works project labor agreement in northern Nevada. The Reno Aces Baseball Stadium opens on April 17. Planned to be a 15-month project, it is being completed in 10 months and will be ready for opening day. There have been no work stoppages on that project. There have been several labor disputes, but all of those have been solved within the grievance procedure that is built into the project labor agreement. None of those grievances have left the project and gone to arbitration or any other form of litigation. There have been no work stoppages over those issues because they have all been resolved internally.

One of the most important things with a PLA is that it ensures that the workers have health care and are paid a good wage. Those are guaranteed in a PLA. The hiring hall requirements are to use local labor first, and when you are out of local labor, you would go outside the area to find workers. All the workers also have pension benefits. Along with that, safety and apprenticeship training are available. All of the things that we are trying to get done this session, like trying to improve the workforce and create good jobs within the State of Nevada, are built into a PLA.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.]

Greg Esposito, Business Representative, Plumbers, Pipefitters, and HVACR Technicians Local No. 525, Las Vegas, Nevada:

I am here to echo what has already been said about project labor agreements. Any projects that we have worked on with them come in on time, under budget, with no labor stoppages, and they definitely help the community with every employee having health insurance and pension benefits.

Patrick T. Sanderson, representing Laborers' Local No. 872, Carson City, Nevada:

In the mid-1970s, I had the privilege of working on one of the largest project labor agreements ever assembled, for the Alaska pipeline. People from all over the world came to Alaska to go to work on that pipeline. By doing so, they wound up with pensions, health and welfare benefits, a great wage, and a chance to get ahead in life. Our economy was in a downturn then and there were not any construction jobs here in Nevada. I stayed long enough in Alaska to get vested with my pension plan, and it has been one of the most wonderful things that ever happened to me. In Alaska, 85 percent of the labor force was nonunion. These projects are fantastic for the everyday working person and help them move ahead. I hope you think about what it does for the people who have never had the chance to work union before.

Assemblyman Goedhart:

Does that mean you are in favor of opening up the Arctic National Wildlife Refuge?

Patrick Sanderson:

I am definitely. I think we can do it and maintain environmental safety. We have the pipelines available, and I think we should.

Assemblyman Goedhart:

Everyone, drill here, and drill now. Let us make energy in our own country.

Patrick Sanderson:

I agree. Put Americans back to work at a wonderful, beautiful, living wage.

Chair Kirkpatrick:

Does anybody else have any questions? [There were none.] Is there anybody else in Las Vegas who would like to testify in support of A.B. 392? [There was none.] Is there anybody who is in opposition to A.B. 392?

Paul Gerner, Associate Superintendent, Facilities, Clark County School District, Las Vegas, Nevada:

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

Chair Kirkpatrick:

Does anybody have any questions?

Assemblywoman Spiegel:

My first question relates to Mr. Jeffrey's suggestion that the threshold should be raised from \$250,000 to something like \$20 million. If that were done, would that alleviate your concerns?

Paul Gerner:

I believe that raising the threshold to \$20 million for us probably would not make a difference in our opinion about the merits of the bill or our opposition to it. Quite frankly, the conditions that have driven PLAs in the Nevada Supreme Court case included technical complexity, mainly the pipe welding skills that were required and were relatively unavailable on the SNWA project. We do not have technical requirements quite at that level; we build pretty much cookie cutter schools, the largest of which are about \$80 million construction projects. But again, we never had a technical or labor shortage problem, and we have never delivered one project late due to a labor issue.

Assemblywoman Spiegel:

Your testimony seemed to imply that under PLAs only union labor would be used. I just wanted to make sure that there was not a miscommunication about that issue and that, in this bill, it does not matter whether it is union or nonunion labor.

Paul Gerner:

No, Ms. Spiegel, I do not have a misunderstanding about that. I understand that both are able to bid. The thing that I would find objectionable in A.B. 392 is that this puts the PLA as the default position for all public works, and that we must offer some extraordinary circumstance to not go with the default position.

Chair Kirkpatrick:

Are there any other questions? [There were none.] Is there anybody else in Las Vegas who would like to testify in opposition of A.B. 392?

Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:

The \$250,000 amount that is currently in A.B. 392, I believe, would scare off small contractors. They would be hesitant to sign an agreement, and as a result it would limit competition and wind up costing taxpayers more money on a public works project. I agree with Mr. Jeffrey that the amount should be substantially increased to \$40 million to \$50 million.

Chair Kirkpatrick:

You testified earlier in support of this bill, and you know that this is the opposition part of the hearing, right?

Jonathan Friedrich:

Yes, that is correct. I had testified in favor of the portion of A.B. 392 that includes guarantees against a strike, lockout, or work stoppage.

Chair Kirkpatrick:

Does anybody have any questions? Is there anybody else in Las Vegas who would like to testify in opposition to A.B. 392?

Doug Williams, Owner, The Plumber Inc., Las Vegas, Nevada:

I would like to oppose A.B. 392 in its current form. I am a 30-year plumbing contractor and hold a valid C-1 license with unlimited capacity. I am also the Chairman of the Associated Builders and Contractors, as well as the immediate past President of the Plumbing, Heating, Cooling Contractors (PHCC) of Nevada. I am also a board member of the subcontractors' Legislative Coalition, as I sit on the board of the Southern Nevada Board of Plumbing Examiners. Today I come before you wearing all of the above hats. In the past 15 years, I have completed the plumbing on over 30 percent of the elementary schools in Las Vegas and around a dozen middle schools. I have completed numerous projects on the University of Nevada, Las Vegas (UNLV) campus, ranging from the Harry Reid Center to the UNLV court rooms. I am currently working on the new parking structure for the Thomas and Mack Center. I have done numerous projects at the community college, the last one being the very first design-build project that the State of Nevada public works has ever undertaken. I have testified countless times to the Clark County School District, and I have been very successful in my small part in helping to defeat project labor agreements.

I have done that 100 percent open shop and using our PHCC-trained apprentices, who comply with all of the Bureau of Apprenticeship standards, as well as all of the State of Nevada local apprentice standards. In the 15 years that I have been involved with schools, I have never seen any strikes, lockouts, or other labor disputes other than an occasional 25-foot rat greeting me when I drive into the job site. This legislation appears to be paying for protection against something that simply does not exist. This protection reminds me of an episode of the Sopranos, where small businesses are paying for protection from Tony and his fellow gang.

In regards to Mr. Jeffrey's comments about the Regional Justice Center, I want to remind him and the Committee that all of the contractors on that project were signatory to the various labor organizations, so I see that matter having

very little to do with PLA versus non-PLA. I am simply stating facts. As I mentioned, I have done plumbing in several schools over the years, and there was a time that the Clark County School District (CCSD) had a hard time getting new schools open on time. The newspapers were bashing CCSD daily. Ironically, this was also the time that the schools were being built primarily by union contractors. My firm and several other open-shop plumbing companies had to go back and replace the union plumbing shop's work. When the union plumbing shops went out of work, we had to take over their contracts and work all hours of the day and night to complete the work. Those guys failed to live up to their contracts. We had to get the schools open because these are our tax dollars, and also our kids attend these schools.

If PLAs are enacted, I will have to pay into the union's health and welfare fund, even though I already provide full coverage for all of my employees, including dependent coverage. In essence, I would have to pay twice the amount of money for health coverage for any employees involved in that project. I do not see how that is fair. Based on what I have read over the years, I believe that if PLAs were enacted, the plumbing value of a school that is currently at \$950,000 would go up at least 15 percent, due to the price difference in productivity and the fact that our employees work for our shops; they work for us. I know my employees. I know their families, and they truly are part of my family.

These unions may be able to build mega resorts on a time-and-material basis with an unlimited budget, but when you put them against us open-shop guys, with our long-term employees who are loyal to us, there is simply no comparison. No disrespect to the unions or to the union trades—their training is unbelievable—but if the unions were as good as us, they would not need unfair legislation such as this. In these times of budget crises, PLAs should be your last option and not your first option. I respectfully request that you refuse to buy into the PLA myth and just say no to A.B. 392.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.]

