

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

**Seventy-Seventh Session
February 28, 2013**

The Committee on Government Affairs was called to order by Chairwoman Teresa Benitez-Thompson at 9:02 a.m. on Thursday, February 28, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, 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 Pete Livermore
Assemblyman Harvey J. Munford
Assemblyman James Oscarson
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Heidi Swank
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

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:

Cadence Matijevich, representing City of Reno
Rusty McAllister, representing Professional Fire Fighters of Nevada
Ronald P. Dreher, representing Peace Officers Research Association of Nevada (PORAN)
Carla Fells, representing We Are Nevada and Washoe County Employees Association
Priscilla Maloney, representing American Federation of State, County and Municipal Employees (AFSCME)
Jack Mallory, representing Southern Nevada Building and Construction Trades Council
Kimberlee Tarter, Deputy Administrator, Division of Purchasing, Department of Administration

Chairwoman Benitez-Thompson:

[Roll was called. Rules and protocol were explained.]

We are going to hear two bills today, Assembly Bill 9, presented by the City of Reno, and Assembly Bill 169, presented by Assemblywoman Neal. We will open the hearing on Assembly Bill 9 and welcome to the table Cadence Matijevich.

Assembly Bill 9: Makes various changes to the Charter of the City of Reno. (BDR S-266)

Cadence Matijevich, representing City of Reno:

Before I provide an overview of the bill, I would like to take a moment to share with the Committee some information about city charters and the process that the City of Reno went through when developing this bill.

[Ms. Matijevich continued to read from written testimony ([Exhibit C](#)).]

If you like, I can continue on and describe those amendments, or I would be happy to take questions from the Committee on the bill.

Chairwoman Benitez-Thompson:

Start with the amendments, because I think they certainly address different types of questions that might come up. We can then move on to questions.

Cadence Matijevich:

The first amendment would be to section 1, on page 2 of both the original bill and the amendment, line 23, striking the words "other than" and replacing those with "including." This has to do with defining "Council Member," so that would read, "'Council Member' means a member of the City Council, including the Mayor" rather than "other than the Mayor," as was originally drafted.

Our second amendment has to do with section 7 of the bill, page 3 of the amendment, page 6 of the bill, inserting language at line 23 with a new paragraph (d) that reads, "Fire Chief and Assistant Fire Chiefs" and a new paragraph (e) that reads, "Police Chief and Deputy Police Chiefs." The intent of this amendment was to clarify this section, which has to do with appointive positions. In the police and fire departments, the only positions that may be appointive positions would be the fire chief and assistant fire chief in the fire department, and the police chief and the deputy police chief in the police department. I have had some conversations over the last day or so with some representatives, both from our own fire department and some of the larger professional organizations, and they shared some concerns that this amendment still does not get us there. I understand those concerns and certainly, if we did not get it right on the first try, we are most open to whatever amendments they would want to propose. We will work with them on language to make it absolutely clear that the intent is that in the police and fire departments no positions below their assistant or deputy chief positions may be appointive positions.

Finally, in section 15, page 11 of the original bill, page 5 of the amendment, at the end of line 5, adding the language, "prior to the end of the applicable budget year." This section has to do with the allowance of a council member to waive a portion of their salary. There is a provision that says they can essentially change their mind, but if they do, they need to do it within the fiscal year when it occurred. They could not come back three years later and say I changed my mind; I want my full salary from three years ago. That is the intent of that amendment.

Madam Chairwoman, that concludes my prepared remarks. I would be most willing to answer any questions that the members of your Committee may have, and thank you very much for the opportunity to present this bill this morning.

Chairwoman Benitez-Thompson:

Is your testimony on the Nevada Electronic Legislative Information System (NELIS)? I liked how you walked through the different sections of the bill and I want to make sure Committee members have that.

Cadence Matijevich:

Yes, Madam Chairwoman. I did provide a copy to the secretary ([Exhibit C](#)), and I can provide another copy to the Committee staff, if that would be helpful.

Chairwoman Benitez-Thompson:

Perfect. I have a couple of questions. There is a lot of talk and references throughout the bill about the Civil Service Commission. I have to admit, I am not overly familiar with the Civil Service Commission. Can you walk me through what that Commission is and the nexus to the responsibilities through the Reno City Charter changes that they would get?

Cadence Matijevich:

The Civil Service Commission is intended to be a body that is somewhat independent of either the city manager or the city council. It is formed to make determinations around the merit and fitness of persons to serve in the civil service. In our city, the large majority of our employees are within the Civil Service Commission. As you may recall when we made our presentation in the early weeks of the session, we have about 1,100 employees. Fewer than 100 of those employees are appointive positions. That means the rest of those positions fall under the authority of the Civil Service Commission. The Commission develops criteria for, as I said, merit and fitness for persons applying for jobs or promotions within the civil service. It puts structure to eligibility lists for appointment or promotion to those positions.

There is a broad range of things that the Civil Service Commission does. In the conversations the Charter Review Committee had, with input from our city manager, you will see that the bill proposes to strike a great number of sections that are currently in the Charter. The reason for that is, essentially, what those were doing were serving as civil service rules, but because they live in the Charter, the process to amend them is very difficult. What we sought to do, by repealing those sections from the Charter and then, within the Charter, simply laying out the categories or the list of things that the Civil Service Commission needed to establish rules around. It gives them greater flexibility and efficiency

so that if one of those rules needs to be changed, we do not have to wait 18 months and come here and go through this process.

