

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

**Seventy-Seventh Session
February 13, 2013**

The Committee on Government Affairs was called to order by Vice Chairwoman Dina Neal at 8:04 a.m. on Wednesday, February 13, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. 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 Teresa Benitez-Thompson, Chairwoman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblyman Elliot T. Anderson
Assemblywoman Irene Bustamante Adams
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblyman James W. Healey
Assemblyman Harvey J. Munford
Assemblyman James Oscarson
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Heidi Swank
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblyman Pete Livermore (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Jim Penrose, Committee Counsel
Bonnie Hoeffcker, Committee Manager
Lori McCleary, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Thoran Towler, State Labor Commissioner, Department of Business and Industry
Jim French, County Commissioner, Humboldt County
Nancy J. Boland, Chair, Board of Commissioners, Esmeralda County
Jeff Mohlenkamp, Director, Department of Administration
Kimberlee Tarter, Deputy Administrator, Division of Purchasing, Department of Administration
Greg Smith, Administrator, Purchasing Division, Department of Administration
Keith Uriarte, representing American Federation of State, County and Municipal Employees (AFSCME) Local 4041
Jack Mallory, representing International Union of Painters and Allied Trades, District Council 15, and Southern Nevada Building & Construction Trades Council
Paul McKenzie, representing Building & Construction Trades of Northern Nevada

[Due to Chairwoman Benitez-Thompson having laryngitis, Vice Chairwoman Neal chaired the meeting.]

Vice Chairwoman Neal:

[Meeting was called to order. Roll was called. Protocol was explained.]

We will have three presentations today and hear one bill. I would like to call the Office of Labor Commissioner, Mr. Towler.

Thoran Towler, State Labor Commissioner, Department of Business and Industry:

What I would like to do today is give an overview of our office ([Exhibit C](#)). I would like to give everyone an understanding of what we do, what we have accomplished, and what we are planning to accomplish. The primary focus, at least for the second half of the presentation, would be an overview, or a tutorial, if you will, of public works in Nevada; what it means, what we do

with public works, and how we come up with the public works prevailing wage numbers that we use. Of course, I will be available to answer questions regarding that.

One of the most important things that I try to focus on is our mission statement. It is definitely worth a read. It states, "As the principal labor and industrial relations regulatory agency, the mission of the Office of the Labor Commissioner is to enforce all labor and industrial relations laws of the State of Nevada; to protect the interest of working families; and to provide for the fair and lawful conduct of commerce in Nevada." I make sure all my employees know that mantra. We have a primary focus on not just protecting the working families, but also providing for the fair and lawful conduct of commerce in Nevada. That is, of course, something we can do that is business friendly. We want an even playing field for all businesses and all workers.

The next slide (slide 3) is the general overview of the authority we have. *Nevada Revised Statute* (NRS) Chapter 607 has the authority provisions of the office; NRS Chapter 608 talks about compensation, wages, and hours; NRS Chapter 609 are the rules for employment of minors; NRS Chapter 610 are the apprenticeship statutes; NRS Chapter 611 are the private employment agencies that we license and regulate; NRS Chapter 613 are the general employment practices, which is a lot of safety issues; NRS Chapter 338 is the most fascinating, the prevailing wage rules.

As mentioned, NRS Chapter 607 basically gives the overview and the authority of the office. I was appointed to the position in November 2011. I put a link on Facebook and I did a press release, but my friends said, that is great, but what does it mean? The basic answer is that we enforce all the labor laws of the State of Nevada, unless someone else does. Basically, what we do is enforce wage and hour, the mechanics of employment law. If you were not paid for all time worked, then you can file a claim with us and we would adjudicate that claim. I will briefly go over that in a couple of slides.

Nevada Revised Statute Chapter 608 is the statute that sets forth a majority of rules and regulations for employers in Nevada. It talks about minimum wage. I do not want to spend too much time on the statutes that are not NRS Chapter 338. Nevada has a two-tiered system of minimum wage regarding whether or not qualified health insurance is offered. *Nevada Revised Statutes* Chapter 608 covers the record keeping requirements for employers. It also delineates overtime. In Nevada, we have both a daily overtime for individuals who make less than one and a half times minimum wage, and a weekly overtime for the other employees who are not exempt from overtime.

What we do at our office that will help all of you and your constituents is that if someone has not been paid for all time worked, or if they were due overtime and they worked overtime hours but were not paid overtime, they can file a claim with our office. It is a fairly easy process, and it does not cost the claimant anything. We have a claim form on our website people can fill out. They can say, I was not paid for the last weeks of work or I was not given my lunch break. I will have an investigator investigate that claim to find out if money is owed. If money is owed, we will go through the process and get that money for employees when we can. If we cannot, we turn the money over to collections through the Office of the State Controller.

We receive about 2,500 claims per year. I just issued a press release last week indicating that we collected \$2.8 million for employees in unpaid wages and penalties in calendar year 2012. That is \$2.8 million that these employees would not have received. As I said, we did not charge the employees for that. It includes both wages and penalties. However, what I always tell people, all penalties go to the employees, or claimants, along with the wages. It is a great service we provide.

When I started this job, we had a large backlog of old cases; over 2,000 aged cases. We are now down to under 700 cases, which is a pretty good working number when you get 2,500 cases a year. You are always going to have some active cases, so we are now down to approximately 700, or a little bit less. We are really happy about that. One thing, \$2.8 million is more than we have brought in in recent years, which is great, but we also turned in over \$3 million to the State Controller for collections. In the last year, we did about \$6 million worth of work for employees, but it has so far only resulted in about \$2.7 million because some of our claims were so old; the companies were out of business or we could not find the employers.

It is an unfortunate thing and we are working on that, and part of the reason why, on the next slide (slide 7), we have streamlined our wage claim process. We have redone all the forms. We used to have a mantra to complete 80 percent of investigations within 60 days. That was great, except as I started the job and I researched our aged cases, some of them were several years old. What was happening is the investigators, a lot of the time, were trying to get that 80 percent within 60 days, but that was leaving about 500 cases every year that were slipping through the cracks.

We went through the system and saw, if you analyze the process of opening a case, sending out a notice of claim, conducting an investigation, and making a determination, it was taking closer to 90 days on some of the difficult cases. The way it works now, about 50 percent of our cases are resolved within

30 days. About 75 to 80 percent are still resolved, overall, within 60 days. Within the next 30 days is where we can capture a lot of the remaining cases.

One of the reasons why we did increase the percentage to 90 percent is that between me, my Deputy, Keith Sakelhide, and our Chief Investigator in Las Vegas, we were able to monitor that extra 10 percent personally. That would be 250 cases a year that the supervisors can keep track of to make sure they do not slip through the cracks and go year to year and keep falling behind year after year. We are excited about some of the progress we have made.

Our office is there for people who cannot afford to hire counsel, so they file a claim with us. I have heard from some legislators who have told us they have sent constituents to us and they have been happy with the service. I encourage you all to send people to our website or call our office.

I am not just talking about employees. We do a lot of service for employers. I have personally given over 10 presentations in the last 15 months to employer groups because I want employers to know the law they have to follow. We have made some great strides in that. This summer I will go to Elko because Elko heard about the Las Vegas and Reno presentations and they want more attention. I am looking forward to that. I lived in Elko for a year, so it will be good to go back.

If someone calls you and says I think I am due overtime, or if you have an employer who says I am not sure if I am paying everyone correctly or if I am keeping within the appropriate wages, or if I am posting everything I need to post, you can send them to us. We are fine with giving employers anonymous information. They can call and do not have to say it is McDonald's calling, they could just ask what the rules are and if we could explain the rules. One thing we did as we revamped our website, <LaborCommissioner.com>, we created a tab for employers. An employer can find all the documents they are required to post. There is a Frequently Asked Questions page for employers. There has always been a Frequently Asked Questions page for employees, which has all the employee forms. We are trying to educate both sides. We are trying to let employers know what their responsibilities are, and we are also letting the employees know what their rights are under the law. That is our job, that is how we do it, and we have had a lot of good success recently.

NRS Chapter 610 provides administrative assistance to the apprenticeship programs in Nevada. For those who may not know, apprenticeship is a system of supervised training leading to certification in a trade, occupation, or craft. It combines on-the-job training with classroom-related instruction.

The Office of the Labor Commissioner provides administrative as well as oversight functions to the State of Nevada Apprenticeship Council. The Council administers the statutory provisions of *Nevada Revised Statute* (NRS) and *Nevada Administrative Code* (NAC) Chapter 610 and, in doing so, provides for the registration of approved apprenticeship programs.

Basically, what those are, aside from the legal writing here, is if you want to be an electrician but you do not want to go through college, you can go through one of the approved apprenticeship programs. It could be four or five years and by the time you get out, you will be an electrician and will be able to earn a good living. While you are in the program, you will receive some in-classroom training, a lot of on-the-job training, and you will also be paid for the work you do on-the-job. It is a lower wage, but you will be paid for that work. It is a great program.

At the height of the construction era in Nevada, we had over 300 apprenticeship programs and over 13,000 apprentices in the programs. Right now, we have 99 apprenticeship programs and just over 3,000 apprentices. There has been a reduction, but the Council is doing good work. One thing we are working on in Assembly Bill 36, which I have this session, is to try to remain in compliance with federal law so we will continue to be recognized by the federal government as the State Apprenticeship Program in Nevada that supervises and licenses apprenticeship programs. That is something we are working on and have made a lot of good strides there.

That is the office overview aside from public works. I do not know if there is a preference for me to answer questions on that before we move on to public works, but I would be happy to. Otherwise, we can do all questions at the end.

Assemblywoman Swank:

I have a quick question about the apprenticeship programs. I am wondering how people get into these programs, and is there coordination with the public schools in helping high school kids move into these programs?

Thoran Towler:

We post the apprenticeship programs at our office. There is a lot of advertising that is done. These apprenticeship programs do want people to be interested. I know the colleges in Nevada do yearly presentations, and they are kind of fun. I know Truckee Meadows Community College (TMCC) did one I went to where all the apprenticeship programs and all the different unions got together. They set up in the gym where the public could come in and try welding or electrical work or carpentry work. It was a great opportunity for them to briefly

learn about the different jobs, to see if they had an interest in those jobs, and to learn about the program.

These programs will accept students periodically. Anyone could come to our office and we post the active programs we are notified of. Through my work with the Council, our goal is to have more information out there. As I said, we have redone our website, and it has been a long process because we have redone every form that we have. I do want to have an "apprenticeship tab" on our website with a link to every program that is accepting new apprentice applicants.

Assemblyman Munford:

Is there a fee for these apprenticeship programs? I do get quite a few calls from my constituents, and they want to know the costs. I am sure they could go to your office, but most of those buildings are down off Bonanza Road. I do direct them there. What are the upfront costs they would need to be concerned about?

Thoran Towler:

Every apprenticeship program is different. The criteria has to be approved by the Apprenticeship Council, so I cannot give you an exact number. I believe some may have an upfront cost for books or supplies; some do not. Each one is different. If there is a specific program, you can definitely send people to our office and we can tell them about what we know is available. The Apprenticeship Council meets every four months, but I have staff who have all the apprenticeship programs and information on file. They would be able to let anyone know what those costs are, if they have a specific interest. It might be a good idea to send your constituents to us or have them call us. They can ask about any current apprenticeship programs that are accepting applicants and about any upfront costs. I do not have the upfront cost numbers with me, but I could try to provide those. I do not think the ones that do have upfront costs are very high, if there are any at all. There are, of course, classroom fees, but they also receive money through on-the-job training, so there is a lot of offset there. It just depends on the program. Some of the programs go various amounts of times, and some are several years long.

Assemblyman Munford:

So it varies with the craft or the area you are going into that determines how long before you become a journeyman?

Thoran Towler:

Yes.

Assemblyman Munford:

Do you know which one is the longest?

Thoran Towler:

I believe the electrician program is the longest that I have heard of. I believe there was one we approved that was five years long. The shortest program allowed under federal law, I believe, is two years. I am not sure if there is any two-year program right now that we have approved. That is the standard range. If there is one longer than five years, I am not aware of it. The reason for the longer timeline is because of the specialization that would occur, especially electrician programs. Those take a very long time. There are a lot of requirements as far as the number of hours performed before one becomes a journeyman.

Assemblyman Munford:

If a young man or woman goes through the career and technical schools in the Clark County School District, can they take one of these programs? Do they have to go through an apprenticeship program if they received some certificate of completion of the course in high school?

Thoran Towler:

I should specify that the programs are not our programs. We provide assistance to the State Apprenticeship Council, who then approves these programs. These programs are put on through the Carpenters' Union, the Electrician's Union, the Associated Builders and Contractors. Just to clarify that, we approve and we make sure the programs are in compliance. We issue the completion certificates for the program. The State Apprenticeship Council is the governing body for these apprenticeship programs. We do not run them ourselves. We do track all of them, and that is why it would be a good idea to send them to us and we can definitely send everyone in the right direction.