Brian Kerzetski, Vice President, Universal Plumbing and Heating, Las Vegas, Nevada:

Right now, people have a choice; signatory or open shop. By people, I am referring to owners, contractors, subcontractors, suppliers, and employees. This bill begins to limit that choice. The question as to which side is better should not really be an issue. Both offer training benefits and an opportunity to support our families and communities. Our company has worked side by side many times with signatory contractors and, on most projects, generally with no

problems and zero work stoppages on the part of Universal Plumbing. The only project stoppages I have seen have been the result of actions taken by a signatory organization. To require contractors to integrate their workforces will create a discontinuity in the work quality and affect the productivity on the project. Additionally, to put a worker in a position where he must work alongside someone who may show disdain for the decision he has made to support his family, is unfair to that worker. I respectfully request that you oppose this bill.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.]

Mike Cate, Chief Executive Officer, Pavers Plus, Inc., Reno, Nevada:

I am an open-shop contractor. I testified before this Committee three days ago in favor of prevailing wage on public works projects. I am here today to adamantly oppose A.B. 392. There is no place in statute for PLAs in public works. I am not saying that PLAs do not have their place, but that should be between a private owner and organized labor, not in statute where tax dollars are being used. It is no secret that money is tight, so it is hard for me to believe that this Committee would support this bill. There is no way that PLAs save money on projects, especially where the negotiations are a one-sided affair. Personally, I put together a bid on the ballpark in Reno, and once I received the PLA and added in the requirements of the agreement for open-shop contractors, it increased my bid by 28 percent, so I decided not to bid the job. I urge this Committee to oppose A.B. 392.

Chair Kirkpatrick:

Does anybody have any questions?

Assemblyman Goedhart:

I want to refer to that situation where you actually made the bid and then, according to the PLA, you had to increase your bid by a substantial margin, so therefore you decided not to submit the bid. Were those terms already in place prior to you submitting the bid? What led to the escalation in your cost estimate that you had to submit?

Mike Cate:

This is what led to the escalation. If you were a signatory contractor, you paid your prevailing wage and benefits as a normal package. The benefits went into the union. But if you were an open-shop contractor, under that particular PLA—and they can vary in language—I would have been required to pay my people 100 percent of the prevailing wage, salary, and benefits, plus I would have to pay the benefit package into the union. Therefore, I am doubling my

benefit package and my employees get absolutely nothing for it. That is the concern with A.B. 392.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.]

Matthew L. Frazer, Division Manager, PAR Electrical Contractors, Inc., Reno, Nevada:

We are a national power-line-building firm; we also build power lines in Las Vegas. We are a union shop and have been since 1954. This marks my 40th year of being union member. I have been proud to be a union member all of my life. As a manager of a contracting firm, though, I recognize there are times when you cannot have it all one way.

We build street lights and highway lighting. Occasionally, we will get a project as a part of a larger project, and the PLA will require that we use all union subcontractors. We would like to do that, but in northern Nevada there are not any union contractors that do certain specialty work. I am specifically talking about directional bore. The only directional bore contractor in northern Nevada is nonunion, and he is not going to participate in any union contract for that amount of work, because these are pretty small pieces of the project. So he is not going to give us a price, we will not be able to use him, and we will end up having to get someone from California to do our directional bore at a significantly increased price. And now we have missed the opportunity to put Nevadans to work.

We believe in doing union work as much as we can, but we recognize there are times when you cannot. And even though this bill says that it does not matter whether you are union or non-union, when you bid the job, I will guarantee you that any agreement that says you have to work a PLA, and you have to get your people out of a hiring hall, will decimate that contractor's productivity. He will not know what kind of productivity he is going to get out of the workers who he does not know. So he is going to have to increase his bid or, as Mr. Cate did, not bid the project because he does not know his workforce.

Transmission lines today might not be public works projects, but Nevada is talking about putting together a transmission authority, so they could become public works projects. We do all of our transmission work with one segment of the International Brotherhood of Electrical Workers; they are not part of the building trades. We have had issues where we get into these PLAs, and the SNWA is one of them, and all of a sudden we have to use a different workforce to complete a substation. That is not how transmission lines and substations

are built across the country. So we have issues with PLAs, even though we are a union contractor and believe in using union labor.

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

I am here to testify in opposition to Assembly Bill 392. I would like to thank Assemblywoman Koivisto for listening to my concerns. You have heard about a lot of work that has been done without PLAs. I am not here to tell you that PLAs do not work. They absolutely do, in the right conditions and for the right projects. We have the ability to do that now. Let me talk a bit about the process. You have already heard the fact that you have to do these projects for over \$250,000, which clearly is low. Eighty percent of our projects are over \$250,000, which is probably equivalent to a small restroom facility in a park, so you do not get a whole lot for \$250,000. The process is set up such that, if you have one of these projects as written, instead of just bidding out that work as we normally do as a public work project, you have to negotiate a PLA first, and that allows you to go onto the second phase, which is the bidding process. So now you have a two-step process to get that work done.

Assembly Bill 392 also allows for a written determination that there is a substantial benefit in not using the PLA. The question is, from the local government's perspective, who determines what is substantial? We put together the determination with the best of our ability, and it is somewhat subjective. That document is a public record, which can be scrutinized by any interested parties. That means that every time we write up a PLA, someone can come in and say, "We do not agree with this analysis," further slowing down the process. As Mr. Cate and Mr. Frazer testified, PLAs can have a chilling affect on our ability to get competition on our projects. We want the most competition possible on our public works projects, because the more competition we get, we are getting a better deal for the taxpayer.

Considering all of the public works projects that the state and local governments do, I would say we have a pretty good working relationship with the contractors and subcontractors in this state. We have not had strikes or work stoppages. The projects have been done on time, typically, and within the budget. Assemblywoman Spiegel mentioned the threshold, as did Mr. Jeffrey. There is not a one-size-fits-all. I cannot say that \$20 million is good or \$50 million is good; I am not sure what the number would be. If A.B. 392 would save taxpayer dollars or streamline our process, I would be all for it. Unfortunately, A.B. 392 does just the opposite, at the taxpayers' expense. You heard earlier this is not about union versus nonunion. Now more than ever we need to think of ways to streamline the public works procurement process and get the contractors and their employees back to work.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] We are going to move to the Las Vegas speakers.

Richard Kerzetski, President, Universal Plumbing and Heating, Las Vegas, Nevada:

Our company has been in business since 1982, and we do a lot of public works projects. We are a member of the Plumbing, Heating, Cooling Contractors (PHCC) and have an apprenticeship program through them. Our employees are Nevadans who own homes, contribute to the economy, have fully-paid health insurance, and have vacation and retirement plans. I do not want to repeat what anyone else has said, but we have also helped complete projects where union signatory contracts could not get the job done. One such project was Desert Pines High School.

Bob Benedict, Executive Director, Plumbing, Heating, Cooling Contractors of Nevada, Las Vegas, Nevada:

I agree with everything that has been previously said. I only wish to add that we are in an economic time when we need to get all Nevadans working again. The PLAs will generally allow only union employees to work. In northern Nevada, 90 percent of the construction industry does not belong to a union, and in southern Nevada it is 70 percent. For these reasons, we urge you to vote no on A.B. 392.

Dave Bold, Owner, Done Right Plumbing, Las Vegas, Nevada:

I strongly urge you to oppose this bill.

Chair Kirkpatrick:

If there is anybody else in Las Vegas who would like to testify, please come to the table now.

Bob Johnson, Vice President, Helix Electric, Las Vegas, Nevada:

We are a fairly large open-shop electrical contractor based out of Las Vegas. We support all of the opposition that has been expressed today. The only thing I would like to offer is, it was mentioned earlier that there was success with PLAs on the Las Vegas Convention Authority. It just so happens that last year because the carpenters, who were no longer signatory with the other unions, opposed the PLA on the Las Vegas Convention Center, the board voted no more PLAs. So if you have a union group that was opposing the union PLA on that project, it is not always true that it is beneficial for the public.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] Is there anyone else in Las Vegas that would like to testify in opposition to A.B. 392?

John Madole, Executive Director, Nevada Chapter, Associated General Contractors of America, Inc., Reno, Nevada:

I have also dealt with PLAs. They do work in some instances. Many owners are happy with them, and the unions that I know are also satisfied. My concern is that this bill would change the dynamics that exist in a PLA. This would mandate, by law, that the PLA would apply to public works, and for that reason we do not support A.B. 392.

Joshua Munns, Assistant General Manager, J & L Windows, Inc., Sparks, Nevada:

I am a second-generation business owner in Reno, and PLAs do not work. Project Labor Agreements on the ballpark caused us to lay employees off because we were not able to work on that project. Public works projects are for the public; we do not need anybody saying who can work on these projects. I strongly urge that you do not pass this bill in order to allow open shops to freely bid on public work projects.