I will give you an example. One of those has to do with eligibility lists. As I am sure this Committee can appreciate, during the downturn of the economy, we were unfortunately forced to lay off a number of our employees. It may be that employees who were contained on those eligibility lists, if we had an opportunity for promotion, may no longer be in the employ of the city. Because the rule in the Charter says there has to be at least three people on the eligible list, the Civil Service Commission was not able to say we have two people in the employ of the city right now, they meet the criteria for the position, we are going to appoint from the list that only has two people on it. We had to do another test for the position, open the test, and it led to the possibility of someone who was not even in the employ of the city at that time going through the testing, testing higher than those current employees, so the current employee missed out on an opportunity for promotion. Within our own organization, because this rule was here, if it had not been in the Charter and had just been in the civil service rules, the Commission would have been able to go through a process to amend them, had they wished to do so.

Chairwoman Benitez-Thompson:

I was thinking more about the Civil Service Commission, so I pulled up some of their different agenda items. It looks to be a lot of things you would typically think a human resources department would do. Do you have your human resources department interfaced with civil service on hiring and lists, or are all of those employee lists and eligibility lists strictly handled by the Civil Service Commission?

Cadence Matijevich:

They happen in tandem with one another. There are things that we would have to do internally, such as creating a requisition that would need to be approved through our budget process and signed by our city manager. Once the requisition has been approved saying within the city we are creating a new position, then we hand it off, if you will, to the chief examiner of the Civil Service Commission. The Civil Service Commission would then conduct the testing, if necessary, or would go to their eligible list to say we have a list that exists and we can simply select from that. Again, that would only be for those positions within the Civil Service Commission. For example, my position as assistant city manager is not a Civil Service Commission position and would go wholly through the human resources process.

Chairwoman Benitez-Thompson:

For clarification, they just cover non-appointive employees?

Cadence Matijevich:

Yes.

Chairwoman Benitez-Thompson:

In section 40 I see that you are adding "elected" positions, as well. Am I reading it right? Positions that are elected will now fall into the civil service process? What is the intent and how do we interpret this?

Cadence Matijevich:

Actually, Madam Chairwoman, it is the opposite. Section 40, subsection 1, "A Civil Service System is created for the selection, appointment and promotion of all employees *of the City* except: (a) A person *elected or* appointed" Again, in trying to be thorough and making sure that if someone read the Charter, it would be clear to them that the elected employees of the city are not within the civil service system.

Chairwoman Benitez-Thompson:

Also exempt would be any person who serves on any board, commission, or committee. Are those typically all appointed positions?

Cadence Matijevich:

They are. Typically, those members who serve on boards and commissions are not actually employees of the city. We have a number of boards and commissions. We have the Reno Arts and Culture Commission, we have subcommittees that the city council will create, and we have committees of citizens. It is intended to clarify that those persons serving in those roles are not members of the civil service.

Chairwoman Benitez-Thompson:

Also exempt are the employees of the court. Do they currently serve at will?

Cadence Matijevich:

Yes, Madam Chairwoman, they do. Those are employees of the court who are hired directly by the court. There may be some employees that work in the court who may fall in the Civil Service Commission, such as a bailiff or something of that nature, who are part of the larger court system. This specifies those who are employed directly by the court.

Assemblyman Elliot Anderson:

Section 27, subsection 3 of this bill indicates that if the mayor or any council member intentionally violates any provisions of this section, it results in removal. I was wondering if there is a reason for this? Did something come up or is there something else behind this? This is a huge new section being added,

but it seems like something better dealt with through the political process and the voters versus adding a provision that allows removal. It seems like an extreme remedy. Could you comment on whether there is any reason behind that section?

Cadence Matijevich:

I cannot point to any specific instance in recent history. There are urban legends about city governments and stories from long ago that I will not go into. You heard a little bit when you heard the presentations earlier this session from the local governments about the council/manager form of government and how important it is for the city manager, as the chief executive officer of the organization, to have the authority to run the day-to-day operations of the city without interference in those operational regards from the members of the council. The council is a body as a whole, and they must give us direction as a whole. One member of the council cannot give individual direction. There have been times in the past where perhaps a council member would tell a public works director, never mind what your established snow removal process is, you are going to tell your staff to snowplow my cul-de-sac first. It is a silly example, and the consequences there would not be great. However, if it had to do with a financial matter or something more serious, if you had a council member giving direction to a member of the city staff, there could be significant consequences.

When the Charter Review Committee reviewed this section, the dialogue that took place between them was that they felt like this was very important. I will use a phrase that one of the members used: "To give it some teeth." They wanted to put those provisions in there so it would give council members reason to think again if they were going to be interacting with staff, to be sure they were not violating the provisions of the Charter. While in your words this seems "extreme," we have other local governments, other charters in this state, where violation is not only removal from office, it is also a misdemeanor.

Chairwoman Benitez-Thompson:

Just as a follow-up, it says the removal will happen in accordance with Chapter 283 of the *Nevada Revised Statutes* (NRS). Talk to me about what that removal process is like. Who would actually remove the mayor or city council member? Would a council member remove the mayor? Would the city manager remove the mayor?