To your question, a lot of these different career options have requirements under Nevada law, such as the number of hours that are performed under supervision. Whether or not a program through a trade school would qualify someone to be a journeyman is dependent upon the program. There are some people who have entered into apprenticeship programs after trade school, but the vast majority go straight into the apprenticeship program because it does provide on-the-job training, as well as classroom instruction.

Assemblyman Munford:

Would that time be cut in half if they had technical training and then went through the apprenticeship program, or would they have to stay the entire duration of the training program?

Thoran Towler:

I am not aware of any program that would be able to offset time completed or give credit for classroom instruction. The criteria they submit to the State Apprenticeship Council for approval has standard procedures that have to be followed. If there is any type of offset that any of the apprenticeship programs have, I am not aware of them.

Assemblyman Elliot Anderson:

Thank you for your presentation today. First of all, do you have a lot of complaints? Secondly, how are they often disposed of? Are they usually in favor of the employee or the management?

Thoran Towler:

We have been around 2,500 wage claims per year. What that is, is someone comes in or mails in a wage claim form indicating they have not been paid for all time worked, or any of the criteria under NRS Chapter 608 rules. It is fully investigated. We have investigators that go through both sides. We do not have any mantra or quota, as far as who wins or who loses. We are primarily a regulatory agency, but we are also a constituent services agency. We provide the service at no cost to the claimant. Depending on the resolution of the case, it does provide money to the claimant.

We do track the investigations that result in favor of the employer or the employee. In recent years, since my time, about 70 percent of wage claims are in favor of the employee. Thirty percent were in favor of the employer. That does seem high. When people take the time to file a claim with us, something probably went wrong. The 30 percent that we do decline or where we rule in favor of the employer are issues regarding jurisdiction. It might be work that was performed in California for a Nevada company. We have jurisdiction over where the work is performed. It could be issues of the statute of limitations, which is two years.

There are people who will come to us three years later, for whatever reason, and say I have not worked for this place for two years, but back when I did, I found out recently they should have paid me overtime. That is unfortunate and would be in favor of the employer because we do not have jurisdiction. We assist employees with filing the claims and that is why we should have a higher number being in favor of the employee, because if they come in, the first question they would ask is if they are exempt from overtime because their boss said they were. They say, he called me a manager even though my job was to sweep the floors. Things like that happen. They made me work about 60 hours a week; I got paid minimum wage and no overtime. We explain to

them the law before they fill out the claim. Many of our wage claims are initially valid.

There are different scenarios we find out about. In Nevada, if you terminate an employee, you need to pay them immediately or no longer than three days later. If an employee quits, you need to pay them within the next pay period or within seven days, whichever comes sooner. Many employers make that mistake. There may already be direct deposit and maybe the direct deposit comes ten days later. Well, that is three days too late. One thing that happens is we will have a claimant come in and say, hey, I was unpaid for ten days after I quit so they owe me penalties. We will talk with the employer and they will show us emails saying two days after he quit the employer told him they had a hard check ready and to come pick it up. There was either no response or the employee will respond saying I really do not feel like it. If there are things not the fault of the employer, that will be in the employer's favor.

Assemblyman Healey:

In regards to the apprenticeship programs, is there a cap on the number you have? If there is not, is there any direct outreach to some of the at-risk high schools to engage those students and possibly give them a future outlook once they are out of school?

Thoran Towler:

Do you mean is there a cap on the number of apprenticeship programs that the Apprenticeship Council would approve?

Assemblyman Healey:

Correct.

Thoran Towler:

No, there is not. The number has been greatly reduced because there was simply no one in those programs. There were over 300 apprenticeship programs, even four or five years ago, and now we are down to under 100. Currently, 81 of those programs have apprentices actually in them. If those other 19 go without having apprentices in the program, then they will be removed from a registered apprenticeship program.

As far as outreach, I do believe the apprenticeship programs individually do go and provide those outreach services. I have talked with a lot of different apprenticeship programs and the people who head those. They have told me they meet with at-risk youth. In the Las Vegas area, there is a painters' apprenticeship program. They told me they would go to the local Boys and Girls Club and meet with those people regularly. They also go where

high school kids are playing basketball, play some basketball with them, and ask if they are interested in going through a painting program, or if they are interested in becoming a carpenter someday, because we have a pretty good service that we provide. It is a really great service, for what it is worth. It provides something for people who do not have an uncle who can teach them the trade, or who do not have the money, resources, or interest in going through a four-year university. They want the on-the-job, immediate work-type scenarios. It is a great service.

One thing people do ask is why the numbers are so low. The numbers are low, not because of a quota or a mantra, but because there is simply not the same level of interest. These apprenticeship programs really do a good job of bringing people in who will have a job when they get out. Because of that, through the natural process of construction declining in Nevada, there has been a natural decline in the number of apprenticeship programs. We are fine with having more. One thing we are doing is trying to look outside of the trades. I have been talking with different casinos. I have talked with Amazon.com because they have an apprenticeship program at their warehouse in Nevada. Some of the casinos have apprenticeship programs also. We are trying to expand and think of what else we can do besides the trades. The trades are very important. The trades built the council and they are the main representatives on the council, but we are trying to do what we can to help other industries, as well.

Assemblyman Healey:

I would just like to challenge that we put a little more focus in. With that many programs being out there, the fear of losing one of those programs because there is no one in it, I think we have some huge, missed opportunities there. Maybe the outreach program is not strong enough, and it needs to be. There are certainly a lot of people out there who need opportunities and these seem to be a great opportunity. With the construction business starting a very slow rebound, and these are four- to five-year programs, this would better position us to have some skilled labor ready when that happens.

Vice Chairwoman Neal:

If you would continue with your presentation.

Thoran Towler:

What I would like to do is talk about what I was referring to in the tutorial on public works. There are a lot of bills every session on public works. My office is the main office that oversees public works administration. We set the prevailing wage that is paid on public works. What I would like to do is give a brief overview of what public works is, I will tell you what my office does administratively, I will explain the survey process that results in the

prevailing wage, and I will tell you about the complaint process for prevailing wage complaints.

Public works projects are taxpayer-financed projects for the public. That is the state buildings, the roads and highways, the jails and prisons, the utilities, the water mains, the sewers, the parks, playgrounds, public conventions facilities, and all other publicly-owned works and property exceeding \$100,000. If a building needs to be built in the City of Reno for the Reno government to use as administrative offices, that would be a public works, assuming it is over \$100,000. They would have to comply with public works law.

With limited exceptions, prevailing wage must be paid to all the workers employed on the public works projects. Every year we publish the prevailing wage rates and the corresponding job classifications for use on these public works projects. Public bodies are aware public works contracts are required to include prevailing wage rates. If the City of Reno wants to build an administrative building, they put it out to bid. The contractor would have to pay prevailing wage.

Just briefly, before I get into the important part of the survey process, I will explain what my office does. We receive requests for public works identification numbers, or public works project numbers (PWP). I will just use the City of Reno throughout this presentation as an example. If the City of Reno wanted to build an administrative building in downtown Reno for use by the government, they would ask us for a public works number. We have streamlined that process, too. We used to only receive them by fax and fax them back out, and some were mailed. Now we are receiving them through email. We have a turnaround time of 24 hours for giving the number out, which is really great. We track all the projects that are issued each year. I do have the numbers, if anyone is interested, of how many public works projects were issued for the past three years. I have it broken down by year. I also have the total cost of those projects as they were initially bid.

We notify the prime contractors of the award of the public works projects and we keep a list of all the subcontractors on each project. That is important because everyone on these public works projects needs to pay prevailing wage. We provide information to the contractors and subcontractors on public works.

That is the administrative process. We are the holders of the public works numbers, we track these projects, we provide information to the awarding bodies regarding the projects, and we keep the files on every project.

The really important thing we do is the survey. What people usually ask is how are prevailing wage rates established? If you are doing a public works project, prevailing wage has to be paid, so how is that established? We do an annual survey that starts on April 1. On April 1 we post the surveys to our website, we do a press release, I do presentations to whoever will listen, and I tell them we are starting the Public Works Survey and it is something that is really important. Back about ten years ago, we used to send out the surveys to every licensed contractor in Nevada. There were, at that time, over 13,000 licensed contractors. Now there are over 15,000. That cost was over \$10,000 just to mail out the surveys. We are not able to do that with the current budget and we have not done that for three years. Our survey results have not gone down because of that; they have actually gone up. Part of that is because more people are focused on the Internet and we have the information on the Internet. People can print the survey, fill out the survey, and get it back to us.

The deadline to submit surveys is July 15. Between April 1 and July 15, the surveys are available to contractors. On the survey, they indicate what construction job they worked on the prior year. The numbers I am going to use today are only to illustrate how this process works, so do not quote me on them. For example, they fill out the survey indicating, we are Contractor X Corporation, we are signatory to the Carpenters Union, we put in 500 hours on these various projects (and they will list the projects), and the rate of pay we paid our carpenters was \$40 per hour. We accept surveys before the deadline of July 15. This is a good thing to let the contractors know if you guys work with contractors. Let them know it is a good idea to submit it to us as soon as possible. We will look at them first because there are a lot of surveys that have problems on them; they will be missing information or they will not be signed for some reason, which is a big problem. As long as they come to us before July 15, we can contact the contractor, tell them what the deficiency is, and tell them how to fix it. We want as many numbers as we can get.

We receive over 500 surveys each year. That is not as many as we would like to get. It was a 10 percent increase from last year to this year. As you know, six weeks from now we are going to start again. I would like another 10 percent increase, at least. We are working on that, but we need the survey results. What we want is the actual wage that is being paid for these projects.

After July 15, we will have all the surveys in that we can review and consider. We enter all that information into a computer program. The way we come up with prevailing wage is by compiling all the survey results. The rate paid the majority of the time is deemed prevailing. If no rate is paid the majority of the time, the rate paid at least 40 percent of the time is deemed prevailing. This is

by county. I know this does not make a lot of sense, so I am going to explain what that means.

I am going to use the carpenter classification and Washoe County as the locale. For every county, we are going to look at what the appropriate rate of pay is for every classification. For example, after we receive the surveys and compile the information, in Washoe County there were 1,000 hours reported for the carpenter classification. If 550 of those hours were paid at a rate of \$40 per hour, then that would be the prevailing wage. That would be the wage that we would publish as the wage that would need to be paid for public works projects during the next year. If there is not a majority of over 50 percent, then we go down to 40 percent. Of my 1,000 hours reported for carpenters, if 401 paid the rate of \$40 per hour, then that, again, would be the prevailing wage rate. If is not that, for example, 300 are paid \$40 per hour, 350 of the hours were reported at a wage rate of \$30 per hour, and the remaining 350 were paid at \$60 per hour, then we would then average all those out and that would be the prevailing wage rate for Washoe County carpenters.

I will go back to the example of 1,000 hours that were submitted for the carpenter classification in Washoe County and \$40 per hour as the prevailing wage rate. We then look to the survey. If those surveys that were submitted were submitted by contractors who are signatory to a union and they had more than 50 percent of the hours, or more than 40 percent of the hours, we will then see if they had a collective bargaining agreement on file with us. That wage rate could then be adjusted based on the collective bargaining agreement. This is how it works in the real world. If 550 hours submitted were submitted by Contract X and he marked on his survey that he is signatory to the Carpenters Union, then their wage rate prevails of \$40 per hour, because they had the majority. But then we also look to the collective bargaining agreement on file. It might have an adjusted wage rate of \$41 per hour, or theoretically it could be \$39 per hour. We would then use the wage rate that had been collectively bargained for in our survey.

That is one of the most complicated parts of prevailing wage. It might be a good opportunity to answer any questions before we go on to some of the little nuances of prevailing wage.

Assemblyman Stewart:

Prevailing wage is set county by county? Esmeralda would be different than Washoe?

Thorán Towler:

That is correct. That is part of some of the nuances I am going to cover. I can start that now. Currently, there are 36 classifications. Those are the only classifications that we have available because we would have to go through a rule-making process if we wanted to expand that out. So there are 36 different types of workers; electrical worker, operating engineer, laborer, carpenter, et cetera, and there are 17 counties, so that results in the need to have 612 (17 times 36) different rates. What happens in Storey County if there are no carpenter numbers entered? That happens. We then go to the next county over, which would be Washoe County, and we use their wage rate of \$40 per hour. That would be the wage rate for Storey County. That will keep going. Elko will often use Washoe County's wage rates because it just keep going over and over until we have a wage rate for every classification in every county.