Daniel Markels, Public Policy Director, Western Region, National Federation of Independent Business, San Carlos, California:

I represent 1,300 small businesses in the State of Nevada. I agree with much of the testimony that has been given on A.B. 392. We definitely oppose it on behalf of our members. We represent really small business folks. The average company has six to eight employees; some are mom-and-pop shops that are even smaller. This bill will discriminate against them. They often operate on tighter margins and are often not able to offer benefits to their employees, not that they do not want to—employees are part of their family—but small businesses are often faced with much higher costs for health care and other employee benefits. We oppose this bill as it relates to the hire threshold. We would still be opposed if you raised it to \$25 million. A small contractor can still get a piece of that project. I have been talking to a lot of our members, and they are hurting because they are laying off employees. The federal stimulus money is a ray of hope for those involved in contracting. If you pass this bill, federal stimulus dollars will not flow to the companies that we represent. We urge you to oppose A.B. 392.

Cliff Springmeyer, President, Western Pacific Electric, Inc., Reno, Nevada:

I am opposed to this bill. I believe that PLAs do not promote free enterprise and competition. Contractors should have a choice if they want to be signatory to a union or bid on public works projects. As a taxpayer, I feel that you do not

have the right to take the taxes from me and then tell me that I cannot work on prevailing wage public works projects. If the intent of A.B. 392 is to put only union workers back to work in Nevada, then you are doing a great disservice to the 80 percent of employees in Nevada who chose not to be represented by unions.

As it stands now, if I signed a PLA on a project, I could bring only four of my employees in; I would have to go to the union and get the rest. Those four employees would have to pay the pension that was mentioned earlier. They would have to pay into union dues and to pay for job targeting. That is just not fair for my guys to have those fees assessed to them and get no benefit on the other end. I believe that A.B. 392 drives another nail into the coffin of free enterprise and competition.

Richard J. Nelson, P.E., Assistant Director, Operations, Department of Transportation

For the sake of brevity, I would like to reiterate the testimony from my colleagues from southern Nevada, Clark County, and the school district. We have not had any issues with respect to slow delivery of projects because of labor. We believe that our contractors, many of whom already have labor agreements, are best suited to be sure they provide the manpower, materials, and equipment to complete our projects on time.

Randy Robison, representing Associated Builders and Contractors of Las Vegas, Nevada:

With your permission, I will submit my testimony for the record because it covers a lot of the information that you have already heard ([Exhibit M](#)). We are strongly opposed to PLAs, although we have offered an amendment that may improve the process ([Exhibit N](#)). There are two provisions to this amendment. One deals with mandatory contributions to union benefit programs for employees. [Read from prepared statement ([Exhibit M](#)).] In that respect, the first part of the amendment would allow a non-union contractor to match the contribution level of the union pension plan.

Secondly, there has been some testimony about who is and who is not allowed to work on a project labor agreement. [Read from prepared testimony ([Exhibit M](#)).] You have heard some testimony from others about the difficulty it presents when hiring a workforce that you are not familiar with, and how that impacts your ability to get the job done on time, on budget, and correctly. In that regard, the second part of our amendment simply allows non-union contractors to use all of their employees, insofar as practicable. Union hall labor could be mandated, should additional craftsmen be needed on a particular project or within a particular craft. I would be happy to answer any questions.

Chair Kirkpatrick:

Does anyone have any questions on the amendment? [There were none.]

Lisa Corrado, LEED AP, Redevelopment Project Manager, Community Development, City of Henderson, Nevada:

I just wanted to submit a "me too" for the record. We are also opposed to A.B. 392, based on the explanation that Mr. Olivas provided previously.

Les Lee Shell, Administrator, Departmental Administrative Services, Department of Finance, Clark County, Nevada:

I just want to submit a "me too" on Mr. Olivas' testimony as well.

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

We are also opposed to A.B. 392 for all the reasons that have been stated. Of course, the Nevada Association of Counties (NACO) is a firm believer in giving discretions to local governments and not mandating their activities.

Clara Andriola, President, Sierra Nevada Chapter, Associated Builders and Contractors, Inc., Reno, Nevada:

"Ditto" is probably the most appropriate term to use in keeping the testimony very short. What I have heard today is really enlightening in the sense that there has always been a misconception that PLAs just meant prevailing wage. We have never been opposed to prevailing wage. We support prevailing wage and its reform, but I will leave that to Tuesday's testimony. It is important that you are hearing some fallout regarding the need to reform prevailing wage, but we are adamantly opposed to PLAs.

John Martin, Owner, Bison Construction Co., Carson City, Nevada:

I have been a resident of this state for 48 years. The PLAs are discriminatory regardless of how they are presented. I will not go into any details, because many things have already been said here, and I simply concur with them. They talk about employing local people. The landscaping on the Reno ballpark was required to be union, but there are no union landscape contractors in this area, so they came out of the Bay Area. To say these PLAs help put local people to work simply is not true. The pensions that have been touted come to pass only if somebody stays with the particular union long enough to get vested. If he does not, that pension will not become vested and simply goes back to the union, which is unfair to the employee. My employees have health insurance, their families have health insurance, they have pensions, and they get that money. I just want to echo what has been said. I am adamantly opposed to A.B. 392.

Chair Kirkpatrick:

Are there any questions? [There are none.] Is there anybody else who would like to testify in opposition to A.B. 392?

Dave Backman, Senior Vice President, KG Walters Construction, Santa Rosa, California:

I am a signatory contractor and I am opposed to A.B. 392 for many of the same reasons that Matt Frazer from PAR Electric stated earlier. Sometimes the smaller components on these projects are such that you cannot find a local contractor, and the PLA would force more outside work to come into play. The result would be to put more Nevadans out of work. I think a PLA is a good thing if the owner desires it, but I do not see a problem here. I have done millions of dollars' worth of water and wastewater projects in the State of Nevada. Why try to fix a problem when there is no problem?

Justin Ivory, President, A-1 Steel, Reno, Nevada:

[Read from prepared testimony ([Exhibit O](#)).]

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] Is there anyone else who would like to testify in opposition to A.B. 392? [There were none.] Is there anybody who is neutral on A.B. 392?

Maya Smith, Administrative Executive and Forman, Kelley Erosion Control, Reno, Nevada:

We are a woman-owned business subcontractor. I oppose this bill and believe that it would take away from the workforce, hindering minorities and economic issues that need to be dealt with.

Shweta Bhatnagar, Management Analyst, Southern Nevada Water Authority, Las Vegas Valley Water District, Las Vegas, Nevada:

We are neutral on A.B. 392. We support project labor agreements on critical infrastructure projects. The SNWA has used PLAs for over ten years and was the first agency in the state to use a PLA on public work. The PLAs have been successful in ensuring that our regional capital improvement projects are built on time and within budget. Safety and training programs for workers have been extensive, helping to reduce injuries on the job site. The PLAs ensure that local workers are hired on construction projects, and in our experience with PLAs, both union and nonunion contractors get work. However, we do understand that there are some concerns with the bill, and we would be happy to work with any interested parties and the sponsor on A.B. 392.

Michael E. Langton, Attorney at Law, Reno, Nevada:

I am in favor of the bill, but I just heard a comment that I need to correct. The previous male speaker said that you would be forced to join the union; this is a right-to-work state, and nobody is forced to join any union. So the statement he made was incorrect from a legal perspective.

Chair Kirkpatrick:

Are there any questions? [There were none.] Is there anyone else who would like to testify in the neutral position for A.B. 392? [There were none.] I want to thank everyone who participated in the discussion. I appreciate everyone being respectful of the difference of opinions, and I think that it was a fair hearing.

Assemblywoman Koivisto:

I guess this stirred up a hornet's nest. As Shweta stated, I am happy to work with anyone to see if we can reach an amicable conclusion.

Chair Kirkpatrick:

With that, we are going to close the hearing on A.B. 392 and open the hearing on Assembly Bill 395.