Cadence Matijevich:

There is a process that exists within the Charter already, and there is a process by which a complaint must be filed. A hearing must be held and it is conducted in the public. The city manager may, at no time, either under the provisions

that are in the Charter or the provisions in NRS Chapter 283, remove an elected member. It would be the other elected members. If it were the mayor who had violated one of the provisions and it was brought forth, it would be the other members of the council who would conduct the hearing and make the determination as to whether or not it would be appropriate. Chapter 283 of the *Nevada Revised Statutes* (NRS) does have some other provisions having to do with malfeasance and things like that, which are more broad-reaching than what this particular section may have applicability for. I will not go into all of those, but it would be essentially a hearing by their peers and a determination made by their peers.

Chairwoman Benitez-Thompson:

Section 27, subsection 3 states, "in accordance with section 3.150" I am not clear what that means.

Cadence Matijevich:

I do not know if I have that section in the bill. I do have a copy of our full Charter here with me and I can get you that.

Chairwoman Benitez-Thompson:

That is okay. I think we have the gist of what you are looking for in terms of intent. I was a little more curious about if this played out, what would that process end up looking like. I can look up NRS Chapter 283 on my own, but maybe you could forward me section 3.150 of the Charter.

Assemblywoman Swank:

I have a comment about the deck of cards in section 34, subsection 4. I wanted to confirm that before we get to the deck of cards that there is a recount of the votes.

Cadence Matijevich:

I cannot definitively answer that question. My gut instinct is yes, that would be the case. However, I do not see that here, so let me follow up and get that answer for you.

Assemblywoman Swank:

Having taught a lot of sampling procedures, I believe my students would be upset if I did not bring up that in order to really make this work, you would need to run that whole process twice. You would need to return the first person's card to the deck, reshuffle, and then have the second person draw.

Cadence Matijevich:

Perhaps we will incorporate that as another amendment.

Assemblyman Stewart:

You have answered several of my questions, but I still have a concern on page 10, section 14, changing the second-in-command from assistant mayor to vice mayor. This seems more appropriate maybe to an eastern city with a political machine. I would suggest deputy mayor or mayor pro tem. As a follow up, how is this second-in-command selected?

Cadence Matijevich:

The term vice mayor is in our vernacular, for whatever reason. We are a very old city and why, when the Charter was drafted, the word "assistant" rather than "vice" was used, I really cannot say. We actually went back through the city records to see how long vice mayor had been part of our vernacular. As far back as anyone could find records, we have been using it. What we are attempting to do is align the Charter with the language we use. Sometimes it is easier to change the document than it is to change words that everyone uses.

Assemblyman Stewart:

You use deputy police chief and deputy fire chief. I know that in other Charters we use mayor pro tem. I do not think I have ever heard the term vice mayor.

Cadence Matijevich:

Again, it is not something that necessarily has any specific intent or is intended to have meaning. It is simply the phrase we use on a regular basis, so we were attempting to clean that up. If this body feels that is not appropriate and perhaps mayor pro tem or deputy mayor is appropriate, I do not think we would have objection and we would do our best to change the behavior.

To your question as to the appointment of the vice mayor, the provisions for that are contained within the Charter. Mr. Penrose, do you have that section?

Jim Penrose, Committee Counsel:

Section 20 of the bill speaks to the process by which the vice mayor is selected.

Cadence Matijevich:

Section 3.010 of our Charter provides for the process whereby each year a vice mayor is appointed. It also provides that the vice mayor would serve in the absence of the mayor.

Assemblyman Daly:

In section 2, page 3, line 30, you propose to delete "[Preamble: Legislative intent.]" and replace it with "**Purpose; other laws.**" That does not make sense

to me. Maybe someone could explain what you are trying to say there? The other concern I have is the language that is deleted in section 2, subsection 1, and the new language on page 3, line 19 in section 1, subsection 2, "the rule of strict construction has no application to this Charter" What was the thought process when they did that? My being a cynic means that I can construe this however I want, to whatever meaning I need for the day. That is my concern with that language. You can answer those two questions and I have more, if the Chairwoman will allow.

Cadence Matijevich:

To your first question, I believe we took out the words "Legislative intent" because, as you indicated, we moved that legislative intent to the new section, which begins in section 1, on page 3, beginning at line 16. That was the reason to strike "Legislative intent," redefining that as the purpose of the Charter and specifying that these are other laws that are being established. I guess I did not do a good job of explaining that.

Assemblyman Daly:

It still does not make sense.

Cadence Matijevich:

To your question about the rule of strict construction, perhaps your legal counsel would rather speak to what this Legislature has intended before by strict construction. It certainly was not our intent to try to give ourselves wiggle room, to interpret the Charter one way on one day and another way on a different day, as it suits our needs, but rather some of the rules of strict construction whereby the words must be taken in their plain meaning. Some of those other things that we were not, in drafting this, intending to be interpreted that liberally is, perhaps, a different way to say that.

Chairwoman Benitez-Thompson:

I think what we are looking for is clarification. I think Assemblyman Daly is asking a question about adherence to your own Charter. Put on the record what you want in terms of your intent to strictly adhere to this or not.

Cadence Matijevich:

Absolutely it is our intent. The Charter really serves as our constitution and it is absolutely our intent to adhere to that. What that is intending to mean is if somehow in the construction we missed an "and" and it completely changes the meaning, that unintentional language would not prevent us from being able to take whatever steps necessary to serve the citizens of our city.