Some of the criticism I have heard is that it is not fair to say that carpenter workers in Elko need to be paid \$40 per hour when there was no carpentry work connected in Elko. Of course, the other side to that is what other numbers could you use. That is how we are able to get the data for every county.

We then compile the information, which takes a while because it is a lot of data entry and I have people who double-check it and triple-check it. The numbers have to be made public by October 1. We put it on the website on September 20. There are a lot of people who scour those numbers and say, you know what, you do not have a carpenter rate for Eureka, you do not have an operating engineer's rate for Douglas County. They always find things. They say operating engineers only get paid \$3 an hour because we missed a digit in there. For that ten-day period, from September 20 until September 30, the awarding bodies and the different contractors will go through the wage rates and let us know if they think the numbers are wrong. My team will then go through them, verify whether we made an error, fix it, and then post to the public and on our website the prevailing wage rates on October 1.

One thing to keep in mind is, we all know about the fiscal year and the calendar year, but public works has a unique year and it is referred to as the Public Works Year. That goes from October 1 through September 30. When we post the rates for October 1, that is when those rates are in effect and they run until the next rates are in effect, which is October 1 of the following year. I cannot tell you why that is, but it is probably because that is what made sense historically with the surveys. They had made it through the holiday seasons, people are able to get their survey information in, and the office then had time to compile it. But it is a little odd and is a new type of year

you will need to be aware of. I have the last three years of how many projects were issued and the cost of those projects. We track those by the Public Works Year, October 1 through September 30, and that is the year we refer to.

Assemblyman Stewart:

Is there an appeal process if a mistake is found after October 1? Secondly, you use the example of Storey County not having any work done that previous year for carpenters, so you went to Washoe County. Do you go to the highest county that is adjacent?

Thoran Towler:

I will answer the second question first. We go to the nearest county. We have a chart in our office that explains what the nearest county is. If that county is not available, the chart lists the second nearest county. Years ago, they went through the whole mapping process to see where the nearest county is through order of every other county. I believe Washoe County would probably be the closest to Storey County. If Washoe County did not have a rate, the chart would tell us what county we would look at next, all the way to Clark County. There are some wage rates where Clark County controls the whole state because we went through the whole process and the only wage rates that were reported for some of the more obscure job classifications were only reported in Clark County.

Assemblyman Stewart:

Storey County borders on several counties. How do you determine which is the nearest county?

Thoran Towler:

We have a list that was compiled years ago, that has been verified since, where we look to everyone to see which one is the closest. I said Storey County, but I do not have them all memorized. We look to that list every time. If Storey County does not have a rate, we pull out our list to find the nearest county. The nearest counties, all through the 16 adjacent counties to Storey County, are listed 1 through 16 of who is closest. We will go down that list and perhaps Washoe County is not the closest, but it is on the list of who is. We will go through the list until we find one.

Your second question was regarding the appeal process. Through October 1 and for the next 30 days is when people can object to the wage rates. During that time, we can make administrative changes pursuant to statute during the 30 days of October. September 20 through September 30, we can make those changes without an amendment; it is just a change we make because we have not posted the numbers yet. If it is a change made in the month of October, we

will do an amendment to the website. Someone says, hey, I did not catch this before, but you are not using the right county. If that is the case and someone made a mistake by going through the chart, and if there is a closer county that had a rate, then we can do an amendment to the prevailing wage rate.

At a high, we had 15 amendments. I believe last year we had 8 amendments. Of course, we want to have that as close to zero as possible. That is our long-term goal. If you go to our website and click on the carpenter rate for Washoe County you would see it. If you were looking for Storey County, it would originally say the Washoe County rate applies, but then it would say "Amendment." Again, I am using this as an example. You would click on the "Amendment" and it would say we amended it because Carson City is the closest county, so that is the rate you use.

It is a pretty easy process because our website is hyperlinked so people can easily find the amendments. Again, we do a lot of different rates, and I will explain how that 612 actually expands to 3,500 rates. It is a process that is pretty complicated, but we do have a pretty high accuracy rate. Only about 7 to 10 need amendments.

After that period, the only changes that can be made after October 31 are through a hearing that I would conduct. If there is evidence provided that we need to change the rates for whatever reason, for example, someone says they just found out most of the hours were due to a gold mine being built in southern Nevada, and there is no gold mine that was built in southern Nevada. That situation actually happened this year. We caught it right before the October 31 deadline, so we did do an amendment based on that. Someone was confused on the location of a gold mine. There was a gold mine being built in California right on the Nevada line. They submitted those hours and they were not valid hours. If that would have been caught after October 31, I would have conducted a hearing and the rate would have changed due to the hearing.

Assemblyman Oscarson:

Thank you for your presentation. This is a very involved process that I am not familiar with at all, so I appreciate your taking the time to explain it to us. By the same token, a couple of quick questions. The issue has been raised that in some of the smaller rural counties, when you use this formula, it makes it almost impossible to do public works projects because of the cost. I know that is statute. Is there a waiver process that people can utilize to build some of these projects in some instances, or has that ever been thought of? In addition, how many people do you have on your staff who do all this work?

Thoran Towler:

Your first question regarding the waiver. I do hear that a lot from the rural counties, especially in the south. They want to know why they are paying Clark County wage rates. Aside from that, one thing I need to mention is that I gave the example of Washoe County. If that wage rate had a collective bargaining agreement attached, we would go to that collective bargaining agreement and see what the wage rate is. Some of these collective bargaining agreements will have what is called zone pay attached. We might go to the collective bargaining agreement on file for carpenters in Washoe County. Again, this is just an example. We go to Washoe County and look at their collective bargaining agreement and it said \$41 per hour. We adjust it up to \$41. They could also pay a zone rate for work performed more than 100 miles away. That zone rate of maybe \$2 per hour would apply. Then it turns into \$43 per hour for worked performed more than 100 miles away. There are a lot of rural counties, especially in the south, Esmeralda, Nye, who, when they do projects, they are paying the Clark County rate and then a zone rate on top of that, in some cases. Not all collective bargaining agreements have zone rates and not all wage rates are prevailing, according to union rates. That is a complaint I have. There is no waiver process for prevailing rates as it is now. I have heard there is going to be a bill to exempt rural counties or to exempt education, but I have not seen those yet. I know in the past there has been. That is the law for the state of Nevada. All public works projects over \$100,000 need to pay prevailing wage.

The exception to that would be emergency contracts. There has been some creative interpretation throughout the state as to what "emergency" means. Maintenance does not apply.

Assemblywoman Woodbury:

When you take these surveys, do you collect data from all work performed in that county; private sector combined with public work jobs?

Thoran Towler:

It is all construction work. Any construction project in Nevada. That is something we are constantly trying to remind contractors. There are some contractors who are still confused about that. I have met with contractors on both sides, signatory and non-signatory, to let them know I need their surveys. They tell me they do not get involved with public works. We want all construction work that was done in the reporting period. So it is everyone.

Assemblywoman Woodbury:

Former prevailing wage statistics get into the mix of the new formula?

Thoran Towler:

That is correct. In our instructions, we have a list of what we exempt. Federal projects are exempt, even if they are done in Nevada, including Native American projects. There is a list of exemptions and it includes the State Public Works.

Vice Chairwoman Neal:

For the sake of time, we are going to try to close out in about one minute. If you have some closing remarks, we have two other presentations we want to get to.

Thoran Towler:

I would like to quickly go through the wage claim process, and I should be able to do that in about one minute. The way it works is if you are on a public works project and you were working at the carpenter rate of \$40 per hour, but they had you putting up sheet metal, you could file a claim with us. Sheet metal may pay \$50 per hour. We review those claims and we submit them to the awarding bodies. They conduct the investigation, they do a determination, and then send that to our office. If there is an objection to that determination, I will conduct a hearing and issue an order about what the appropriate rate of pay should have been on that project.

On my last slide (slide 15), it gives the numbers of how many public works objections we get every year and how much we have collected pursuant to that. We issued 222 orders in calendar year 2012. We have 81 complaints still active. We received 251 complaints during that year and we closed 249. Last Public Works Year, we issued public works numbers for a total of 748 projects. Those projects cost over a billion dollars. It was a reduction over the previous years.

I would like to thank everyone for having me today. If anyone needs more information, I am happy to come and talk with you. Some of the members of my staff could also talk with you. If anyone would like to see one of these public works projects firsthand, I am sure we could assist you and take you out for a tour. With that, thank you for the generous use of your time.

Vice Chairwoman Neal:

Thank you Mr. Towler. It was actually a really good presentation. I would suggest the Committee members follow up if you do have additional questions.

Jim French, County Commissioner, Humboldt County:

Thank you for the opportunity for allowing Humboldt County to update you on the state of our county. I am the current Humboldt County Commission Chair. I am here this morning to share some basic facts on Humboldt County and bring

you up to speed as to where we are at right now in Humboldt County with regard to our segment of the economy, as well as some of the specific challenges that we may be faced with here in the next few months.

For the record, Winnemucca is the county seat and is approximately 167 miles east of Reno and 267 miles southwest of Boise, Idaho. There are approximately 6.2 million acres in Humboldt County, of which 80 percent are under public ownership, mostly Bureau of Land Management (BLM). We do have a Federal Refuge administered by U.S. Fish and Wildlife Service. We are the proud owner of a National Conservation Area, as well as 12 wilderness areas, and a National Forest. Less than 1 percent of the land in Humboldt County, about 32,000 acres, is urban developed lands. Winnemucca has a population of a little better than 7,100. The total population of Humboldt County, presently, is exceeding 16,000. We are expected to grow, based on some of the expansion in the mining industry, by approximately 20 percent in the next 18 months. With that, of course, are an awful lot of challenges that we face.

Humboldt County pretty much typifies a rural intermountain western county. Its economy is derived substantially from natural resource extraction, whether it be from mining or agriculture. Mining contributes a major economic activity and government revenues to our area. Humboldt County has several mines in production of gold, silver, lithium, limestone, and opals. Winnemucca is also the home of the largest potato field in the world. We also have the largest potato dehydration facility in the world right now.

Current increases in economic activity are centered on the construction industry, residential, and mining, at this point. With the expansion of gold values right now, there has been a recent interest in not only the expansion of some of the mothballed mine holdings, but many of the mines are attempting to improve their efficiencies right now, so there is an awful lot of activity relative to moving an awful lot more ore body with a lot less personnel.

Much of the residential construction in the Winnemucca area is a function of a very quick attempt to try to meet the housing challenges for a large mining-related influx of population. That is kind of a nice problem to have, I guess, but many of our contractors in the Humboldt County area were simply not capable of meeting those requirements at the drop of a hat. Actually, we have a large contractor centered in Washoe County who has actually taken up residence in Humboldt County. He has built man camps and is actually building large subdivisions, as we speak.

Much of the construction right now is considered speculative in nature. There is a question as to whether or not much of the mining population will be

purchasing properties, or whether they would be interested in renting properties. There is really no indication, yet, as to how that is going to play out. In all cases, the construction expansion and the effect on our economy is short-term.

Those of us who work in county government, and I put myself in that category, are pretty proud of our fiscal stewardship. We carry, in Humboldt County, a modest budget reserve, anticipating an inevitable decline in economic activity. What goes up has to come down, eventually. With those revenue declines, we do carry a modest rainy day fund.

With that, much of our concerns with sustainable local government centers with some of the issues that you have all heard before, and some new issues. Obviously, the loss of net proceeds of mines, reduction in Local Government Tax Distribution Account (CTX), continued shifting of CTX distributions, and continued shifting of government services to local governments is going to have dramatic impacts on a lot of the rural counties.

Our Critical Access Hospital in Humboldt County was one of the last county-owned critical access hospitals in Nevada. We are very concerned about the effect of the Affordable Care Act and how that will impact our ability to provide those services through that facility. The underwriting, of course, of that facility sets with Humboldt County. With that, we carry those concerns.

Many of the other concerns we are just now starting to hear about have to do with public lands issues in Humboldt County. They will have dramatic impacts on economic activity, or certainly potential dramatic impacts. Another concern is changes in the implementation of the Endangered Species Act. We have seen a change relative to activities on the part of federal agencies having to do with non-listed species and interim management policies, which apply to those non-listed species, which are, in some cases, more onerous on the counties, and uses of the county lands, than the actual regulations imposed by an actual listing of that animal.

Environmental Protection Agency (EPA) regulations concerning carbon emissions and the effects on the existing power generation facilities are a concern. We are seeing a large challenge being met regarding the major generation plants that we have in Valmy right now at both electrical generation facilities. The imposition of carbon tax on those facilities will simply make them uncompetitive from what NV Energy is telling us now. There are sweeping changes in the implementation of existing regulations as they apply to the uses of public lands and ad hoc wilderness designations without Congress actually imposing wilderness. In many cases, we have actually had wilderness designations made

in Humboldt County without a recommendation from the agencies that were responsible for those public lands prior to the wilderness designation.