Assembly Bill 395: Provides for workplace relations discussions and agreements for certain state employees. (BDR 23-1020)

Assemblyman Paul Aizley, Clark County Assembly District No. 41:

Thank you for allowing me the opportunity to present A.B. 395. This bill sets up procedures and processes for certain classified state employees to negotiate workplace relations with the Executive Branch and to enter into enforceable written agreements. The bill allows eligible state employees to form employee organizations, or not join, and to select exclusive representatives in negotiating workplace agreements and resolving disputes. Assembly Bill 395 limits negotiations and agreements to: (1) Hours and working conditions, (2) grievances, (3) and discipline and discharge. Negotiations of salaries are not included. Not eligible to participate are the managerial, confidential employees, elected officials or judges, members of the Nevada National Guard, legislative employees, and prison inmates. The bill changes the name of the Local Government Employee Management Relations Board, which is the group that currently oversees local government bargaining, to the Public Employment Relations Board. Assembly Bill 395 adopts mediation, arbitration, and judicial review procedures for disputes involving state employees that are similar or identical to those provided for local government employees.

Also provided is authority for fair share agreements in supplemental discussions with subgroups. Assembly Bill 395 is closely modeled on last session's bills; those were Assembly Bill No. 601 of the 74th Session, sponsored by this Committee, and Senate Bill No. 428 of the 74th Session, sponsored by then-Senator Dina Titus. I believe the time has come to provide at least some limited bargaining authority and workplace protections for state employees. Section 17 of A.B. 395 states, among other things, that "the Legislature hereby finds and declares that there is a great need to (a) promote orderly and constructive relations between the state and its employees, and (b) increase the efficiency of state government." If the Chair would like, I could run through the major sections of the bill, and if not, I would conclude my presentation and be happy to answer any questions.

Chair Kirkpatrick:

Mr. Aizley, we can go through portions of A.B. 395, because I think it is important. If your witnesses would like to testify before we do that, that might help answer some questions, so it is at your discretion.

Brian W. Klopp, CEBS, Labor Economist, Research and Collective Bargaining Services, American Federation of State, County, and Municipal Employees, AFL-CIO, Washington, D.C.:

On behalf of the 1.4 million members of the American Federation of State, County, and Municipal Employees (AFSCME), I am pleased to offer our support of A.B. 395. Groups associated with the United Nations view the ability of workers to join together and discuss the terms and conditions of their employment with their employers as a fundamental human right. Regardless of the employer status—whether that employer is a governmental entity, a small local business, or a global corporation—that right is recognized as fundamental. As you all know, the National Labor Relations Act covers private sector employees here in the U.S.; public employees are excluded. Despite that exclusion, about two-thirds of state and local government employees have the right to discuss the terms and conditions of employment with their employers. That includes state employees in about 28 states, plus the District of Columbia.

In addition, federal employees have had that right since 1961, through an executive order issued by President Kennedy. It is important to point out that, in recent years, a few states have introduced legislation similar to A.B. 395 and, for the most part, they have not seen any substantial increases in their personnel administration costs. That is mainly due to the fact that the type of work being conducted is going to stay the same under A.B. 395 and, furthermore, it is not going to increase the workload of the personnel department.

I quickly want to talk about a couple of details in the bill. Most workers have good ideas about how to improve the delivery of services and efficiency at the workplace. Unfortunately, a lot of times, their ideas are not heard, not necessarily because management is turning a deaf ear or they are not interested in improving those areas, but simply due to the fact that there is not a forum to effectively provide for two-way communication. The procedures in A.B. 395 have been proven time and again to effectively address employees' ideas and give them an easy way to communicate their ideas to their employer. Assembly Bill 395 will benefit the public in a number of ways. For example, public employees would be insulated from politics, favoritism, and arbitrary decisions regarding hiring, promotions, and disciplinary hearings. The bill would provide consistency in personnel matters in the form of a jointly agreed-to process, where the two sides, labor and management, can talk about the issues and figure out the best way to solve those problems. I want to close by saying that A.B. 395 would be a very effective way of facilitating problem solving and fostering workplace improvement throughout the state.

Chair Kirkpatrick:

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

Dennis Mallory, Chief of Staff, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Carson City, Nevada:

I am here to answer any procedural questions regarding changes under this bill. I would note that A.B. 395 breaks down ten units of state employees, which would allow us to talk with ten specific groups about their specific workplace-relations agreements.

We think this bill is certainly a long time coming. It provides some common ground, a level playing field for state employees to be able to sit down with their employers in good faith and negotiate an agreement. This is a noneconomic bill. I know a fiscal note has been attached to it, but we could eliminate that fiscal note and perhaps make this either cost neutral or a positive fiscal impact to the state budget.

Chair Kirkpatrick:

At this time, we will move to those folks who would like to testify in favor of A.B. 395.

Danny L. Thompson, Executive Secretary-Treasurer, Nevada State AFL-CIO, Henderson, Nevada:

On behalf of the entire AFL-CIO, I want to speak in favor of A.B. 395. It is noneconomic, and it will give these workers the opportunity to solve things outside the court system. Right now, the only way to solve anything is to go to

court, and it is very expensive for the state as well as for the workers. Trivial things could be solved through this bill. We are in favor of this bill.

Jim Richardson, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Carson City, Nevada:

I am a Pilot III for the Nevada Department of Transportation (NDOT), or at least I think I am. Last year, I made the mistake of disclosing improper governmental action and safety violations of my supervisor. I was terminated a few months later for a first-time offense. It has taken me nine months and \$15,000 of legal fees to get my job back, and still the agency has refused to reinstate me, requiring more legal action. I have been on a nine-month paid vacation courtesy of the taxpayers. Sitting next to me is another NDOT employee who also was wrongfully terminated, and he wants to speak to you. My agency, for being sore losers, has appealed their case all the way to the Supreme Court. Besides the human cost, how much has this malfeasance by these administrators cost the taxpayers? If there were an effective collective bargaining statute, these abuses and terrible waste of taxpayers' monies would not happen. My union has estimated that these two cases alone have cost the taxpayers hundreds of thousands of dollars. This is only one agency; who knows what is going on in the entire state system? Plus, during this litigation our positions had to be filled while we were on the beach getting paid. So the taxpayers are paying for two employees for one position while one of the employees is not working.

In addition, while my termination was on appeal, the agency hired an additional pilot only two weeks before the decision from the hearing officer was due. Now the agency has three pilots and only two positions approved by the Legislature. What is going to happen now? As state employees, we need protections from vindictive, power-hungry administrators who feel that they can terminate and discipline employees on a whim. My union had several meetings with the administrators before they went ahead with the termination, and they told them they did not have any grounds to stand on. Sure enough, they were overturned in the hearing. For state employees, the grievance procedure is basically a joke and is biased in favor of management. Besides the financial costs, there are human costs involved too. Being wrongfully terminated, I almost lost my house, and I am running out of unemployment. I urge you to please consider and pass A.B. 395 for the sake of employees like myself.

Chair Kirkpatrick:

Are there any questions?

Assemblyman Goedhart:

I do not want to get involved in debating the merits of a termination, but were you able to apply the facts to the Whistleblower Protection Act?

Jim Richardson:

Instead of allowing me to come back to work, NDOT has decided to place me in a Tech I position, which is a reduction of 16 pay grades. That is an 80-percent cut in pay. They do not have a pilot position available because they filled it two weeks before the hearing officer's decision. So yes, I have filed a whistleblower complaint within the ten-day time limit, and I am waiting for a hearing.

Chris Sanseverino, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Reno, Nevada:

I work as an information technology professional for the Nevada Department of Transportation. Mr. Richardson has summarized a lot of issues. The reasons I would support A.B. 395 are that the present process is unfair to the employees, and it is expensive for the state. Assembly Bill 395 seems to fit the bill for what we all need, which is a streamlined process to expedite justice and contain costs for both the state and the employee. As Mr. Richardson mentioned, his legal fees, like my legal fees, have been pretty high for something that A.B. 395 would have stopped at the first hearing. So far, the state has expended hundreds of thousands of dollars on my termination. I have prevailed in three successful hearings. I have prevailed with the hearing officer, and when NDOT decided not to pay me, we took them to district court and prevailed again. Then they decided they wanted judicial review, and we prevailed there. The state had one or two attorneys and two or three paralegals working on that case. They wasted just as much money as they did with Mr. Richardson's case. My salary alone, including administrative leave and repay time, totaled approximately \$100,000. We are also talking about a year and a half wasted that I could have been doing something useful in the information technology realm. The funny part is, which is not a laughing matter, that the department has not gotten over my prevailing three times and is still attempting to terminate me and waste more of the taxpayers' money.

Because of what has happened in our case, there will probably be two additional lawsuits, which will cost the state millions of dollars. This is why I support A.B. 395, because it gets employment issues resolved very quickly, minimizes the cost to both parties, and works for both the employee and the State of Nevada.