Assemblyman Daly:

I will speak more to that off-line with the sponsor. It is just that there is language below that you are deleting, which you then retain, which says it should be liberally construed, et cetera. I do not know the reasons for saying there is no need for having strict construction. It just causes me concern.

The other question is about where the city clerk is going to be appointed. How is the city clerk selected now? Is that an elected position, or is it still appointed?

Cadence Matijevich:

It is today, and will continue to be, appointive. The city clerk is appointed by the mayor and council.

Assemblyman Daly:

On page 6, line 14, you change "ordinance" to "resolution." Why? Could you give us an explanation of what flexibility or restriction you felt "ordinance" had versus "resolution" and what the processes are for the public comment, et cetera? I know what it is for an ordinance, but not necessarily for a resolution. I do not know why you need that change, but I would like to hear.

Cadence Matijevich:

Quite frankly, the process whereby we adopt a resolution is not as lengthy a process as an ordinance. An ordinance is essentially a law of the city. The conversation that the Charter Review Committee had was that establishing appointive positions was not necessarily a law of the city, but was rather an act that the council would take to declare to its citizenry those positions that it was establishing. An ordinance requires that it be on two consecutive city council agendas, it has to be published in the newspaper, and there are many other steps that go along with it. It can be a rather lengthy process and it does have some associated costs with the noticing. A resolution is adopted at a public hearing. The resolution is read aloud at the council meeting. On any resolution that is adopted, there is a period for public comment at the meeting when the council is considering it.

Chairwoman Benitez-Thompson:

Assemblyman Daly, did you have any follow-up regarding her answers?

Assemblyman Daly:

It leads to my next question, but I will wait until you can come back to me.

Assemblyman Livermore:

My question is not so much about the amendments to your Charter, but the process of creating the Charter Review Committee; the appointment, the roles, do citizens have input, are they able to make recommendations on amendments to the Reno City Charter?

Cadence Matijevich:

Unlike other cities, we do not have a requirement for a Charter Review Committee in the Charter. This was something the council made a determination about, rather than just having staff go through and make these recommendations. They sought the input of the citizens of our city. There was an announcement made through all the various methods we have to engage our citizens that we were seeking volunteers, if you will, to come forth and serve on this Charter Review Committee.

They accepted applications for members to serve on the committee. The only requirement was that you did have to be a resident of the City of Reno. Members of our community stepped forward and said they wanted to volunteer their time and be part of the process. They submitted applications, the council reviewed those applications, and made the appointments from the applicants. They did make an effort to ensure that there was at least one representative from each of the wards in our city, so each of the voting wards in our city was represented. We have five wards in our city. There were nine members of the community that were on the panel. We did reach out to some active citizen groups in our community. There was a representative from Progressive Leadership Alliance of Nevada (PLAN) on the Charter Review Committee and representatives from the business community.

As I mentioned at the beginning of my testimony, all of the meetings of this citizen committee were held in accordance with the Open Meeting Law, the agendas were posted, and there was opportunity for public comment at the beginning and at the end of each meeting. The committee also took testimony or comments, if you will, from members of the public when they were contemplating each of the items. You may, in fact, hear from some folks here today. We did have one or two of our employee associations that attended one or two of those meetings and provided some comment. We endeavored to make it a very open and transparent process.

Assemblywoman Pierce:

In section 28, subsection 1, paragraph (b), what was your thinking on the need to reduce the number of departments in the municipal court?

Cadence Matijevich:

As you know from your many years in the Legislature, there was a lot of talk around Dillon's Rule and that we only have those powers that are expressly granted to us. In reading the Charter, we had the power expressly granted to us to create those departments. However, in the current construction of the Charter, we do not have the power granted to us to reduce it. We contemplated that there may come a time, through consolidation or whatever else, that it may no longer be necessary or appropriate to have those departments. Without that express granted authority to reduce it, we would not have such authority.

Assemblywoman Pierce:

My concern is, in a time of a recession, we would decide it is okay to limit people's access to their day in court. I would prefer that it specifically said something like a lessening of population, so that it is specific to that and could not be some belt-tightening thing.

Assemblyman Oscarson:

On page 15, section 21, subsection 3, "*The City Manager* may designate an acting City Manager to serve in his or her absence" Would this be reflective of a short-term absence? Would there be a time limit that that individual would have to be gone before the city council would appoint someone acting? It is kind of vague for me, so if you could clarify that, I would appreciate it.

Cadence Matijevich:

We have a practice, if you will, that anytime the city manager is going to be outside of the region, if he is travelling on business or on personal leave, a formal designee would need to be appointed. You probably know enough about Reno to know you could be in Sparks in a short time, so we do not need to appoint an acting city manager because the city manager decided to have lunch in Sparks. Because the city manager does have specific authority, say if an emergency action needed to be taken that he would need to sign off on, he would need to designate someone to do that in his absence. Generally speaking, when he does so, it is one of the assistant city managers, so myself or the other assistant city manager. It is not intended to be for a vacancy of the office of the city manager. If the city manager has resigned his position, he does not get to name the person who is going to act as city manager while he is being replaced. That would be something the city council would do.