We also have concerns with loss of services, which directly impacts citizen quality of life, such as those programs offered by our Cooperative Extension and our Community College System. Obviously, they are a very big deal in the rural areas.

We also have concerns with regard to continued fire-related impacts and the limited reclamation funding. Humboldt County saw better than one million acres impacted by wildland fires last summer. Less than 4 percent of that acreage was scheduled for reclamation work following the fire events. Much of the land that was passed over for reclamation was key sage grouse habitat and, as such, will be type-converted, probably to noxious weed of some variety, which will have an impact on the listing package, or potential for listing for that bird.

Another challenge to the county that we were surprised with this last year, had to do with our interlocal fire plan with the Bureau of Land Management and the U.S. Forest Service. Many of the costs to suppression of fires were actually passed on to our local fire protection districts. In all cases where that occurred, there were bills presented to those fire protection agencies that exceeded their annual budget, just for this fire cycle. The potential for bankrupting those rural fire protection districts with that policy is very real and is something that is ongoing. It is being negotiated with the Bureau of Land Management as we speak.

I guess I would like to end my comments today and leave with some good news. I think in Humboldt County our economic activity is robust. I think that is something to say right now in this state. I think a lot of counties would like to have that problem. Small business and light industry opportunities are extensive in Humboldt County right now. Recreational opportunities remain a strong component in the Humboldt County quality of life. In the presence of funding challenges, we take a great deal of pride in Humboldt County and the tri-county area, Lander and Pershing as well. With limited budgets, we have successfully partnered with cities, federal governments, and local county governments to take advantage of cost sharing and opportunities to maximize equipment, services, and personnel. We have saved quite a few dollars across the board as a result of that.

Once again, this is my first attempt to update this Committee, and I thank you for the opportunity to do so. I would be happy to answer any questions.

Assemblyman Ellison:

You mentioned lithium mines. Where are we at on this? That is going to be one of the biggest lithium deposits out there, is that correct?

Jim French:

Yes sir, Assemblyman Ellison. The lithium deposits that have been identified in the Montana Mountains northeast of Winnemucca are a high-grade lithium. Exxon has been trying to develop that property for some time. Where we are at with that development right now is in the final design phase of the mining side of it. It just so happens it sits in one of the largest sage grouse habitats known in northern Nevada. There is a large effort now to try to mitigate those impacts. Being an open-pit mine, it is going to be a challenge. They are still ongoing, and there is still a great deal of interest in that.

Assemblyman Ellison:

I know we have lost a lot of projects due to even the threat of listing the sage grouse. We have lost large wind generation projects in Elko County. My biggest fear is that lithium project could be one of the largest lithium mines in the United States. Lithium is a chemical that goes into long-life batteries. Just saying they could list that bird could actually stop that project, is that correct?

Jim French:

That is true.

Assemblyman Ellison:

I do not think everyone understands. Just by saying they can list this bird, it is killing projects all over the state.

Jim French:

One of the other concerns we have with that potential listing is the Interim Management Guidelines that the Bureau of Land Management is imposing on the production of any environmental analyses or Environmental Impact Statements (EIS) in the area. That includes existing mines, maintenance of roads, and it includes that lithium project. The Interim Management Guidelines are more stringent on those developments than the Endangered Species Act that was enacted in 1964 would impose. It is making it very difficult for these companies to move.

Assemblywoman Pierce:

You referred to a carbon tax. What was that?

Jim French:

NV Energy is referring to a tax on carbon dioxide emissions by EPA regulations, not by Congressional action. It is being proposed at this moment in time, but it will dramatically impact the Unit No. 1 coal turbine plant at Valmy. It will have a minor impact on the Unit No. 2 at Valmy because of a different system of capturing carbon dioxide. However, in both cases, it is going to make it very difficult to remain competitive in terms of the generation of power based on that regulation. That is according to NV Energy.

Vice Chairwoman Neal:

Does the Committee have any further questions? [There were none.] We really do appreciate your presentation. I would like to invite Ms. Boland from Esmeralda County to the table.

Nancy J. Boland, Chair, Board of Commissioners, Esmeralda County:

Thank you for getting me in here at the last minute. This was an unexpected opportunity. I am the Chair of the Esmeralda County Commission. I will not go through every little bit of what I have down on my piece of paper ([Exhibit D](#)) because I know that your time is valuable.

Esmeralda County was one of the original territorial counties in the state. At one time, it was the entire south of what is now the state of Nevada. There was no Clark County or Nye County. They came out of the original Esmeralda County. We have always been based, primarily, on mining. Mining has been our big economic driver.

We do have issues with water and with land in our county. We have diminishing water levels in most of our basins. Our two major towns are serviced by municipal systems and they have, in the past, had water quality issues that we have had to fix. We just got done with an arsenic treatment plant in Goldfield, and that was \$1.192 million. As you were talking about public works, part of the reason it cost so much was because of that.

We have the highest per capita amount of public land ownership in the state. We are the fifth-smallest of the counties and we are over 98 percent in federal land ownership. Everything that you heard from the Commission from Humboldt County is quite true and applies to any of us who have public land. One problem is, because we hardly have any places for people to live, we are always limited in our population. A little thing we get from the federal government are Payments in Lieu of Taxes (PILT) that has a population component in it. We got a little more than 4 cents per acre for each acre that is federally managed in our county. That really impacts us horribly because, due to the way we are laid out, our communities are spread out, so we have to have

law enforcement in all those areas. We have a lot of people living in remote mining sites around the county. It still costs the same amount per acre for us to do it as for anyone else, but because we are spread out, we still have to cover everything. If we were all glommed into one little place, it would actually be cheaper for us. This goes to everything, including schools, solid wastes, you name it.

We have had some consequences. One of the problems we have with this is we get continual paperwork from the Bureau of Land Management that we are asked to digest and address. We get Environmental Assessments (EA) and Environmental Impact Statements (EIS), and even some of their resource management plans. We have three commissioners and one administrative assistant, so we have little money to pay for expert staff to be able to go through these things. It pretty much falls on our shoulders to do that. We are having enough trouble keeping up with the things the county has to do, such as law enforcement and emergency services. We do not have the money to afford staff to do that. One of my concerns is I do not know if we are doing a service to the rest of the state by not having the time and expertise to devote to these reports and plans. It does worry me because we do have a pretty big part of the state.

Some of the others problems we have are with roads. There is an issue over who owns the Revised Statute (RS) 2477 roads in our county. That is something I have reported to this Committee before and it continues to be a problem, and maybe even a worse problem due to the findings in the Hage case [*Est. of Hage v. U.S.*, __F.3d__, 2012 WL 3043001 (Fed. Cir. 2012)] in Nye County. I do not know if they reported to you or not, but they intend to file an amicus brief on that because, essentially, with the case as it stands, it would mean in certain areas, such as Forest Service roads, they could decide you would not be able to drive on those roads, you would only be able to manually maintain them. Given the attitude of the Bureau of Land Management and the Forest Service, many of us in the rural counties can see them conceivably turning around, at-will, deciding no more, you cannot drive on this road. If you want, get the mules out with a drag. It is going to deny access if it is allowed to stand. We can see that happening.

One of the things we also have a problem with, as referred to before, is wilderness areas. Our county feeling is that we value the lands and we want them preserved, but we really do not like seeing them as wilderness areas, simply because of the access issue. One bad thing that has happened to us is we have become nationally known for drug busts in wilderness areas that are on the California-Esmeralda County border. I am talking tons of illegally grown marijuana. People go up there hiking, they inadvertently find it, and then we

have law enforcement trying to get in there and do something about it. When people are not going through some of these vast areas, there are activities occurring in them that are not really good for the communities, the state, or the nation. We would prefer if access still be open to areas.

We have made a lot of progress since the last time I spoke to this Committee on land planning. We have formed an advisory committee on land planning. After four years of hard work, they have come up with a draft master plan for Esmeralda County, which has a water resource plan and a public lands plan. Hopefully, in the next few months, we will be passing an ordinance to adopt it, which will be good for us.

Our economy, as I said, is mostly mining. We have a very large agriculture component to the Esmeralda economy, which has helped us stay steady through some hard times. We have some tourism, but that is probably a net loss to us, simply because we have to spend a lot of money in emergency services, road services, and whatnot, because the GPS systems do not have the good road maps of Esmeralda County, so we have to find people. They call us and they do not know where they are. We do not have very good cell service in our county either. I think it is actually a net loss because we have hardly any retail in our county. There is in Nye County, but not in Esmeralda County.

Regarding our vision for the future, we have always hoped that our geothermal and solar resources would be developed. We had several geothermal companies interested in the county, but they have abandoned their proposed projects because they were unsuccessful in obtaining the power purchase agreements (PPA) from NV Energy. We have a large mine proposed near Goldfield, Nevada, and that would be precious metals. We already have lithium mining and precious metals mining in Silver Peak, and those have been ongoing for a number of years.

Because of the operating mines we have now and the large solar project outside of Tonopah, there is no housing in Esmeralda County or Tonopah at this point. If new projects are proposed, one of the things the Bureau of Land Management has been incorporating in their Environmental Assessments is the availability for housing for employees. One of my worries is they might hold up some of these large mining projects that are proposed because there will not be housing for them in the area. We really have no way of getting any housing because the areas they determined could be disposed of when we did our last resource management plan are either covered with patented claims right now, or they are unbuildable because they were very lazy about it. They put rectangles around the town, is what they did. For miles around Tonopah, Goldfield, and Silver Peak, it is all patented claims. It is already privately owned and it would

not be available for any housing development or for sale to a private developer from the Federal Government.

Regarding what we do with our money in Esmeralda County, pretty much our funds mirror what happens in the state of Nevada. Most of our operating expenses are paid through Local Government Tax Distribution Account (CTX). That is the majority of our revenues. The rest is property tax. We receive very little in the way of net proceeds. We received under \$100,000 from that last year. Also, the Payments in Lieu of Taxes (PILT) was about \$97,000. That is not a major driver with us, at this particular point. We would hope they would grow if we do get some major mines going.

We have always tried to live within our means. We will defer capital projects, and whatnot, at the expense of being able to perform the services that are necessary. The services in Esmeralda County are absolutely bare. We have always had them quite bare, but in the last few years, to help compensate for increased wage and benefit costs, especially with our public safety and law enforcement, we have had to reduce some of our community services, like our libraries and parks, just to stay even. Fiscally, we are a healthy county. Our general funds remain pretty well static. It has come down some since before we had the financial crisis, but we are still in pretty good shape. We try to keep an amount equal to what it takes to run the county in one year. If absolutely nothing came in, that would give us sufficient time to pay any bills or help to pay wages for people. We have about \$3.5 million, which is approximately what we get in and what goes out every year in our county.

One thing we are really worried about at this time is that we have been receiving correspondence from the American Civil Liberties Union (ACLU). They do not like our old jail or our courthouse. They want to know what we are going to do about it. Well, when you only have that kind of money coming in and going out, I do not know how we would ever come up with the money to build a jail in Esmeralda County. It has us very concerned. We have been trying to at least come up with a plan, but I do not really see how fewer than 1,000 people in a county are going to be able to afford a new jail facility. Even if we built a small one, it would probably be the entire balance of our general fund, \$3.5 million. They are very pricey buildings, so we do not know how that is going to come out yet. We have gotten back to the ACLU and have addressed most of their complaints about our jail. We told them how we remedy these things.

The only one on their list that we really cannot remedy is the separation of males and females by sight and sound. The jail we have is like a Navy brig. There is an upstairs metal portion that the women go to and a downstairs for

the men. There really is no feasible way we could ever do that. Another one they told us we have to fix, in their mind, is that it is not handicapped accessible. If we do get someone with a medical problem or handicap, we actually house them in another facility.

We did get back with them and addressed every one of the problems they had with our jail, except for the male/female issue because there is really not anything we can do about that.

That is where Esmeralda County is. If I can flip my hat right now, I would like to address you with my other job. This year I am very proud to be the President of the Nevada Association of Counties (NACO). I know you already got an invitation, but we are going to have a legislative reception at the Annex at the Governor's Mansion tonight at 5:30 p.m. and I hope you can all come.

Assemblyman Oscarson:

Thank you for your presentation. As you know, Esmeralda County borders on Nye County, so I love going through Goldfield and seeing the things that are going on there. I have a great love and appreciation for your county and the things that are there. You asked a couple of questions and I want to respond to those. You said you had some people interested in geothermal in your county, but could not work out a power purchase agreement with NV Energy. Do you have any idea what the financial impact to your county would have been should those have gone through? In addition to that, have you thought about, if you continue to have problems with your detention facility, working with some of the other counties? I know Nye County just built a new jail. Have you thought about working with them to be able to see if you could work out some kind of agreement with them that would satisfy those needs? Again, thank you. I love Goldfield and what goes on there.