Aldo Vennettilli, Area Field Services Director, Western Region Office, American Federation of State, County, and Municipal Employees, AFL-CIO, Las Vegas, Nevada:

On behalf of the employees of this state, who do an excellent job, I want to say that some employees in the Department of Corrections are working in unsafe conditions. Their loyalty to the state needs to be recognized, and they need an

avenue where they can start building back their morale, in a fair process, where they can speak their mind. I have had members come to me and say they cannot even speak to the Legislators if they wanted to because they will be disciplined. We live in America. We have freedom of speech and we ought to give it to them.

Kevin R. Ranft, Region 1 Vice-President, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Carson City, Nevada:

I work for the Department of Corrections. Being "disciplined" hit the nail right on the head. I see these concerns day in and day out with state employees throughout Nevada. We, as state employees, do not have any form of collective bargaining. For the Department of Corrections we have a thing called meet and confer. Those meet and confers do not work. That was a derivative of a 2003 lawsuit filed against the state on behalf of our organization and our members, and there was a settlement agreement that cost hundreds of thousands of dollars for the state. At the time, there were nine officers for the Department of Corrections that were placed on administrative leave, again, at the taxpayers' expense. Guess what? Some of them got their jobs back. I had a Title VII violation charged to me, by a warden, which is completely in violation of federal law. Title VII is for the employee to file up the chain of command, not down the chain of command. They knew it was illegal, but they could not figure out other ways to go after us. We need to get some fair, honest language in these laws to say we have equal rights. Other public employees of Nevada, those in local government, have collective bargaining rights. Today, we are asking only for the noneconomic portion because we realize that this state is in an economic downturn.

The grievance process for our state employees is sad. We have an Employee Management Committee (EMC). They will tell you that it works, and sometimes it does, but it is a joke. The members are three employees and three in management, and if there is a tie, it goes towards management. Also, they do not have jurisdiction rights to resolve half of our concerns. They say "we do not have the jurisdiction to resolve your grievance; therefore your grievance is denied." I have received seven of those in the past two years. We need to reform this package, and A.B. 395 is the answer. You will see a cost savings to this state.

Assemblyman Munford:

What department do you work with in the Department of Corrections?

Kevin Ranft:

I am a Correctional Officer for the Northern Nevada Correctional Center. I worked at High Desert State Prison for five years as well, so ten years total as a Correctional Officer.

Assemblyman Munford:

Do you feel that you experienced any intimidation, harassment, or threats?

Kevin Ranft:

Yes, sir, I experienced that weekly.

Assemblyman Munford:

I have visited quite a few of the correctional institutions, and I hear these types of stories from some of the employees. I understand what you are experiencing.

Kevin Ranft:

I appreciate that, along with my colleagues from the state. The intimidation, harassment, and attacks continually happen just because I speak out, so my only recourse is civil litigation. What else is there? I encourage you to look at A.B. 395 and appreciate your support.

Assemblyman Munford:

You do not have to tell me what you are going through. I have been there and I have seen it.

Joni Drahos, Region 3 Vice-President, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, McGill, Nevada:

I am a Correctional Officer for the Department of Corrections. I am also the Regional Vice-President for the Chapter of American Federation of State, County, and Municipal Employees (AFSCME) Local 4041, for the rural areas. I work in Ely State Prison out in Ely, Nevada. I represent those counties for all of our departments, not just Corrections. Currently, I am also a union steward; I already have six cases that are in the hands of the attorneys for AFSCME. We are looking at litigations and we are going to cost taxpayers money. I have a gentleman out on administrative leave being paid to sit at home. He has four children. There are no charges against this man by our warden, and he is sitting there costing everybody money. We need this avenue in A. B. 395 to deal with our wardens, to be able to sit across the table, tell them our story, and get them to listen. People are being put out of work, and it is costing all the taxpayers money. We the state workers need a way to negotiate in all of our departments. Some people have great ideas, and we would love to help.

All we want to do is come to work and do the best job we have been hired to do for you, the public.

Chair Kirkpatrick:

I am going to ask all those who are in support of A.B. 395 to come to the table.

Ken Corzine, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Reno, Nevada:

I am a Senior Correctional Officer and a union steward. Like Ms. Drahos, I am constantly busy defending staff from allegations. I am not here to bring those issues forward. I am here to say that I am in support of finally getting a chance to express what every other state employee wants, and that is the freedom to have a choice to associate, affiliate, and negotiate on an even basis with their employers, not only on employee disciplinary actions, but also on working conditions.

It would greatly help the State of Nevada to go to an alternate shift, like a 12-hour shift for our department, where we do not charge them overtime until we meet the criteria of the Fair Labor Standards Act. We save them money, we have a shift that we approve of and it promotes no more overtime to cover somebody who calls in sick. The freedom of choice to negotiate, associate, and bargain on working conditions is already a matter of public record in this state, and it is called *Nevada Revised Statutes* (NRS) 614.090. Those words are in the state law, and I am asking you to use this as a building step with this bill to finally give us what we are asking for.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] We are now going to Las Vegas for anyone who is in support of A.B. 395.

Ron Cuzze, President, Nevada State Law Enforcement Officers' Association, Las Vegas, Nevada:

We are the sister union to AFSCME. Overall, this bill is very well written and we strongly support it. In section 27, where it breaks down the ten collective bargaining units, we feel this is more than adequate. As you know, in NRS Chapter 288, it says that law enforcement cannot be mixed in with other non-law enforcement categories for the purpose of collective bargaining. The number of lawsuits that our people have filed in the last few years with both the state and the Nevada System of Higher Education is costing millions of dollars. The University Police in Reno have five pending litigations as of right now. We think all of those cases could have been stopped if we were under a different type of system.

A lot of times, the EMC will not accept cases, but I would like to give you one that is just the opposite. The EMC accepted a grievance from one of the Department of Public Safety's (DPS) officers concerning their uniforms, and we thought, wow, this is kind of unusual. We felt they could not make a decision on that issue because they lacked jurisdiction. After everybody testified, and we flew people all around the state, the final decision was that the EMC lacked jurisdiction. This happens quite a bit. Unfortunately, the Title VII people will not recognize NRS Chapter 289, so we have litigation pending against Title VII-type matters because they operate only under NRS Chapter 284. This whole system is out of whack. Assembly Bill 395 would give us the leeway to go in and talk to the employers, not on an adversarial basis, but allowing us to explain what is wrong with the system. I do not know any state employees who are not career-oriented. They come to work for the state, and they plan to stay and retire. We are just asking for a fair shake. We believe this bill does it.

Chair Kirkpatrick:

Does anybody have any questions? [There were none.] Is there anyone else in Las Vegas who would like to testify in support of A.B. 395? Can I ask everyone to refrain from repeating? We understand there are a lot of reasons for this bill.

Denise Kelley, Member, American Federation of State, County, and Municipal Employees, AFL-CIO, Las Vegas, Nevada:

I am a former president of AFSCME Retiree Subchapter 153, which is composed of members of AFSCME who came from other states and now live in Nevada. I am here in support of A.B. 395. It is beautifully written. I have been there and done that, and done everything this bill deals with. I had to go to arbitration; I have had to file grievances. When that bill finally went into effect in Ohio in 1986, I filed 107 grievances within one month. They called me the queen of grievances in my agency. This is a fantastic bill, but you left out a study of your classification system. You need to do that to restudy your classification system and take a real good look at that. You also left out the money, but that is understandable; hopefully we are in an upturn and will be able to do the money part of it.

Dolores Gabay, President, Retiree Subchapter 153, American Federation of State, County and Municipal Employees Retirees, AFL-CIO, Boulder City, Nevada:

As Denise said, A.B. 395 is a wonderful bill and we want to let you know that we support it. We are not working right now, but we have been in the same position of collective bargaining. I am from New York and do not understand how these people can work without the collective bargaining.

Chair Kirkpatrick:

Is there anyone else in support of A.B. 395?

Steve Barr, Member, American Federation of State, County, and Municipal Employees, AFL-CIO Local 4041, Reno, Nevada:

I work for the state at the Department of Corrections in Carson City. The previous speakers have not been testifying about anomalies. Their statements can be magnified by a thousand times. Assembly Bill 395 is far overdue; it is not only the right thing for the state employees but also the right the thing for the state.