I suppose if the city manager went to Sparks for lunch and never came back, the city council, at that point, would need to appoint an acting city manager until we could determine if he was coming back or not. I am not trying to make

light of your question and be silly, but there would be rare instances when the city manager would not know in advance the need to designate someone as acting city manager.

Assemblyman Oscarson:

I was more concerned about it from a medical perspective. Whoever may be in that position, if a medical condition existed, a heart attack for example, and they were going to be out for six or eight weeks, would the city council then be involved in that decision or would the city manager still make that decision? What if they are unable to make that decision?

Cadence Matijevich:

Certainly if the city manager was incapacitated and unable to make that decision, the city council would do so. In the situation you described, I believe it would largely depend upon the conditions. If the city manager were in a physical condition to speak with the mayor, more than likely he or she would make a recommendation to the mayor. If at any point he or she is not able to make that designation, then the city council would make it.

Assemblyman Elliot Anderson:

I was looking on page 16, section 21, subsection 5, and I wrote down that you said it was added to section 3. However, it seems if that were added back, I do not know how the Civil Service Commission part would work. Could you just clarify what is going on with that subsection for me?

Cadence Matijevich:

The intent of moving that section from Article III of the Reno City Charter is because the Charter is broken up into articles. The article where that lives now is really about the structure of the executive department. We felt it was more appropriate to be moved to section 1.090 of the Charter, which is contemplated in section 7 of the bill. The portions talking about the city manager appointing the head of the department, that the appointment of the chief of police or fire has to be confirmed by the mayor, were moved to the other section, where we felt it was more germane, because that is the section that talked about whether or not employees were appointive or part of the civil service. It really talked about the structure of the staff of the city versus the elected.

Assemblyman Elliot Anderson:

Just to clarify, that is section 3 it was added to?

Cadence Matijevich:

Yes.

Assemblyman Daly:

On page 6, section 7, subsections 5 and 6, we are talking about appointments and who can be appointed. Section 8 on page 7 has some of that language. On page 27, section 4, subsection 1, paragraph (f), lines 4 through 9, where you talk about board employees and various things, I understand that you added these appointive positions and they will be reviewed by the Commission (I assume you are talking about the Civil Service Commission, although it is not spelled out), trying to create checks and balances on what is appointive and what is not. My concern is, I would like to see some criteria that is either in your civil service rules or put in the Charter. It potentially affects whether that person is in or out of a collective bargaining unit, whether that person is subject to civil rights and procedures, what their benefits and salaries are, and whether they can be summarily dismissed. I understand city managers and department heads as being the executive branch, or the cabinet if you will, and those people come in unclassified positions, but if we are going to try to appoint classified positions, I have a problem with that without some other safeguards and clarifications on those issues. When you look at the structure, it is pretty prevalent throughout the bill on appointing secretaries and administrative assistants. To me, those are civil service positions.

As far as the court clerks go, they do not have them right now. They are covered under civil service. I would be very uncomfortable saying that they are not covered anymore and taking away people's rights.

Cadence Matijevich:

I appreciate your concerns. I do not believe it was the intent of the Charter Review Committee in making these changes to try to broaden or go further down into the organization. You mentioned the section about clerical administrative assistants appointed by the city manager. It goes on further in subsection 2. I am sure you can appreciate that there are certain clerical and administrative assistants, by nature of their job—the executive secretary to the city manager, for example—and because of the type of information they have access to, it has been our practice, and would continue with these changes, to have those as classified members. They do have certain protections that exist in the Charter, which says those salaries and benefits must be adopted by resolution. There are also protections for them in NRS Chapter 288 that says if they are in a classified position and are not a member of a bargaining unit, because of the nature of their work, they are entitled to all of the same salaries and benefits that they would otherwise be entitled. There are existing protections within statute for those employees.

Assemblyman Daly:

I appreciate that and that is where the previous question came from, the difference between ordinance and resolution. Some of those things can happen very quickly. I understand the city form of government, at least to the two northern Nevada cities I deal with; they have a very strong city manager. You get confirmation from the elected officials, but the city manager has a great deal of authority. If we can change what these are and what level we are going to go to, the Civil Service Commission has to be the checks and balances process. If it is not there, then I have concerns about how that is done. I am sure we are going to have people come up who deal more with the public sector than the private sector, employment, labor law, and various things. There is federal regulation on what is and what is not a bona fide exempt position for purposes of overtime. I do not know if the executive secretary to the city manager is subject to overtime or not. I do not know if you claim they are or they are not. Those are some of the concerns I have.

Cadence Matijevich:

We could be here all day if I tried to address all of those. However, yes, the federal guidelines absolutely apply to our employees. To your questions about would the executive secretary to the city manager be subject to overtime. Yes, she is an hourly employee, so all of those regulations do apply to her. Our citizen committee and I agree with you that checks and balances are necessary. I think that is why you see the language that is on page 6, section 7, the new subsection 5, that says, "except that no such proposed resolution may be adopted until after the Commission has been provided a reasonable opportunity to comment on the proposed resolution."

To your question regarding the Civil Service Commission, early in those sections where we say "Commission," it is, in fact, referencing the Civil Service Commission.

Assemblyman Livermore:

In section 21, subsection 4, "No Council Member may be appointed as City Manager during the terms for which he or she was elected, or for 1 year thereafter." If there is a cooling-off period identified in this, who is going to make that decision, whether it is a cooling-off period or whether it is not a cooling-off period?