Nancy Boland:

Yes, we have talked to Nye County about perhaps housing prisoners over there. However, it would probably cost us more. We are going to try to string this out as long as we can. If we are forced to do it, I guess we are going to have to, but that would be more expense to Esmeralda County. If we do that, we still do not lose all your jailers. Instead of having a 24-hour-a-day jailer, with probably four people working, we would still have to have a couple on staff because they would not be transporting them back and forth to court. We would not lose all the overhead on it. For them to be able to do it, would cost quite a bit of the day to do so. We have thought about it.

As far as the geothermal, I did do some numbers on that to address abatements and I believe it would have been about \$35 million in total that their project was

supposed to cost. Whatever the numbers trail down from that would give you an idea. It would be a significant loss to the state of Nevada, and to the county, because geothermal is subject to net proceeds. Out of all of the types of renewables, that yields probably the highest return to our state and our counties.

Vice Chairwoman Neal:

I do want to thank you for your presentation. I am always shocked about the barriers that exist.

Assemblyman Munford:

Is there any interest in Goldfield or in Esmeralda County by investors who are interested in opening up new operations in some of the old gold mines or some of the existing mines that you have there? I have heard some rumors there were some curious people who were thinking about investing in some of the mines up there because they discovered the possibility of something pretty valuable in your dirt. Is that correct, or am I wrong?

Nancy Boland:

That is correct. I failed to mention things like that because being from a mining county, you hear this constantly. They have been drilling everywhere in our county for at least five years fairly steadily as long as the precious metal prices are up. I only report to you when I know they actually have a plan of operation in front of the Bureau of Land Management. We have a lot of lithium interest for new projects. I know there have been precious metal finds all around Clayton Valley and in our mountain ranges. You are probably right, but until you actually see it being built, I am a little hesitant to go there. I worked in mining, so I know sometimes they mine the investors rather than the ore body. There is an awful lot of interest, yes.

Vice Chairwoman Neal:

I have two questions. What is your agricultural development, and with fewer than 1,000 people in your county, how many people are actually in the jail?

Nancy Boland:

Most of our agriculture is hay. We can raise a very high grade of hay, and it gets transported largely into California for dairy and racetracks. We do have a unique business. One of our residents actually started a feed pellet business out of hay ranching. These pellets are transported all around the world. It is an international company now. We have some pretty creative people. We can grow a lot of different things in our climate. We get five cuttings of alfalfa, which is enormous compared to a lot of the other counties. Anything that can

grow in Churchill County can grow in our county. People do grow garlic, potatoes, and a variety of different things, but it is primarily hay.

Assemblyman Oscarson talked about driving through Goldfield earlier. It is kind of hard to get between the north and south without doing so. What happens is that we make quite a lot of income from tickets, but I do not know if it is net income after you get done with it all. The people that are in our jail are some of the illustrious visitors to the state of Nevada. I will give you a for instance. When the Burning Man Festival was going on, we had 11 inmates in there. They were all in there because they had been stopped at traffic stops. It turned out that they were transporting some illegal drugs with them when they were going to Burning Man. This is what happens to us. By and large, these are not local people in the jail, which is very rare. We do not really have too many problems as far as our residents being lawbreakers, but we do get a pretty good population from time to time from people going up and down Highway 95.

Assemblyman Ellison:

Ms. Boland, first of all, I want to say congratulations. Being President of NACO is a great honor, a lot of work, and very challenging. I think you will do a good job. Can you tell us, based on the federal grounds that surround your county, what kind of shape you would be in without Payments in Lieu of Taxes (PILT)?

Nancy Boland:

We get less than \$100,000 a year from PILT. It is a spit in the wind; it truly is, out of a \$3.5 million annual turn-around in money. I know there are some bills in the Legislature this session where Nevada might assert itself as far as the public lands in this state. If there were any way to do that, it would be wonderful. Our economy in this state would be significantly better if there were more private ownership in this state. It has been unfortunate that when people have tried to get bills through to get more private ownership in the state, there have also been a lot of other requirements. If you want 20,000 acres, you are supposed to give 4,000 acres for a wilderness area. To me, I do not think that is going to help us because we still need these things for mining. There is a way of preserving land and reclaiming land that has been very successful now in the modern years. I do not see why you have to lock it up and keep everyone out. You want people to enjoy the land, to be out there to recreate, for handicapped people to be able to drive through these beautiful areas that we have in our state. Somehow or another, it would be really wonderful if there was more control by our state, and even our local governments, over what happens on these "public lands."

For our county, we cannot really take any part in our destiny. We are sort of working on a book about that right now, *Sagebrush Rebellion and Beyond*.

It seems even if we try to make an economic plan, something happens. Years ago it was the MX Missile. They just decided we were going to have all these MX Missiles and they were going to put them here, then they were going to put them there, and then they were going to drill all these wells. That was defeated. Lately, there has been Yucca Mountain, where they say first they are going to put the railroad track this way. Then they decide they are going to put the railroad track another way. At one time, we had two major routes that went through Esmeralda County for this rail line. When they were even considering it, they withdrew those areas from any availability of multiple uses, as far as the Bureau of Land Management was concerned. These were like three-mile-wide swatches that went through Silver Peak, another one near Tonopah down through Goldfield that paralleled Highway 95. That never came to pass, but what do you do, as a local government, or even for the state. We are trying to make plans now for the Interstate 11 corridor, which would connect the north to Las Vegas in years to come. That would go through Esmeralda County. What happens if all of a sudden Yucca Mountain is alive and they want to do the railroad track again? What happens to those kinds of plans? Even the state is not going to supplant the federal government. It has made our life really hard. Even transmission lines. We have been trying very, very hard through brownfields and through cooperation with our neighboring counties, to develop our renewables and try to get transmission in and out of that area. What if they decide they want a wilderness area, or the state of Nevada decides they would like to have this to transport renewable energy. I would really like to see that. That is my personal wish.

Assemblyman Oscarson:

Hopefully, I will add some levity to this. I want it known, for the record, that I have never received a ticket in Goldfield, or been in your jail. Secondly, I know I sound like an advertisement for the Esmeralda Chamber of Commerce, but those of you who have never been to the courthouse in Esmeralda County, it is still an active courthouse, there is still a judge who holds hearings there, and, occasionally, if you catch her at the right time, she is barbecuing in the back. It is a great opportunity to see what that community used to be and could be again with some services and some help.

Vice Chairwoman Neal:

Thank you once again for presenting to us. I know I have stories of my Dad getting a ticket in Goldfield and going back to fight it. I really appreciate your presentation.

We are going to move into the hearing for Assembly Bill 41, but I would like to give a reminder to people who will be testifying today and reiterate the rules. Support of a bill is that you approve the bill as written, or you have an

amendment that is approved by the actual sponsor. Opposition is that you do not support the measure as written and you have an amendment that is not approved by the sponsor. Neutral is indifferent to the bill. With that, we will go ahead and open the hearing for A.B. 41.

Assembly Bill 41: Makes various changes to provisions relating to state purchasing. (BDR 27-283)

Jeff Mohlenkamp, Director, Department of Administration:

I would like to take a few minutes to outline why I believe this bill is important, and I hope the Committee will favorably move forward with it. I will then turn it over to Kimberlee Tarter to discuss the major elements of the bill.

In the Department of Administration, and many of you probably know this, but I will do a quick, one-minute summary, we are the overall internal service group for the State of Nevada, with the Purchasing Division, Budget Division, Information Technology, and down the list. We provide services to other state agencies, which is our primary role. We also have the role of setting standards and setting the ultimate requirements, if you will, through the *State Administrative Manual* (SAM). This is governed by the Board of Examiners. We move forward from legislation and set internal controls and guidelines for agencies to follow in procurement, in contracting, and in many other areas of state finance. We provide an internal service role, but also a leadership role in setting the standards.

I believe the bill before you is important to move forward for a few reasons. I would like to take just a couple of minutes to outline the major reasons that I believe this bill is important.

First of all, Governor Sandoval came into our office and he immediately charged state agencies with trying to reduce red tape and reduce the burden on the business community. One of the things that we have been trying to do, is do that outside the statutory process, where possible. There has been a lot of effort going on around the state to, in fact, reduce those regulations, reduce unnecessary commissions, and things of that nature. Something that we need to do in order to carry out that effort is to make some statutory changes. This helps us move in that direction. We believe this bill will improve the responsiveness to the business community. One of the things I hear often as the Clerk of the Board of Examiners is that the time it takes to get through the contracting process, the time it takes to get a business idea formulated, and the money out on the streets, is sometimes very significant. Some of our processes are little more burdensome than they ought to be. When we compare ourselves

to other groups, certainly we have a much lower threshold on these things. Ms. Tarter will get into that in more detail.

Secondly, I think we can also help businesses by speeding up their ability to deliver the services to the state of Nevada. The Governor had all of his cabinet members go out to different businesses a little while back. I happened to go to a local automobile dealership. One of the things that they complained about, and it was a legitimate concern, is the time it takes to try to get through the purchasing of automobiles. That is just one business example of where businesses are constantly coming forward and asking why it takes so long to get business done with this state. Some of the things we are advocating for here today will help speed up those processes and allow us to be a little bit more nimble.

The last item I want to talk about is the ability to operate more like a business. Because we have a lot of processes in the state, we are often accused, and rightly so, of being very slow on our feet, to be able to react, move, and change to new business developments. We are trying to do that. We are trying to be more nimble. We think some of the things we are trying to do here will allow us to do that. It will allow us to be much more responsive to the business community and to those opportunities that arise.

I know this is fairly broad. Ms. Tarter will get into the details. I hope you will support this and understand that it does move us forward to be able to accomplish these things.

Kimberlee Tarter, Deputy Administrator, Division of Purchasing, Department of Administration:

I will go through the sections of the bill, starting with section 1 ([Exhibit E](#)). What we are trying to accomplish in section 1 is the relocation of *Nevada Revised Statutes* (NRS) 284.1729, which governs contracting with current and former state employees. It was codified in NRS Chapter 284, which is the Personnel Act. We are proposing to move that over to NRS Chapter 333, the Purchasing Act, as this relates directly to contracting.

In addition to that relocation, there is a two-step process for getting contracts with current or former state employees approved. The first process revolves around the Board of Examiners looking at the relationship of that current or former state employee and approving the relationship. If they approve the relationship, then the contract can be considered at the next Board of Examiners meeting for approval of the contract itself. We want to maintain the intent of that statute with a two-step process, but to put it on one Board of Examiners meeting. The Board of Examiners agenda is set up so an item can be heard at

the beginning of the meeting, approved or not approved. If it is not approved, the contract could then be withdrawn out of the contracts portion of the agenda. If it is approved, then the contract would go forward in the contracts portion of the agenda.

The reason it is important to try to make this two-step process be seen at one meeting is approximately 60 days. A contract has to be submitted to the Board of Examiners 30 days prior to the meeting date. The relationship would also need to be submitted 30 days prior to the meeting date. The relationship would then be approved and then it would have to make the next Board of Examiners meeting date, another 30 days later, for the contract itself to be ratified. You are looking at a minimum of 60 days to get a contract approved. What we are proposing to do is put those two approvals in one meeting so it would basically halve that time. That would be section 1 of the bill before you today.

Going into section 2, what we are looking to do is increase the authority when a state agency may contract directly for services. Currently, when a proposed contract's estimated amount is \$100,000, or larger, the agency has to contact the Purchasing Division and request that the Purchasing Division facilitate a request for proposal (RFP) on their behalf. What we are looking at doing is raising that limit to \$250,000. This would then allow agencies to facilitate RFPs internally up to the \$250,000. When you achieve \$250,000 as your estimated contract amount, the Purchasing Division would then facilitate on the agency's behalf.

The Purchasing Division has a Certified Contract Manager Training Program that was implemented in 2003. That training program has trained 959 state employees in the state's procurement and contracting process. Every state agency has to have one of these certified individuals in their office. This individual is a "gatekeeper." They ensure that all the contracts being submitted to the Budget Division have been in accordance with all of the state's policies, regulations, and statutes, and then they allow it to be entered into the state's contracting entry and tracking system.

What we are looking at doing is creating an opportunity where our staff can focus more on the larger procurements. We can then take these complex procurements and have more time to be able to do a better job on those procurements and take advantage of the broad experience that our staff has. Frequently, what will happen is an agency seeks delegation of that authority back to the agency because they feel there are times, due to our workload, that we cannot get to their project soon enough. As an example, some of the projects that come to our office at the \$100,000 threshold are simply there

based on the square footage of a building. Any time they do a janitorial contract, the agency would be facilitating that RFP. But because it is going to be a larger building, simply based on the fact of the square footage of that building, you now have a contract that rises over the \$100,000 mark. It is no more complex than it was when it was \$50,000. The agency feels very confident in being able to handle that. They have the staffing, they are trained, and they would like to move forward with it in a more timely manner, so they will request delegation. That is part of the reason why we are looking at raising that threshold; allowing those agencies to be able to move forward in a little more timely fashion. It also allows our staff, which has expertise in higher-level procurements, to be able to focus on those that are more complex and a little more political.