W.J. (Bill) Birkmann, Vice President and Chief Organizer, Nevada Alliance for Retired Americans, Carson City, Nevada:

The Nevada Alliance for Retired Americans has approximately 16,000 members in Nevada, 3,000 of who are AFSCME retirees. For me, it is just common sense to save the state money. I am asking for your support on A.B. 395.

Chair Kirkpatrick:

Is there anyone else who would like to testify in support of A.B. 395? [There were none.] Is there anyone who is neutral on A.B. 395? Is there anyone who is in opposition of A.B. 395? We will start with the folks in Las Vegas.

Andy Anderson, Commissioner, Local Government Employee-Management Relations Board, Las Vegas, Nevada:

We are in the neutral position. I heard one of the speakers talk about a fiscal impact. When I was presented with this bill, they asked me to do a fiscal impact, which I did. If this bill was passed, our fiscal impact would be that it would result in an increase in our workload, the hiring of another accountant-type employee, and additional board days and travel expenses. We presently have some other legislation that is passing the cost off to base our funding on a per capita basis. Right now, there are probably 20,000 state employees, and we presently have 75,000 local government employees that come under our jurisdiction. This would add another 20,000 employees under our jurisdiction. By using a per capita type of funding basis, the additional 20,000 people would more than fund the additional cost to our agency.

Chair Kirkpatrick:

Mr. Aizley, were you going to look at that other board? I think that would address Mr. Anderson's concerns.

Assemblyman Aizley:

I think there is only one board mentioned in the bill.

Chair Kirkpatrick:

When we sat down together, I understood that we were going to look at the personnel employee board that they go through. Is that an option you are looking at?

Assemblyman Aizley:

Not at this time.

Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada:

The stories you have heard this morning, for the most part, should be solved in a much more efficient way. I do not know all the circumstances, but I do know if I were in that position, I would want much more definition. I wanted to say that up front, because there may be another way to achieve that. First, there is a difference between collective bargaining at a local level and at a state level. At a local level, the council members and the commissioners act as both the Legislative Branch and the Executive Branch. They have totaled what they do, so they know what the fiscal impacts are.

Regarding state collective bargaining, you are dealing with the fact that you have two totally different branches, and while the bill purports not to deal with wages and says nothing involving an appropriation will be considered, there are indirect impacts on the appropriation and the categorical expenditures that are approved by the Legislature. While you might be able to shift money within a workplace relations unit to accommodate changes like flex-time, there would have to be coverage during other times, so you would need another employee. That does not necessarily require a direct appropriation. It would require a shifting of categorical expenses, and when you come into the next legislative session, in all probability, you would be looking for an enhancement in that agency's budget.

In addition to that, there is a definition of fair share in section 10 where it states, you would be "required to pay a proportionate share of the costs of discussions of workplace relations" and the administration of the agreement. That has been relatively standard in most language that is used; however, I do not know if it needs clarification, because in section 23 on page 8 it states that "a fair share agreement included in a workplace relations agreement...must not be for an amount exceeding the amount of dues uniformly required of members." That to me is contradictory, because at one point a fair share agreement by a nonunion member is paying for the representation they receive because of the agreement that is negotiated. The argument has been that because they get the benefit of that negotiated agreement and its terms, conditions, wages, or whatever, they should be paying part of the agreement. As I read A.B. 395, all we are ensuring is that you cannot add an additional

assessment above what the total dues are. The total dues include other employee representation that the nonunion employee may not be entitled to. I would see that as one of the problems.

Mr. Anderson, who is Commissioner of the Employee-Management Relations Board, identified his concerns about workload and time frames. I served on the board over 20 years ago and there were times when we had fewer employees and fewer bargaining groups at a local level. We were not able to meet specific time frames because of workloads and other factors. This would be a considerable burden on that board because there are provisions not only on the time frames, but on the board investigating complaints. You have given subpoena power to the board. Is the board actually expected to do the investigation, or are they expected to contract out?

Chair Kirkpatrick:

I thought the personnel board that we currently have in place might be a better spot. Would those same concerns apply?

Carole Vilardo:

No, I would still oppose the bill because of the indirect appropriations. It makes much more sense to use the existing personnel board. While they may not have been functioning perfectly, as noted by some supporters of A.B. 395, the board has knowledge of state issues, which can be quite different than local issues, and I believe they should be beefed up. Maybe they are the ones that need the time frames. There is no question that you want good workplace relations.

Sam McMullen, representing Las Vegas Chamber of Commerce, Las Vegas, Nevada:

This is a continuation of objections and debate that we have had with this issue over the years. No matter how A.B. 395 is restructured, some of our basic concepts and problems with this, as an option for state employees, still exist. First, we have a great concern about the effective collective bargaining, and even though this is different than collective bargaining, it is sort of the predicate for collective bargaining, if it were to be passed into law. It is incumbent upon the Legislators to understand and recognize that, in effect, this cuts the flexibility.

As Carole Vilardo mentioned, there are basically three parts. The Legislature, in a lot of ways, has definite responsibilities with respect to deciding what the funding is for the state and what the level of funding should be. Assembly Bill 395 says it would not allow things which do not require an appropriation from the Legislature to be given effect. That language is too limited. In effect, you are putting a process in place that reduces the flexibility

and the responsibility for the Legislature to have a collective understanding of exactly what the cost of state government is and to decide that, and have great power over that, as it is supposed to do. Even though it does not say it would actually determine the salary or specific dollar issues of compensation, our impression of section 15 is that those things would have huge impacts on the budget and would have a lot to say about exactly what the cost of government was. We did a report on the comparable salaries, wages, and compensation of state workers, teachers, and local government employees, and it indicated that in our state, the local government employees are paid at least 30 percent higher than state employees. We attribute that to the impacts, practical and political, of collective bargaining on the local government level. We are very concerned about anything that would take these decisions away from management and the kinds of issues that should be, in fact, promoted.

Section 17, which is sort of a policy statement about the bill, says "to promote orderly and constructive relations" and "increase the efficiency of state government," and it is not until line 22 that we talk about the rights of the people of the state. This should be about productivity and working smarter, not harder. In the state government those things are done in a bifurcated way. But I agree with Ms. Vilardo that there are ways these issues could be handled without instituting a process. By using the word process, I am just going to relate this to our concerns through the years. It becomes a mediator, a forced arbitrator, and then the right to litigate from under judicial review of an administrative decision by an arbitrator—a large process that locks in a lot of the decisions that are made. We are particularly concerned that there are pluses and minuses about last best-offer systems. In section 37, it says that you will take only the last offer of either party. That is what the arbitrator can decide between.

Besides the strategy of last best-offer, there ought to be more flexibility, particularly in management. This would not give any flexibility to the arbitrator. There is a range of solutions when you are talking about time frames, et cetera, where it cannot be the last concrete offer put in place, just to get a last best-offer decision made. But think about what happens then. If it has gone through that process and it has been through judicial review, what flexibility and real ability do you have to say whether or not this is an effective level of funding and related performance for that funding? What real power does the Legislature have at that point? That is one of our concerns. We like the fact that there is a deliberative budget process that looks hard at all these issues and tries to make sure everything is right. This is a very incredible example of what we are doing this year on the budget, but it is normal that there are not enough resources to go around for the decisions that have to be made. To have these decisions made by other people and without the full flexibility of the Legislature,

we think would be wrong. We are and always have been completely opposed to these kinds of mechanisms.

Chair Kirkpatrick:

I get frustrated every session because it is not fair that some of these disputes have to go to the courts. I thought that was why we did it through the personnel board, which keeps it within the purview of state employees who know the real issues. We seem to be in a different place than we were ten years ago, and everything has to go through the courts. In the business sector, people are afraid to make decisions because of lawsuits. I was working with Mr. Aizley to try and find the balance, so we can avoid going to court, because the only people who win in that situation are the attorneys and the judges. That is my point. We are spending millions of dollars on these lawsuits. We have to figure out a way to balance this.

Sam McMullen:

This is always interesting testimony for me because it affects people's lives very personally. There has to be a good resolution process for these issues. Something needs to work properly as a function of state government. We are troubled by the additional mechanisms and the tying of hands in a process this big. We would love to see people have the ability to address these issues confidently within the confines of state government. We do not mind that, but there are a number of other things that look like, act like, and taste like collective bargaining.

Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce, Reno, Nevada:

Our "Agenda for Economic Vitality" is our public policy manual. We have always opposed public employee collective bargaining. We feel that A.B. 395 will set a precedent, and we worry where that will lead us. I am concerned that I cannot find a no-strike clause in this bill, like the local government collective bargaining agreements have. In section 28 on page 12, there is no verification process for the card check process, whereby they turn in a list of 51 percent of the employees. There should be a verification process. Other than that, I echo Mr. McMullen's concerns.

Chair Kirkpatrick:

You said you had some concerns in section 28?

Tray Abney:

It was section 28 on page 12 of A.B. 395.

Chair Kirkpatrick:

I will look at that, and what was the other section you had a problem with?

Tray Abney:

I was just worried that there is not a no-strike clause in the bill, like the local government collective bargaining agreements have.

Chair Kirkpatrick:

I think they should go on strike just to see how state government works. Is there anybody else who would like to testify on A.B. 395? [There were none.] Is there anybody in Las Vegas who would like to testify on A.B. 395? [There were none.] With that, we are going to close the hearing on A.B. 395 and take a 15 minute recess. We will meet at 11:00 a.m. to hear two more bills.

[Meeting reconvened at 11:04 a.m.].

Chair Kirkpatrick:

We will now open the hearing on Assembly Bill 401.

Assembly Bill 401: Extends the bonding capacity of the Nevada System of Higher Education. (BDR S-884)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:

Thank you for the opportunity to present Assembly Bill 401, dealing with the bonding capacity for the Nevada System of Higher Education (NSHE). I thought it fitting this morning to allow Mr. Taylor Anderson, my intern this session, to present this bill, as he is a student at the University of Nevada, Reno. This bill definitely impacts him and higher education in general in the State of Nevada.

Taylor Anderson, Sparks, Nevada, Intern to Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:

I come before you today in support of A.B. 401. It would extend the authority already given to the Nevada System of Higher Education's Board of Regents to issue bonds for projects related to the universities and community colleges. This bill would also update the *Nevada Revised Statutes* (NRS) with the current names of the colleges located around the state.

The Board of Regents has had the authority to issue bonds since 1967 to build up the institutions around the state. This bonding authority was reauthorized by the Legislature in 1991 and was effective for 18 years. Currently, we are at year 18. This authority should be continued another 20 years. If enacted, this bill would allow the board to approve the issuance of bonds until

January 1, 2029. As you can see, there is no fiscal note with A.B. 401; it simply continues the status quo and does not cost the state any money.

In sections 2 and 3, the bill will make effective the changes to the names of the colleges in the Nevada System of Higher Education. In March 2007, the Board of Regents approved a request by the students, faculty, staff, and community of the then-community colleges to drop "community" from their names. This request was approved by the board and has been implemented at all the colleges. The Board of Regents already possesses the authority to change the names of these colleges; A.B. 401 simply cleans up the NRS statute to assure there is no confusion. In conclusion, this bill simply extends the authority already given and cleans up the language in the NRS with zero fiscal impact. For those reasons, I urge the passage of A.B. 401.

Chair Kirkpatrick:

Does anybody have any questions? Currently, what kind of things does the system bond out for?

Richard D. Perkins, Henderson, Nevada, representing Nevada System of Higher Education:

There are a host of things that the university would bond out, such as the acquisition of property or large pieces of equipment, as related to the system's mission at each one of its campuses. Most of the construction that we think about, in terms of bonding capacity, are capital improvement projects that are approved by the Legislature in conjunction with the executive budget. For the record, the Nevada System of Higher Education obviously is in support of A.B. 401.

Assemblyman Aizley:

Is there a limit on how much can be bonded? Is there a cap?

Taylor Anderson:

Limits are in the NRS statute. The current limits are \$312,695,000 for the University of Nevada, Reno and \$422,155,000 for the University of Nevada, Las Vegas.

Chair Kirkpatrick:

They are in the bill, beginning on line 9 of page 2.

Taylor Anderson:

Correct.

Chair Kirkpatrick:

Are there any questions from the Committee? Is there anybody else who would like to testify in support of A.B. 401? Is there anyone who is in opposition to A.B. 401? Is there anyone who is neutral on A.B. 401? [There were none.] We will close the hearing on A.B. 401 and open the hearing on Assembly Bill 409.

Assembly Bill 409: Makes various changes concerning the Local Government Employee-Management Relations Board. (BDR 23-1048)

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24:

Thank you for the opportunity to present A.B. 409, dealing with the Employee-Management Relations Board (EMRB). We have heard some discussion regarding the EMRB related to other bills. As has previously been mentioned, the EMRB serves and affects 75,000 public employees in the State of Nevada. With me this morning is Mr. Jim Penrose, representing Nevada State Education Association, and he brought an amendment to this bill that has been worked out by the various parties ([Exhibit P](#)). I would like to turn it over to Mr. Penrose, who can walk you through the highlights of A.B. 409.

James W. Penrose, Attorney, Dyer Lawrence Law Firm, Carson City, Nevada, representing Nevada State Education Association, Carson City, Nevada:

Our firm also represents police officers, firefighters, and correctional officers—basically the whole gamut of local government employees throughout the State of Nevada. We have probably litigated more cases before the EMRB than any other law firm in the state. We have been appearing before that board for almost 30 years now.

By way of background, the EMRB was created in 1969. It administers the provisions of *Nevada Revised Statutes* (NRS) Chapter 288, the Dodge Act. As Mr. Bobzien indicated, its constituency currently includes more than 70,000 local government employees and almost 160 local government employers. The EMRB was created primarily for two reasons. One was to provide an alternative to litigation for the resolution of disputes between labor and management at the local government level. It was also hoped that the EMRB would develop a specialized knowledge and institutional memory in this rather esoteric area of the law. To a large extent the EMRB has been very successful, and it has been in existence now for 40 years. There are, however, some issues that have arisen with the way EMRB operates. And we have sought to address those in A.B. 409 and in the amendment that we have put together ([Exhibit P](#)).

Basically, there are four issues that we are attempting to address with this legislation. The first is that the EMRB, notwithstanding the growth and its workload, is still fundamentally a part-time agency. It consists of three board members who are appointed by the Governor. They make \$80 per day and meet once a month, typically for one or two days. They have a staff of two people, a Commissioner who is appointed by them and gets paid a salary commensurate with his experience, and a clerical person. They are assigned a Deputy Attorney General, who produces a lot of the work product of the EMRB. Fundamentally, these are folks who meet once a month, and at least in the past couple of years, in our view, they have not been able to keep pace with the growth and their workload.

What typically happens is that a case is set to be heard at a meeting of the board, say, in January, but the board runs out of time to finish hearing the case, so it has to continue the case until its meeting in February. The problem, of course, is that other cases are set to be heard in February, so the whole hearing process gets pushed back. The attorneys and the parties have to prepare for those continued hearings, and it burns up time and expense that we believe can be avoided.

The other issue that we have seen, particularly in recent years, 40 years the board has developed a large body of published decisions and orders, and those are available in the law library next door. They take up about five large, bound volumes that are carefully indexed by subject matter. The value of all that information, from the perspective of an attorney who represents employees, is we can go back to the cases that have been decided by the board in years past and try to advise our clients about how the EMRB is likely to resolve a particular issue, if it is presented to the EMRB. It is very important to have that sort of predictability and rationality in the system. Adherence to precedence also serves to ensure that the board is not simply reaching decisions on an ad hoc basis. It is not flipping a coin and reaching a decision; rather, it is giving proper consideration to the cases that have gone before.

In drafting the amendment and discussing the amendment and the bill with other interested parties, one of the issues brought up was the fact that the board is trying to operate with inadequate financial resources. It is my understanding that the Governor, in his proposed budget, has proposed deleting all General Fund support for the EMRB, and the local governments in Nevada would fund the entire cost of the EMRB. It is really a separate issue, and it is not addressed in A.B. 409, but we would like to see the board have the authority to impose a filing fee on those who litigate before the board, in the same way the courts impose filing fees on those who litigate before them. In

the scheme of things, this is not going to produce a huge amount of revenue, but it will help to offset the expense of operating the board.

The other thing we would like to do is increase the daily salary of the board members from \$80 to \$150. It is still, in our view, not the amount we would like to see them paid, but it will reduce, to some extent, the burden of serving on the board and will help offer some incentive for folks who are qualified to sit on the board and mitigate a little bit the financial impact of their service.