Cadence Matijevich:

The "or" is in addition to, so they may not be appointed as city manager during their term. Certainly, while they are still in office, they could not be an elected official and be appointed to the city manager while they are in office. At the

point that they are no longer in office, for one year after that period, as you said, it is that cooling-off period.

Assemblyman Livermore:

I did not read it that way. I appreciate that, because I do agree with a cooling-off period. I would hate to think that the mayor, at the end of his term of office, could be appointed city manager.

Cadence Matijevich:

That is what the existing provision of the Charter is intended to address.

Chairwoman Benitez-Thompson:

Are there any additional questions from Committee members? [There were none.] I will now open testimony in support of the bill. [There was no one.] I will open testimony in opposition of the bill.

Rusty McAllister, representing Professional Fire Fighters of Nevada:

We signed up in opposition to this bill. Not the bill in its entirety, but to certain provisions within the bill. There are a few things we have concerns with that we would like, if nothing else, to ask some questions about and bring to your attention to see if the presenter of the bill could offer some clarification. The first part of opposition we have would be section 7, which is addressed in the amendment.

Chairwoman Benitez-Thompson:

For the Committee's reference, are we looking to the amended language in section 7?

Rusty McAllister:

Yes, we can look at the amendment language because I believe the intent was to try to move to that language. Under the provisions that they have proposed, fire chief and assistant fire chief would be appointive offices. Currently, the assistant fire chief is a position that is collectively bargained. That position is not currently filled within the City of Reno, but it is a position that is collectively bargained. By making this change, they are going to lose that position as a collectively bargained position. There is an effort to do that.

The next part we have concerns with, in the same section, page 3, line 24 of the proposed amendment, is the language they are removing. It says, "In the Fire Department and Police Department, no positions below the office of Chief." They are removing that so they can add assistant fire chief. If you go further down to line 30, that is where we start having some concerns. It appears to us they are creating a new classification of employees. Under their current

Charter, they have appointive offices. That is the language that they are trying to change for fire chief and assistant fire chief. If you look at line 32, it changes and creates a new body, if you will, of employees. It is for appointive positions or appointive employees. Basically, "the City Council may establish such other appointive positions as it deems necessary for the operation of the City by designating the position and the qualifications therefor by resolution" To us, that means they can designate any position that they want to be appointive. If you go further into the bill on page 7, section 8, subsection 1, they specifically point out that there is a difference in positions by saying, "All appointive officers **and appointive employees.**" That language is all throughout that section of their Charter changes. To us, that definitely means they are creating a new classification of appointive employees. It says the council can establish and designate those positions as appointive employees.

The reason we have a major concern about that is because there was a bill, Senate Bill No. 98 of the 76th Session, which dealt with who had and did not have the ability to collective bargain. There was a designation as to who is a supervisory employee. The bill was passed and it said in order to be a supervisory employee, you had to meet certain qualifications. One of those qualifications was you had to be an appointive employee. Even further than that, during the interim, the City of Reno brought forth a provision to the Local Government Employee Management Relations Board (EMRB) to clarify S.B. No. 98 of the 76th Session about who was and who was not a supervisory employee. The EMRB ruling that came down in August 2012, specifically stated to be considered a supervisory employee not subjected to collective bargaining, you had to be an appointive employee. By creating a new terminology in here, you create a new appointive employee. We have concerns that this is an end run on S.B. No. 98 of the 76th Session. If the presenter of the bill would like to clarify for the record that no position in the fire department will be made an appointive employee, not just an appointive office but an appointive employee, that will certainly give us a lot more comfort in what they are trying to do, especially since they are taking out the language that says, "In the Fire Department and Police Department, no positions below the office of Chief." That opens it up, so if they want to put that language back in there to say, "In the Fire Department, no positions below the office of Chief and Assistant Chief," if, in fact, you decide to move forward with the bill that talks about the Assistant Chief.

One of the other questions we have, if you look back into the bill itself under the civil service provisions, it looks like they are just trying to clean up some language in many of the provisions they have changed and that are already part of their Charter. In section 43, subsection 2, paragraph (f), it states, "The establishment of probationary periods, procedures for the confirmation of

employees into the Civil Service System after completion of any applicable probationary period, and procedures for the dismissal of probationary employees by the heads of departments without right of appeal." If you are a probationary employee, I understand there are certain things you should not have the right to appeal. However, if there are extenuating circumstances, that person should have the right to appeal to the Civil Service Commission to try to keep their job. In addition, there is no classification here when it says "probationary employees." There are other probationary employees within the fire service, such as probationary captains and probationary engineers. It does not designate that those people are not subject to being terminated. They may be promoted to an engineer position, but if they do not perform their job, are they terminated or are they just moved back to a firefighter position or their previous classification?

Those are the major provisions we saw within the bill and the proposed amendment that we have concerns with. I would be more than happy to answer any questions. Please know, we would be more than happy to work with the makers of the bill to try to clarify the language to make it more comfortable for our members.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee members? [There were none.]

Ronald P. Dreher, representing Peace Officers Research Association of Nevada (PORAN):

I would like to go over a couple of points. First and foremost, I would like to thank the City of Reno, especially Ms. Matijevich, for providing us a copy of the amendment several days ago and asking for our input on this bill. Obviously, she heard a lot of input from us on the bill.