As I go through each section, please, if you have any questions, feel free to ask those questions of me. I am more than happy to address them.

With respect to section 3, what we are asking is to raise the threshold for when the Purchasing Division does a formal bid from \$25,000 up to \$50,000. With respect to this section, raising that threshold for the Purchasing Division is being done in a mirror of what the local governments have done. The cities and counties, in the 2009 Legislative Session, had their bid threshold level raised from \$25,000 to \$50,000. That was initiated at the local government level. The Purchasing Division was not involved in that bill, so we are before you today asking to raise our threshold to mirror what the local governments have done. It is something that we think has value. It would allow the Division to have a little bit more flexibility in supporting local Nevada businesses, to the extent practicable. It gives us another range where we can solicit three quotes to locally source supplies, equipment, and goods. It does not waive the procurement requirements, by any means. All it is doing is allowing us to do three quotes, which is done by the Purchasing Division, which is within our purview, up to \$50,000. At \$50,000, we would go through the formal bidding process, where an Invitation to Bid is issued, a database is queried, and the documents posted. It lets us have a little more flexibility in working with local businesses.

In section 4 of the bill, what we are looking at is raising the limit that the Purchasing Division Administrator may set from \$5,000 to \$10,000. This is for direct purchase authorization that we can provide to state agencies. There are very specific requirements in statute as to how we provide this and when we can provide this. Currently, that limit is set at \$5,000. It has been lower in policy, so while it was \$5,000 in statute, which is where it is today, by policy it has been limited, at times, to as low as \$750. It was then raised to \$1,000, and then to \$5,000.

What we would propose to do with this increased limit is work in supporting agencies to accomplish their unique missions by having the latitude to increase it on a case-by-case basis, subject to internal review, and it would allow to authorize one-time increases, or annual direct purchase increases, based on justifiable circumstances. To give you an example of why this is important, Department of Employment, Training, and Rehabilitation is one of our agencies that works with clients. These clients frequently require prosthetic limbs. The prosthetic limbs tend to be over the \$5,000 threshold. That is not something that we can reasonably go out and obtain three quotes through our informal solicitation process because they are prescriptive by nature. If we had a higher direct purchase authority limit, when those situations arose, we would have the ability to go in and authorize a one-time purchase of \$8,000, \$7,000, whatever it would require, in order accomplish providing that prosthetic limb to that individual without the delays that frequently come with our current process.

With section 5 of the bill, we are looking to remove the Board of Examiners contract approval thresholds from statute and allow the Board of Examiners to establish those thresholds by adoption of rule. The Board of Examiners comprises the Governor, the Attorney General, and the Secretary of State. Currently, an agency director only has authority to approve a contract up to \$1,999. From there, contracts that are \$2,000 up to \$9,999 may be approved by the Clerk of the Board of Examiners, as delegated in statute. That Clerk of the Board of Examiners is Jeff Mohlenkamp, who is sitting beside me today, the Director of the Department of Administration. His authority to approve a contract is \$2,000 to \$9,999. From there, all contracts that are \$10,000 and up must be approved by the Board of Examiners. There is a provision for emergency contracts and that limit is \$25,000.

To give you an idea of what this means to state agencies and to businesses that are proposing to contract with the state, is the approval process for a contract that is \$10,000 or more is done in a public meeting. It is held once a month at the capitol building. Of course, being a public meeting, there are the noticing provisions that are required, posting provisions for the agenda, and the contracts that are going to be heard. When you get into the \$2,000 to \$9,999 range, those are reviewed and approved within the Budget Office and agency directors, as I said, can approve at \$2,000. When you have contracts that are going to the Board of Examiners meeting, you have a deadline that has to be met. This deadline to get your contract submitted is 30 days before the contract is going to be approved. That contract has to go through the procurement process, it then has to go through negotiations, it has to go through signatures, and it has to go through the internal agency controls. Once you get the contractor's signature, you have to send it over to the

Office of the Attorney General. The Attorney General's Office has to approve, review, and sign off on that contract. Then it has to go through internal department controls. If you are an agency such as the Department of Health and Human Services, and you are one of their divisions, it has to be submitted to the division for review, the division then signs off on it, and then it goes to the department, and it has to be reviewed at the department level, and then the department signs off on it. Once that happens, then your contract is submitted to the Budget Office, 30 days prior to the meeting it is going to be heard at. Imagine if you had a complex contract, say a \$10 million informational technology (IT) contract, you are going through an RFP process that can be approximately six months, including negotiations. It can go longer because typically when you are dealing with IBM or Oracle, you have significant negotiations that have to take place. You can go six to ten months for just the procurement process. Once you finally get that done and you get your contract together, you still have another 30 days just to get your contract approved.

The reason this can be challenging for a state agency is because, whether it is a \$10 million contract or a \$10,000 contract, the approval process for that contract is still the same. On a \$10,000 contract, you still have to put your contract together. A simple procurement for \$10,000 may take you two weeks. You have your three quotes, you know the contractor you are going to award it to, you put your contract together, your contractor signs it, the Attorney General signs it, and now you go through the process of getting it prepared and ready to go to the Board of Examiners. Again, it is still the scrutiny for \$10,000 as was applied to that contract of \$10 million. It still takes the same amount of time.

The other side to this, in wanting to increase these thresholds, is that a department director is an individual overseeing a multi-billion dollar agency and this individual can only sign a contract up to \$1,999. You have technicians within agencies, administrative assistants, who can currently sign purchase orders up to \$5,000. You have someone at a grade 27 who can authorize \$5,000 and you have a director over a multi-billion dollar agency who cannot sign a contract over \$1,999. I think there is some disparity there. These are some of the things we would like to put before the Board of Examiners to have them consider.

Again, all of that long, extended lead time is assuming everything goes right, there are no errors, and that you do not miss your Board of Examiners deadline, which takes you out another month on getting your contract considered. These are challenges because when we have these significant delays, what we do not want to happen, which can and does happen on occasion, are contractors providing services outside the scope of a contract, which provides

extensive liability concerns to the State of Nevada. Getting contracts approved in a more timely fashion would allow us to prevent this from happening in certain instances. By statute, a contractor is not to start work until they have a contract that is approved. This change is not affecting the procurement process. The intent is not to reduce any approval processes at the agency level. It is not to create less oversight or control. It is simply to allow the Board of Examiners the ability to determine the thresholds for when they want to approve contracts and when they want to delegate authority to the Clerk of the Board of Examiners or to a director of an agency.

To give you a comparison with these contract approval levels, in the City of Las Vegas, the Purchasing and Contracts Manager is authorized to approve contracts up to \$500,000 for services, internally. The City of Sparks, without going to the council, can approve contracts for \$25,000. The City of Reno can approve contracts for \$50,000 without going to the council. Yet we have directors that cannot approve contracts for more than \$1,999. The Clark County School District requires the board approval at \$100,000. For less than \$100,000, the Clark County School District can approve contracts. In Nevada System of Higher Education (NSHE), the Chancellor has delegated to the presidents of NSHE the ability to approve contracts up to \$1 million, provided they have a term of five years or less. At the local level and at the higher education level, you can see there are considerably higher approval thresholds for contracts in place, currently.

Section 6 of the bill is very straightforward. Under NRS Chapter 333, the State Purchasing Act, if a state employee enters into a contract for, as it reads currently, materials, supplies, equipment, goods, a commodity contract, and they do so contrary to the provisions of this statute, that contract is void and they can be held personally liable, as well as the head of the agency. All we are proposing to do is add the word "service" into this so if you enter into a service contract or a commodity contract, contrary to the provisions of this statute, that the contract is void and that you could be held personally liable, as well as your agency head.

Sections 7, 8 and 9 relate to the repealing of NRS 284.1729.

Assemblyman Elliot Anderson:

I am focused on section 1. I think, generally, the idea of placing the authority that you are putting there, taking it from NRS Chapter 284, is generally a good idea, just to keep all the same statutes in the same place. I like clean chapters. But what I am not clear about is when you talk about section 1 basically staying the same, except for a timing requirement. From looking at the plain text, it is not explicitly clear about timing, even the statute that you are proposing to

repeal. What I was hoping to get from you is to flesh out how exactly that statute is proposed to be changing from NRS Chapter 284 into NRS Chapter 333, so we can dial in to exactly what is changing and how that changes the process.

Kimberlee Tarter:

You are correct that the time frames that I mentioned are not listed in statute. Those time frames are the time frames created in state policy for submitting contracts or agenda items for approval to the Board of Examiners monthly meeting. What you do have, as the statute is currently written in NRS 284.1729, is that it is explicit in requiring two meetings for the approval. It explicitly requires a meeting for the relationship, and then there will be a meeting for the contract to be approved. Each of those meetings, by policy, has that 30-day lead time to be considered. When we move it into NRS Chapter 333, all we are asking, again, is there is no lead time or time frames in the proposed changes because those are in policy, we are just asking for the ability to have it considered at one meeting, but heard as two separate items.

Assemblyman Elliot Anderson:

What I am asking is can you point me to the text in proposed repealed statute that creates that requirement? Do you have the bill in front of you?

Kimberlee Tarter:

I do not have the bill in front of me. I do not have the original text under the previous one in front of me.

Jeff Mohlenkamp:

When I took over as Clerk of the Board of Examiners, this bill had just come into place. The intent was clearly to provide some strict limitations in the approval process on hiring and retaining current and former employees to bring them back in a contract setting. We reached out to the Attorney General's Office because we thought the language was challenging and difficult with regard to that timetable. We did get some guidance from the Attorney General's Office. In fact, they believed we really did not need two meetings; one to approve the relationship or association, and a second to actually approve the contract. We did seek some legal guidance with regard to that. This is one of the things that the Board of Examiners was pretty clear in their direction to me, that they found that to be very cumbersome. It has come up at more than one Board of Examiners meeting. They have actually asked me to come forward to rectify the situation. This is our attempt to do that; to make it clear that you can come forward and approve the association and then subsequently the contract, but at the same meeting. I do have to go forward and say that

I believe the bill has accomplished its intention. We have only seen, I think, fewer than 15 associations that have come through during my tenure here over the last 18 or 19 months. It has reduced the number of people that have come forward in a current or former employee basis. I believe the bill's intent is really carrying forward. The Board is very careful about looking at those associations, so I think it is working.

Assemblyman Elliot Anderson:

Again, I am just trying to find out what the actual text is, not what the intent is. I do not think the plain text is clear. I will give up my question for now, but I would really like to know exactly what we are changing and what in the plain text would give that authority.

Kimberlee Tarter:

I would actually be very happy to provide you a copy of the text from the original statute and then the section in this bill. As we address section 1, subsection 3, paragraph (a), which speaks to the approval to contract with a person, "May occur at the same time and in the same manner as the approval by the State Board of Examiners of a proposed contract pursuant to subsection 7 of NRS 333.700." The legalese could probably be clearer.

Assemblyman Daly:

I have a similar question as my colleague from the south. Section 1 seems to be bringing in most of the language, but there are some changes and I think that is what we are trying to get our heads around. What are the changes, why are they needed, and, from what I see in the changes, does not match with what you are saying? I am sure there is something I am not seeing.

I do have several questions on raising the threshold from \$100,000 to \$250,000 and some of the other thresholds. I could maybe talk to you later regarding why you need that. I am always questioning that. A lot of these procedures you are concerned about were put in place for oversight or for transparency. There was a need. They did not get into statute by accident. Why is that need not there anymore. It is public dollars and we want to make sure we are using it properly.

In the area where you are adding the word "in services." I have a lot of concern with that because it is too broad. I have seen, too many times, purchasing agents under NRS Chapter 332, if it was a similar section to NRS Chapter 333, wanting to try to procure and purchase construction services under purchasing rather than going through NRS Chapter 338. Without some restriction or definition there, I am not sold. Those are my comments. I have some views on this, and I am not entirely sure that this is something I can support.

Assemblywoman Bustamante Adams:

I appreciate your bringing the bill. I have two questions. First, if you could explain to me the thought process to put this type of recommendation forth? I know that it was not just one person thinking of what recommendations they could make. Could you explain to me what process you went through? I know Mr. Mohlenkamp mentioned going out into the business community, but was there any hard data that I could look at, or what you did to actually come up with the recommendations?