The final issue addressed by the bill is the process of appointing people to the board. Currently, the Governor appoints all three members of the board. The bill proposes to divide up that appointive authority among the Governor, the Speaker of the Assembly, and the Majority Leader of the Senate. The bill would retain the existing provision of statute that says not more than two members of the board can be members of the same political party, so both currently and under this bill you would always have representation by both Democrats and Republicans on the board. That, in overview, is what the amendment would do.

I would like to talk about the changes made to the hearing process because it probably comprises the bulk of the amendment. The bill basically provides that any matter involving the taking of evidence would have to be submitted to a hearing officer assigned from the Department of Administration. There was concern expressed that we were bringing in someone who might not be familiar with the law in this area and that we were creating another level of bureaucracy. What we have done with the amendment is to provide that the Commissioner, the full-time employee of the board, would be able to hear matters involving the taking of evidence. He would have the authority to do that if he were so directed in a particular case by the board. He would have the authority to do that if the parties stipulated that he would hear the case. There are multiple advantages to that procedure. The first and most obvious is because the Commissioner is not hearing cases once a month; he can schedule cases on a much more flexible basis than is currently the case. We believe the result will be that the cases will be heard more quickly and without repeated continuances. That will be a great advantage to not only the board but those who litigate before the board.

Chair Kirkpatrick:

Does anyone have any questions? Do the folks in Las Vegas have a copy of the amendment?

Andy Anderson, Commissioner, Local Government Employee-Management Relations Board, Las Vegas, Nevada:

Madam Chair, I have one copy that I brought with me this morning.

Malani Kotchka, Attorney, representing the City of North Las Vegas, Nevada:

We are in favor of A.B. 409, although not necessarily for the amendments. Coincidentally, I spent the last two days in front of a hearing with the EMRB in which we got through exactly one witness. The reason that occurs with the EMRB is because you have a three-member board, and every time anyone raises a motion or makes an evidentiary objection, the three members have to caucus. So the hearing has to stop, and everyone has to leave the room, and once they have made a decision, they call you back, and the hearing proceeds until the next evidentiary objection or the next motion.

Our primary concern is to have one person conduct the hearing and make the decisions on the evidence, so that we do not have this inefficiency. On behalf of the city, we are interested in having one hearing officer. I do not know that it matters where the hearing officer comes from, but we believe the hearing officer should be an attorney, so that he or she knows, and can rule on the rules of evidence. Someone up north may be submitting a statement on behalf of the City of North Las Vegas, so I will stop there.

Chair Kirkpatrick:

You have not had time to digest the amendment, correct?

Malani Kotchka:

Correct. I just looked at it briefly; Mr. Anderson shared his copy with me.

Chair Kirkpatrick:

I am going to put your testimony for the record as neutral with concerns, but after you read the amendment, if you could get back to me or the bill sponsor by Monday, that would be most helpful.

Malani Kotchka:

Okay.

Andy Anderson:

We just recently got the amendments, and I have not had a chance to go over them with my board. Initially, my board was opposed to the original draft of A.B. 409, and the amendments had some drastic changes to the original draft. My board has not had the opportunity to look at it. Right now, our stance is in opposition to A.B. 409; however, I would like to hear what they have to say first.

Chair Kirkpatrick:

Please get us your comments by Monday; that would be most helpful to the Committee.

Michael E. Langton, Attorney, Reno, Nevada, representing the Peace Officers Research Association of Nevada, Reno, Nevada:

I have been practicing as an attorney before the EMRB for approximately 25 years. I represent a total of 14 unions, half of which are public employees and half of which are private employees. I worked with Mr. Penrose on the amendments. I did not like many things in the original draft of A.B. 409. Mr. Penrose and I have worked together to come up with the amendments that I can support. I am here on behalf of the Peace Officers Research Association of Nevada (PORAN), which is one of my clients, and I do a lot of work in front of the EMRB board.

My main reason for supporting this bill is that I too have been frustrated by delays in the hearings. I want to commend the board members themselves, because basically they are volunteers. They are getting \$80 a day, which we hope will be increased to at least \$150 a day. These people are dedicated, and they take an active role, but we are basically asking for volunteers. I asked that a provision be inserted, and Mr. Penrose agreed that we should start charging people like my clients who can afford to pay, but provide a provision for those pro pers, who defend themselves, or organizations that cannot pay. It is not going to generate a lot of money, but it is a step in the right direction.

I have one decision with the EMRB that is still pending. I started the litigation over three years ago. We had 7 days of hearing, but it took approximately 14 months to have that hearing, and it was very frustrating because we all have to go back and remember the case. Therefore, any way we can expedite the hearing process will be welcome.

I support having an amendment that the Commissioner be authorized to hold evidentiary hearings if both parties agree. In some cases you do want the board to hear it, but in others, probably the less evidentiary-type of cases, you would want only the Commissioner to hold it. Mr. Penrose accurately stated the problems that we have all worked on, so I will answer any questions. The intent is to make this process more efficient and expedite it if possible, but not to lose justice or the ability to present your case.

Chair Kirkpatrick:

Does anyone have any questions? I do not want any misconceptions that there might be money to add to the EMRB budget; \$80 might be a good deal this session.

Michael Langton:

I understand the problem, and that is my angst. All of my clients, with one possible exception, support the idea that they should be charged for filing a

complaint or filing an answer to it. It is not going to be much, but it is something. I talked to Mr. Anderson, and I think he calculated that about \$24,000 would be the most probable result, but it is still \$24,000 that they do not have right now.

Chair Kirkpatrick:

Does anyone have any questions?

James Penrose:

Regarding the increased salaries, if you held three days of hearings a month, the extra \$70 per member would run about \$2,500 for the year. I think we could cover that with the filing fees. Also, it would certainly be my preference to have an attorney as the hearing officer as well. In administrative proceedings, the strict rules of evidence do not apply, so the practice of administrative agencies basically has been to let everything come in and sort it out later. I think on balance that is something we could dispense with.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] At this time I am going to ask those folks who are in support of A.B. 409 to please come forward.

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

I want to thank Mr. Bobzien for working with us on A.B. 409. We have seen the amendment, and we are in support of it as amended.

Chair Kirkpatrick:

Does anyone have any questions for Mr. Olivas? Is there anybody else who would like to testify in support of A.B. 409? Is there anybody who is neutral on A.B. 409? Is there anyone who is in opposition of A.B. 409? [There were none.] Is there anyone in Las Vegas who would like to add any testimony?

Andy Anderson:

I do not have anything to add at this time until I talk to my board. We have an ongoing meeting this morning, so I will be able to get back to them as soon as I leave here.

Chair Kirkpatrick:

Is there anybody else in Carson City who would like to testify on A.B. 409? I want to be able to read the amendment over the weekend.

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

We have spent several weeks talking about A.B. 409 and finding a way to compromise. As I assume you heard from our attorney, Mike Langton, we reached that compromise this past week. We are in support of the bill, with the amendment in front of you.

Assemblyman Bobzien:

I want to thank everyone who has worked so hard on this bill. A lot of folks came to me early on with concerns, and we have addressed many of those concerns with the amendment. I am not sure what the situation is with North Las Vegas. I was under the impression they had reviewed the amendment. This is the first time I have heard the other concerns, but I am certainly willing to work with those folks to get this right.

Chair Kirkpatrick:

Is there any public comment? [There was none.] We will close the hearing on A.B. 409.

Meeting adjourned [at 11:35 a.m.].

RESPECTFULLY SUBMITTED:

Michelle Smothers
Committee Secretary

Denise Sins
Editing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: April 3, 2009

Time of Meeting: 8:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 87	C	Susan Scholley, Legislative Council Bureau	Work session document
A.B. 87	D	Susan Scholley	Mock-up proposed amendment
A.B. 229	E	Susan Scholley	Work session document
A.B. 377	F	Susan Scholley	Work session document
A.B. 377	G	Susan Scholley	Mock-up proposed amendment
A.B. 416	H	Susan Scholley	Work session document
A.B. 416	I	Susan Scholley	Mock-up proposed amendment
A.B. 480	J	Susan Scholley	Work session document
A.B. 480	K	Susan Scholley	Mock-up proposed amendment
A.B. 392	L	Paul Gerner	Prepared testimony
A.B. 392	M	Randy Robison	Prepared testimony
A.B. 392	N	Randy Robison	Proposed amendment
A.B. 392	O	Justin Ivory	Prepared testimony
A.B. 409	P	James Penrose	Proposed amendment