I have represented the Reno Police Protective Association (RPPA) for the past 29 years. Just to cover a couple of things, when Ms. Matijevich started her testimony, she talked about the Civil Service Commission and the Charter Review Committee being formed. It would be nice if you notify labor that you are making changes to Charters that have impacts on employees. I am a representative for the Reno Administrative and Professional Group (RAPG) and the RPPA. There are six bargaining groups in Reno representing ten separate bargaining associations and to my knowledge, none of us have been invited to attend any of these things.

I said the same thing about the Nevada Spending and Government Efficiency (SAGE) Commission; I said the same thing when they tried those consolidation methods in the city. You have to have labor at the table if you are going to

make changes that impact us. They mentioned transparency. One of the most important things is you really cannot have transparency unless you have people affected by those changes coming to the table and hearing our input.

When Ms. Matijevich first came to me, day one of this legislative session, and said they were making changes, I immediately told her what you heard Mr. McAllister state, that we had an Employee Management Relations Board (EMRB) meeting this past year dealing with Senate Bill No. 98 of the 76th Session, dealing with the topics of collective bargaining. When I saw the deputy chief's language in here, my first reaction was, well here is another attempt at S.B. No. 98 of the 76th Session to take out the deputy chiefs. They are represented and have been for the past many years, since they created that position. It is important for this Committee to know that they currently have a collective bargaining group. If, in fact, this bill were to take effect, then they would be ousted. I hope not, but you would have to put a grandfather clause in. In my conversations with the presidents of the RPPA, the Reno Police Supervisors and Administrative Employees Association and with the RAPG, they are all in opposition of the sections of this bill that take out the collective bargaining approach. I needed to put that on the record.

There are a couple of points that I did tell Ms. Matijevich about, that I had concerns on as well, starting with section 27, which has already been addressed here. You have to go back to the history of the City of Reno to know where this is coming from. For example, the right of the city manager to eliminate an elected official. Back in the '90s and '80s, we had a city manager who did not like the fact that the city council elected officials had certain authority over the body. He came to this body and made it so the city manager basically had the rule and the city council did not. The elected officials could not go back and do some of the things that Ms. Matijevich said that this bill was trying to accomplish. We need the checks and balances, starting with the city council, the city manager, and the Civil Service Commission, all of which are supposed to be autonomous. They are supposed to work together in checks and balances. I do not want to prevent a city council member or the mayor from talking to an employee or, if they did, start a process to eliminate them. I am not sure that is the intent of this, but it certainly smacks of that.

The next part I really have problems with, and it was previously brought up, is in section 47, which deals with the Civil Service Commission. You notice in section 40, which also deals with the Civil Service Commission, this takes away the ability of the people who I currently have, the alternative sentence officers and the marshals who work for the judges. Are they City of Reno employees or are they employees of the court? According to the language that they are trying to change in the Charter, you are taking these people out of that and you

are eliminating them. There are already disputes going on right now about whether or not they even have peace officer power. We are trying to work that out, but it is another provision in this bill that we see as maybe an attack to get rid of collective bargaining for those particular individuals.

Chairwoman Benitez-Thompson:

For clarification, Mr. Dreher, is that in reference to section 47?

Ronald Dreher:

I am sorry, Madam Chairwoman, it is section 40. Section 40 through the end basically deals with civil service. It was section 40 of the bill, page 27, starting at line 4, paragraph (f), that states, "An employee of the Municipal Court who is hired directly by the Court." They basically would become at-will employees and they would lose the rights that they currently have, or should have, in a collective bargaining world.

To answer Assemblyman Daly's question, while they would get the same rights if we negotiated for them, their benefits and wages, they do not have a bargaining group right now; they are not allowed to collectively bargain. If they do not receive wages and benefits through the judges at some level, then there is nothing that prevents them from being given less wages than other peace officers get. That is another problem we have with the bill.

All in all, there are many problems with Assembly Bill 9, and many employees and employee representatives of the City of Reno, are in opposition. I have worked with Ms. Matijevich and we have had some very good conversations on that, and I would ask that those conversations continue. However, in a nutshell, absent the three areas that she mentioned, the cleanup being number one, I would add that there are devils in the details that we have to really watch. Second, the structural operational concerns of removing elected officials by city manager proclamation, or at least starting that process, really bothers me. The third area is the personnel sections dealing with the right to collectively bargain and removing deputy chiefs from the bargaining groups. Lastly, civil service.

With that Madam Chairwoman, I will rest my case and be happy to answer any questions.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee members?

Assemblyman Elliot Anderson:

Excuse my ignorance on the civil service process in Reno. I am just trying to get my head around how exactly this changes collective bargaining. Could you walk me through that, just for my edification?

Ronald Dreher:

We have a twofold process in civil service; there is the civil service and there is human resources. They are the hiring, as Ms. Matijevich said, and they set the minimum requirements and the like. How it impacts collective bargaining is both have ownership over an employee. They sit at the table—human resources sits across from us in collective bargaining and civil service is more of a check and balance to that. If you have an appeal or a grievance, you have two ways to handle that grievance. You can take it through the collective bargaining process through arbitration, or you can go through the civil service process and appeal it that way. You make the choice, so you do not get the best of both worlds; you have to take one or the other. The impact of civil service is when they have appointive employees, they are impacting collective bargaining. We do not have them at the table. We have asked for civil service to be at the bargaining tables in the past so they can have some input as well. I am hoping that answers your question. If not, I will continue to try to explain it.