Jeff Mohlenkamp:

We have been looking at this for some time. I have a long career with the State of Nevada. I have been with the Nevada Department of Corrections and the Division of Mental Health and Developmental Services. I have been involved in contracting and procurement for quite a while. One of the things that we have seen and heard, not only from the business community, but also internally over the years, is the concern over the burdensome process; the red tape, the time delays that Ms. Tarter went through, and then ultimately trying to get through this process. A great example is when we want to bring in a contract dentist or a contract psychiatrist. Often, there are delays in these processes trying to get some of these things done. We do have some mechanisms that we have worked out over the years to be able to improve and be more nimble, but quite honestly, those have been fixes outside of the normal process. What we are trying to do is correct the process so that the process allows us to be more nimble as a state. For someone like Mike Willden at the Department of Health and Human Services to not be able to approve contracts up to \$25,000, is really awkward, quite honestly. He needs to deliver services for the community, and we need to be able to provide some authority for him to do that. I am here asking you to extend some authority outside of my office, because I manage the Budget Division. I am usually the one who has to maintain these controls and this structure. I am advocating for this because I believe our state agencies need to be more responsive. I believe they need to have the same type of ability that we have in the cities and the counties. We are not asking for anything unusual. We are asking for the ability to give those leaders of these state agencies more authority. Hopefully, that will resonate with you and will resonate with your constituents. When we are taking this time and process, that is unnecessary, then hopefully we can correct that and allow and extend out some authority. It does not get rid of the process that we have in place, as Ms. Tarter mentioned. We still have checks and balances. What it does is extend it out a level.

Assemblywoman Bustamante Adams:

I know that my constituents, the ones that are the small business owners, have communicated that they would like to see the threshold for the state move,

simply because there is a system in place to actually teach them how to do business with the state and, through the pilot program, has been successful at the local government level. I know that I am fearful about the accountability; that it is going to Nevada-based businesses and not to the out-of-state businesses. I would hate to see something go forth where we increase the threshold and we are not giving Nevada businesses the opportunity to actually become providers for Nevada. Can you comment on what kind of accountability and how many of the contracts are going to out-of-state companies? My other question is what would you then be doing to ensure that this money goes to Nevada-based companies?

Kimberlee Tarter:

One of the assurances that we can provide by increasing that bid threshold from \$25,000 to \$50,000 is that those are procurements that are only done by the State Purchasing Division. Those are not procurements that are done by other agencies. We have the ability to ensure that controls that are put in place are, in fact, adhered to. We do have the ability to, when practicable, use that discretion to solicit local Nevada businesses. We do have the ability to provide education and support to Nevada businesses on how to work with the state of Nevada. We have greater controls in place with that than I think you would possibly see at the local level because everything is, with respect to solicitation of commodities, centralized within the state procurement office. With this bill, as I mentioned earlier, we are not looking at changing any processes. What is actually being requested is just the authority to allow agencies to get their contracts approved at a higher level. If they have to do a procurement under the statute as it currently stands, they would still have to do the same procurement under that statute as it stands. The only thing we are asking is that the contract approval process to be allowed for the Board of Examiners, the Governor, the Attorney General, and the Secretary of State, to determine when they want to see contracts, at what level, and when they are going to allow the Clerk of the Board of Examiners to approve contracts and at what level, and if they are going to allow a director to approve contracts and at what level. The procurement process within these different thresholds is not affected by these changes. The only procurement process that would be affected is the one we just spoke of, which is the bidding of commodities, by raising that from \$25,000 to \$50,000. That procurement process remains within the State Purchasing Division.

It might help to explain that we do have a quasi-decentralized procurement process within the State of Nevada. Commodities, typically, are solicited at \$5,000 and above only through the State Procurement Office. We control those solicitations. However, services are solicited by agencies, currently up to \$100,000 directly. That is why we have the training in place; to train those

individuals within those agencies on how to follow the request for proposal (RFP) process.

Under section 2, we would just be raising the authority for agencies to continue to facilitate their own RFPs, which they are currently doing, it would just be raising their ability to do an RFP from \$100,000 to \$250,000. By statute, we have the authority to delegate any of those RFPs back on an individual basis, and we do, sometimes, when requested by the agencies, allow them the authority to delegate their own RFPs over and above that \$100,000. Again, that example for an RFP for janitorial services, is one of the times we would delegate that back to an agency. On the commodities side of the house, that is different and we have the ability to control that more closely because all of those procurements are issued through our office. They are not done at the agency level.

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

I am the administrator of the State Purchasing Division and I can address a couple of the questions. In addition to my cohorts here, one of the questions from Assemblywoman Bustamante Adams was regarding how many contracts actually reside in the state. We did a query about two or three months ago in relation to an inquiry from the press on what we call the "set system," which catalogs all state contracts. This is not an exact science, but at that time, just shy of 70 percent of all the state's contracts indicated a Nevada address. We were pretty pleased to see that, actually. A substantial portion, I think we could agree based on that number in the database, indicated Nevada addresses.

Assemblyman Daly asked a question, if I might address it, about where some of these levels came in, what the thought processes were? In 1997, the \$100,000 threshold for RFPs that are done at our office was set. That bill actually hired a few people and hired me, as a matter of fact. It has not been changed since 1997. Ms. Tarter came on board shortly after that. We both asked the administrator at that time where they came up with \$100,000. Because it was something new, he basically said there was not a whole lot of thought given to it. It just sounded like a reasonable number and could be adjusted up or down as we gained experience. We now have that 15-some-years worth of experience, just under 1,000 people trained out there to do some of these things. We felt, compared to what we see in other states, our experience of the last 15 years, and our expertise in our office is better left to the higher, more complex procurements, and let some of the people we trained handle the lower procurements. That was the thought process that went into that.

Assemblywoman Bustamante Adams:

Mr. Smith or Ms. Tarter, you mentioned that you do education for businesses to be able to procure with the state. Can you tell me if that is a dollar amount? How do you do your education? Is there an outreach program to educate them in how to do business with the state? How does that work?

Kimberlee Tarter:

What we have done in the past is work with a procurement outreach program. When they do presentations, we send staff to those presentations to answer questions on doing business with the state of Nevada. We also educated the staff of the procurement outreach program, and they will provide information on our behalf, as well.

Greg Smith:

If I might add to that? Over the last year, I have spent considerable time with Ashok Mirchandani of the Department of Business and Industry in developing an outreach program modeled, to a great extent, after the one in Clark County. As a matter of fact, Tom Acres and some of the same folks who were doing that at the city and county level down south, are involved in our program. We rolled it out a little bit at the Governor's Conference on Small Business in November in Las Vegas. It seems to be about a 13-week class, some of which will be procurement, some of which will be taught by other folks on how to manage your books, how to pay your taxes, how to do a lot of these things. There is a section in there on procurement. In addition, our office has always placed an awful lot of emphasis on getting to as many of these vendor fairs throughout the state as we can. Some of the minority-women-owned business vendor fairs that are down south, we always attend. We have a little booth there, talk with the folks, hand them the papers, and make sure they know who we are. They always call us to ask questions. We are more than happy to guide people through the process. Our office has put a big priority on that.

Assemblywoman Benitez-Thompson:

My question is on section 1, subsection 9, dealing with the exclusion of the Nevada System of Higher Education, Medicaid, and the Public Employees' Benefits Program. I am wondering if you would walk through this and be a little bit more specific regarding the different ways they are excluded and the requirements that they become excluded from?

Kimberlee Tarter:

That is original text from the bill and that is as it was drafted by Assemblywoman Smith. We really do not have any information to be able to provide on that exclusion.

Chairwoman Benitez-Thompson:

Thank you. My copy stopped at page 10. I appreciate that.

Vice Chairwoman Neal:

I have one question and then a concern. My question is concerning section 2, subsection 1, the threshold change from the \$100,000 to \$250,000. What I need you to help me understand, because I am not sure, is when the Labor Commission did their NRS Chapter 338 presentation, contracts up to \$100,000 were exempt. Clearly, we have taken out exemptions and then it also had the language for emergency contracts. Speak to me about the positive or negative effect of that and whether or not you are going to go back and try to make those match. Obviously, they currently do not match, and it was not listed in the bill. Answer that, and then I will get to my concern.

Kimberlee Tarter:

Under NRS Chapter 338 and the \$100,000 exclusion for public works projects, that pertains to prevailing wage and is related to construction projects only. The contracts that are facilitated under NRS Chapter 333 are contracts more along the lines of consulting contracting. The Medicaid Managed Information System would go through this process. There are no prevailing wage requirements on it. With respect to this area, we do not tend to look to NRS Chapter 338 and mirror that because they are two very discrete processes when you are procuring construction services versus when you are procuring traditional services, I guess we could say, the consulting and the managed information system services.

Vice Chairwoman Neal:

I was not sure if it was implicated or not. It was just something I was curious about when it came up. My concern is related to the reduced time for approval. I understand that the process can become convoluted, but when you have the threshold in section 4, where you have the \$5,000 to now \$10,000, my understanding is this could be a director who has a credit card. The language says it would be an individual order not a quantity order. My first concern is that it is broad. My second concern is how does that director go about the business of deciding what local vendor they are going to use and what is the process of letting businesses know that this opportunity exists?

Kimberlee Tarter:

Again, this process is currently in place at the \$5,000-level that we are looking to increase to \$10,000. What we are looking at doing is not raising that \$5,000 in policy at this time, but to have the flexibility when an individual need takes place. If we get a request from an agency that says we need to procure dentures for one of our clients, and the cost for getting these dentures is more

than \$5,000, then we can look at that individual order and authorize them to make that one-time purchase at a limit higher than what is currently available at \$5,000. The internal controls are still in place. They are required to go out and solicit three quotes, and we encourage that they go to local Nevada businesses. They make their selection from those three quotes. When they are audited through the internal audits process, they would then look and ensure that they are complying with the state's policy. If they are not complying, they get audit exceptions and there are other consequences. The front end is that they comply with policy. We can do a one-time authorization for them in unique circumstances and then everything on the backside is audited to ensure compliance.

Chairwoman Benitez-Thompson:

My question is regarding the limits that are adjusted. You mentioned your goal is to get your staff to more substantive contracts and away from things like janitorial. Could you let us know what percentage of workload reduction you would expect with the change in these limits? The inverse of that is true. If this were in place last year, what is the number of contracts that would have been out of your purview with this limit? I think it would at least help me to quantify what this dollar threshold equates to in the number of purchases.

Kimberlee Tarter:

Because these are numbers we do track through our performance indicators and our management reports, the number of contracts between \$100,000 and \$250,000 that were facilitated by our office last year represented approximately 25 percent of the workload of the seven procurement officers that we have. By reducing that 25 percent, it would actually allow our staff to work more accurately on projects. We have other staff who are working on items. We have distributed that workload over many different staff members. It allows staff to actually perform within their areas of the expertise. That is what is challenging. We have agencies that will request us to assist them with an RFP. What we have to tell them is they need to give us at least two- to six-months' lead time in requesting projects. If an agency comes to the State Purchasing Division and says they need their contract done by July 1, what we have to tell them is they need to contact us in October, November, or December of the year prior to it because it is going to take us that long with the workload that we currently have to get those contracts through the solicitation process. There is development. It is developing the scope of work. It is the back and forth of getting the evaluation committee members, getting the evaluation criteria, getting that document out on the street. There are many things that go into that process, which is why it takes a little bit longer. When you have the workload that we currently have, we need more lead. That is what we would like to be able to say and to be able to accomplish with our agencies; when you

have a request, we are not going to necessarily need six months in advance to get your contract to the July meeting of the Board of Examiners. Instead of saying, if you want your contract approved for a July start date, you need to contact us in November of the year before. We would like to have more flexibility.

Greg Smith:

Because I see a lot of new faces here, I will be very quick with this. I would just like to tell you a little bit about the State Purchasing Division. I spent a year as the President of the National Association of Procurement Officials and many years as the Chairman of the Western States Contracting Alliance. Ms. Tarter has just completed a designation in our procurement profession that would be tantamount to a Certified Public Accountant in the accounting field. I would be willing to bet you that we have probably the lowest turnover rate of any state agency in this state, which means I have long-term, good, solid, quality procurement professionals. I relay that to you because in some of my meetings with other states of similar size, they find themselves somewhat amused at our levels and our process. I guess what I am suggesting to you is that what we are requesting is really not letting the horse out of the barn, so to speak, but allowing for a more flexible process that allows procurement professionals to do what they do best. There are spend management techniques out there, there are strategic sourcing techniques out there, that we really have not had an opportunity to explore much with our staff because they are pushing paper, they are rowing the boat. Again, I compliment Ms. Tarter immensely. She was the one who developed the three-day contracting class that has trained just shy of 1,000 state employees who have to be recertified. No, they are not experts compared to us, but we are way ahead of where the state was several years ago when we did not have these certified people. Again, I would urge you to look at it in that regard, if you would.

Assemblyman Daly:

I am not as familiar with NRS Chapter 333 as I am with other statutes. Is there a safeguard to make sure that people cannot subdivide contracts to get below the thresholds? You also take NRS Chapter 284 out of the oversight from the Interim Finance Committee, but you do not put this provision, NRS Chapter 333, back in for that oversight. I am curious about that. I hear what you are saying. I want government to be efficient, the same as everyone else. We do not want people to waste time pushing papers, but what I see in this bill is raising the thresholds. I do not see innovations on process. That is not the way I read it. To me, that is what I did not get out of it. If that is what we are really trying to do, it was not communicated well in this bill. I still have my questions and issues. I did not see innovation; I saw raising of thresholds and less oversight.

Jeff Mohlenkamp:

I thank you for that comment. Some things that show up in a bill or a statute are difficult to translate in that regard. We absolutely are looking for the freedom for the State Purchasing Division to be able to really focus more diligently on the matters of great importance. By reducing the workload on some of these things and allowing agencies to do them, the Purchasing Division will be able to focus much more directly on these meaningful, large-scale contracts and to speed up the time. I cannot tell you how difficult it is when you have to have six- to eight-months' lead time trying to get a business model, or getting something else done. As an agency, that is not responsive and it is very challenging.

Vice Chairwoman Neal:

Thank you for presenting. We are now going to move to support of Assembly Bill 41. [There was no one.] We will move to opposition of the bill.

Keith Uriarte, representing American Federation of State, County and Municipal Employees (AFSCME) Local 4041:

This is one of those bills that when I first read it, it raised a yellow flag. After reading the submitted explanations about the bill and hearing the testimony today, it raised a red flag. The devil is in the details, or in the lack of details. The changes with this bill and the effects of those changes, I would describe as government for sale. My focus is on section 2, the raising of the thresholds, and that will be the focus of my comments.

In the example of custodial services that was given in the submitted testimony regarding section 2, I would like to call your attention, because you have heard comments from Mr. Mohlenkamp, to the types of services that fall under this, such as dentists or physicians. There are also other positions, such as therapists. I would like to call your attention to something that was before the Interim Finance Committee (IFC) over the last several months. The IFC actually put together a subcommittee that has to do with early intervention services. Nevada Early Intervention Services (NEIS) was questioned about the contracting of its services and then went through a process that allegedly changed that process, where work would be performed by state workers. This section would allow for NEIS to move forward with its new plan. Their new plan used to be called a service coordination model. There were a lot of objections and questions from the IFC and the subcommittee about this. In essence, what the Department of Health and Human Services did was change the name of the service coordination model to single service model. This fits into that category. That is an example of the devil in the lack of details of what this bill does. The amount of services that are being contracted in this state by the state, for a state of this size, is dramatically increasing and has dramatically increased.

You have also seen, as a result of a 2 percent increase that will be taking place in July, that one of the major factors is the result of fewer state employees. You have vacancy rates that exist. Again, to think you are going to save a dollar and then have to spend two dollars because of the results of these contracts, makes no fiscal sense.

Vice Chairwoman Neal:

Thank you. Does the Committee have any questions? [There were none.] We will move on to further opposition.

Jack Mallory, representing International Union of Painters and Allied Trades, District Council 15, and Southern Nevada Building & Construction Trades Council:

As you have heard from other questioning and you are likely to hear from other testimony, we are deeply concerned about the threshold issue, amongst other issues. Particularly, when you talk about section 2, subsection 2 and how it refers to a "using agency" and how they can contract for services if the estimated value of the service is less than \$250,000. This is a substantial increase in the amount of subcontracting work that can be done with some of the exemptions in this section. We have a lot of experience with problems, particularly in southern Nevada, with certain local government agencies and the way they determine whether a project would be deemed to be a maintenance project or deemed to be a construction project under the provisions of NRS Chapters 332 and 338.

For example, the City of North Las Vegas was attempting to contract a "maintenance contract" for a complete repaint of a water tank that existed and was owned by the City of North Las Vegas. When they issued the RFP, there was obviously no public works project number (PWP) associated with it. We went to the city attorney and protested with them. They said, no, no, no, absolutely not. This was a maintenance contract and we had to go to the Labor Commissioner's office and get them involved to deal with this issue.

The same issue was revisited with the Las Vegas Valley Water District. They did the same thing. It was a \$400,000 contract to sandblast and recoat a water tank. A \$400,000 contract. Granted, they went through the competitive bid process, as required by statute, but the fact that they deemed it a project under NRS Chapter 332 as a maintenance project compared to a prevailing wage project covered by NRS Chapter 338, is something that concerns us.

Regarding the other threshold issues in section 3, I am not going to speak in detail about those. In section 4, I will not reiterate the comments made by

you, Madam Vice Chairwoman, regarding the individual orders and not bulk orders issue.

The next real big issue we have with this bill is in section 5, subsection 6. This is related to entering into an agreement with an independent contractor and the requirement to have a written and executed agreement before you can implement that contract. The current standard is \$2,000. What they are proposing to do is to arbitrarily allow the Board of Examiners to set a threshold amount in an unknown number at this point in time, where they can enter into an agreement with an independent contractor that does have the requirement that it be in writing and be fully executed. In the interest of transparency, I think that is bad policy.

The second part of that, in section 5, subsection 7, paragraph (a), it appears this also removes the requirement that the Board of Examiners authorize the execution of an independent contract by an amount prescribed by the Board of Examiners. Again, another unknown, arbitrary number. There may be a need to be flexible with different kinds of contracts, but these things are of particular concern to us.

Finally, in closing, section 7, as it is related to section 8, is of concern to us. It really deals with separation of powers. It is our opinion, and not necessarily something that is related to this, that there is an imbalance in the separation of powers within the state and that the Executive Branch has a tremendous amount of power, greater than the Legislative Branch. That is just my personal opinion. If you look at what is contained in section 7, by deleting NRS 284.1729, what it does is it limits the amount of authority that the IFC has to take action on a provision. When they proposed this deletion and included the section in NRS Chapter 333, they did not also include that section in subsection 2, as covered by NRS 218E.405. That is something that I think is of concern to us organizationally and should be of concern to the public and, in my opinion, of concern to the Legislature.

Paul McKenzie, representing Building & Construction Trades of Northern Nevada:

We are also in opposition of this bill. Mr. Mallory, in his thoroughness, has covered most of the high points of our opposition. A couple of points I would like to add along those lines is it is my experience that purchasing agents are nothing if not creative. Through that experience, I have seen purchasing agents turn major construction contracts into what they call "services," and they issue those contracts under the provisions of purchasing rather than public works, as they should have been.

The problem that I have with that issue is, short of a court in this state intervening, that purchasing agent can make that determination. Once they present it to the public body that it is going to save money or time, the public body buys into the process, then that project is started. By the time you get through the court to try and block the project, the project is completed and there is no recourse. You go to the Supreme Court and they say they cannot hear the case because the project is already completed. Now they are looking to expand a service contract that an administrator of a state body can give to his brother-in-law without bidding. Now this job is a \$250,000 job instead of a \$100,000 job. By the time anyone can intervene, the project is completed, his brother-in-law is back in Utah spending the \$250,000 he made, and the people of the state of Nevada are at loss.

The idea that we are going to expand the amount of money that any person in government can spend without oversight is troubling to me. It was brought up here by the presenters of this bill that the levels that different public bodies in this state have to sign off on contracts like this greatly exceeds what state government levels are. I would say the problem is in the fact that the lower levels of government allow their administrators to sign off on those bigger contracts rather than the fact that we need to increase the level that the state can enter into contracts for.

A provision in the transfer portion of the bill in section 1 from NRS Chapter 284.1729 to NRS Chapter 333 caught my attention, which has not caught my attention in the past. In section 1, subsection 5, there is discussion about taking a contract for an independent contractor to the IFC. In the last line of subsection 5, it talks about a person who is a current or former employee of the department, division, or other agency of this state. There was discussion by the presenters of the bill about the current process of a person who is already employed by the state; they have to go through special hoops to get a contract for him to be an independent contractor. How do we independently contract with someone who is already our employee? If he is working for the state, how do you enter into a contract with him? It is clearly depicted here, in this statute, and I know that it is not something they are trying to change, but it is in the statute and probably ought to be corrected. That is, someone who is working for the Nevada Department of Transportation, for example, could contract to inspect jobs on his days off. He would still be participating in the state program, getting state wages on his regular work week and then on weekends, he would be an independent contractor on a highway project. I believe that is a conflict of interest and, in simple terms, double dipping.

Section 1, subsection 1, paragraph (a) of that provision, which is currently in statute, says if a person is a current employee of an agency of this State, they cannot enter into an independent contract, but later on we say that we can. While that is not part of the proposed legislation, it is something we might want to address while it is in front of you.

One other provision caught my attention. I know a lot of people who independently contract with the State of Nevada, and none of them have business licenses with the Secretary of State. Section 1, subsection 8, paragraph (b) says the State, "Shall not enter into a contract with a person to provide services without ensuring that the person is in active and good standing with the Secretary of State." Again, it comes down to how good is the oversight we have on these independent contractors if there are people out there who are not registered with the Secretary of State, do not have a business license, are not legitimate independent contractors under the current statutes of the State of Nevada, and have contracts with the State of Nevada as independent contractors.

Mr. Smith had brought up that 70 percent of the contracts with the State are currently entered into with Nevada contractors. Along the lines of the independent contractor, I would question what level of that 70 percent are independent contractors and what are the major contracts that are for services. I know we have a lot of our major services in this state, both the state government and the local governments, that are contracted out to Arizona, Utah, or Colorado because they claim we do not have anyone in the state who is capable of doing them. I send a tax bill for Washoe County to Arizona. I send a tax bill from the City of Reno to California. Those services that they are contracting out under NRS Chapter 333 for the state and NRS Chapter 332 for the local governments, I beg to differ that a large majority of the money that is put into these contracts is sent out of this state, not kept in it, unless it is an independent contractor.

For all those reasons, we oppose passing this legislation in its current form.

Vice Chairwoman Neal:

I just want to say two things. Mr. Mallory, we are going to look a little bit deeper into section 7 regarding the deletion of NRS Chapter 284. To Mr. McKenzie, Assemblywoman Bustamante Adams has a question for you.

Assemblywoman Bustamante Adams:

Looking at this bill, I am not sure that I understand it in its entirety, but there are some sections that I know my small business owners would like to see happen. I just want to make sure I have clarity from you, Mr. McKenzie.

Did you say there are some contracts that are done without bidding that are under the threshold?

Paul McKenzie:

Yes. An example is demolition. There are very few demolition contracts when there is remodel work on a building, or something like that. Very little of that work is put out for bid. Again, we have more experience with the local governments than at the state level, but I do know there are occasions at the state level where a person who is over the renovation of the building will have a list of people who are qualified to do that work. He will call one of them without putting it out for bid. We see this quite frequently in the City of Reno. They have a favorite son contractor that they like to use for demolition. They can call him on a Monday and he can be there Friday to start tearing things apart. It leads to getting a person on the job quickly, which is what is supposed to be the goal. Without reaching out to other demolition companies to see if they could do the project cheaper, is not the best use of the public's dollars.

Assemblywoman Bustamante Adams:

I can see that on the local level, but that is two different things. Local government and state government, for me, are two different things. If there is a problem in local government, we may have to look at that. I believe I heard Mr. Smith and Ms. Tarter say that under the threshold, there is still a process of going out for three bids. I am not sure if the point you are making resonates with me.

I also heard them say that there are still oversights that go on through that process where you have to get the three bids. I do not want to mix local government and state government. They are two different things for me because they have different thresholds. If you have examples on the state level, I would like to be able to see that.

Paul McKenzie:

I believe there was a renovation of a Nevada Department of Transportation office in southern Carson City. I will get the specifics on that and get back to you. I believe, when they did the renovation down there, the demolition of that project was not bid. Let me get the specifics on that to you.

Vice Chairwoman Neal:

Thank you for your testimony. Is there anyone who would like to testify as neutral to this bill? [There was no one.]

I am going to close the hearing on A.B. 41. If there is anyone here for public comment, you may also come to the table. [There was no one.]

This meeting is adjourned [at 11:01 a.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblywoman Teresa Benitez-Thompson, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 13, 2013

Time of Meeting: 8:04 a.m.

| Bill | Exhibit | Witness / Agency | Description |
|---------------|----------------|--|--|
| | A | | Agenda |
| | B | | Attendance Roster |
| | C | Thoran Towler | PowerPoint presentation. Office Overview & Public Works Tutorial |
| | D | Nancy Boland | Esmeralda County presentation handout |
| <u>A.B.41</u> | E | Kimberlee Tarter, Purchasing Division | Proposed testimony |