Assemblyman Elliot Anderson:

We can talk about it later; I do not need to take the Committee's time.

Chairwoman Benitez-Thompson:

Are there any additional questions from the Committee? [There were none.]

Carla Fells, representing We Are Nevada and Washoe County Employees Association:

We are also in opposition to this bill. Although Washoe County does not operate under civil service as the City of Reno does, we also have the same concerns that Mr. McAllister and Mr. Dreher have discussed with you.

Let me give you the downside of these appointive positions. Washoe County elected officials have a 3 percent appointive power to appoint anyone within their ranks for positions. As Ms. Matijevich said, we would hope that they would keep that at their second-in-command and their executive level. That has not occurred. We have had secretaries and clerical staff appointed. If you have a big department, like our social services department or our sheriff's office, there are 200-plus employees. That gives those department heads a lot of leeway for unclassified appointments. Unclassified appointments are what we call them in Washoe County.

In 2009-2010, Washoe County went through huge restructure due to layoffs of employees. We had an employee who was a witness advocate supervisor, and they decided to lay her position off. Under the collective bargaining agreement, she would have been able to bump down to the person underneath her through the collective bargaining. The bumping rights would have gone all the way down to the lowest person in seniority, who then ends up losing their position.

Unfortunately for Washoe County, the position that was underneath the witness advocate supervisor was an unclassified, appointive position. When we went to do the bumping rights, Washoe County notified us that she could not bump that position because, exactly what Assemblyman Daly asked about, it created a new classification of employee. I had a tenured employee who had tested for, gone through the process, been promoted, and who had been a classified employee her entire career of 12 years with Washoe County. She was summarily dismissed from her position and could not go down to another position. The person who did not test for a job and had no property rights to the job was allowed to keep her job. We did challenge it all the way through arbitration. The arbitrator ruled, based on *Nevada Revised Statutes* Chapter 284 and the Washoe County Code, with the department head's right to appoint positions, we could not bump out that unclassified, appointive position. With the arbitrator's ruling, that employee lost her position, even though she had been a classified, tested, and promoted employee within Washoe County.

While there is no intent, as Ms. Matijevich said, it does occur. It occurs because sometimes they are political appointees. The department head knows someone who he or she thinks needs a job. Because I deal with a lot of elected officials, that 3 percent appointive power does sometimes seep down into those positions that are covered by a collective bargaining agreement. When we go to an arbitration and the arbitrator rules against us, that those people who have a property right, who went through the process, who legitimately had their jobs, and tested for them, had to leave in order to keep a political appointee who had no property rights to the job, based on the NRS and Washoe County Code, was very disheartening. I had four employees who went through that same process in three different departments. They were all positions that were covered under our collective bargaining agreement, but they were in unclassified appointive positions. The arbitrator ruled that those positions are outside of our collective bargaining and we could not touch them. It is very disheartening for the 1,200 employees that I represent; you come through the process, you come through the job, you test for it, you get a job, and you go through the ranks, you get promoted, and you lose your job not because of the budgetary cuts, but because someone is in a position that the department head decided to put in that position as an unclassified appointment.

There is a downside to this. I do not know about the civil service rules, so I do not know if the City of Reno would go through the same thing, but I am telling you the experiences we have had in Washoe County.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee members? [There were none.]

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

The American Federation of State, County and Municipal Employees (AFSCME) recently had the pleasure of concluding successful contract negotiations with the Washoe County Regional Transportation Commission (RTC). Whereas we do not directly represent anyone, per se, that would be affected specifically by this Charter amendment that is proposed in A.B. 9, we do have the same concerns that you have heard all morning. The phrase being used in the building is, "Getting into the weeds." This is the time we would say to get into the weeds. That is where the details are; that is where the facts are. Everything the prior speakers in opposition said, or at least are concerned about, goes double for AFCSME; for instance, this whole concept of what an appointive employee is.

Speaking to Assemblyman Daly's concerns, and I believe it was also Assemblyman Anderson who asked a question about collective bargaining, basically, what you do not want to have in public employment is what would be an orphan; someone whose rights and responsibilities do not fall cleanly into a collective bargaining agreement, exclusively. They are also not covered in a concurrent reality by a civil service code by that local government, with no rights or protections in either place because of an anomaly. Again, I think Mr. McAllister used the term "terminology" of appointive positions gives rise to some conflicts, especially under existing law. If there is an Employee Management Relations Board decision, I have not read it. From 2012, where this very issue came up, where do these people fit? Those are the concerns with the sections that have been brought forth today.

Just to help the Committee, general public employees, or I should say state employees, but also political subdivisions, can fall under NRS Chapter 284. Collective bargaining in subjects are mandatory and permissive bargaining falls under NRS Chapter 288. That is the interplay we are dealing with here.

In conclusion, I have not had the pleasure yet of working with the City of Reno. Again, going back to the weeds, going back to the source, and I believe it was Assemblyman Daly who brought this concern up this morning when we started, which is on page 3, line 19 of the bill, in section 1, subsection 2.

That language is very concerning, "the rule of strict construction has no application to this Charter . . .", and then two lines down on lines 21 and 22, it says, "the intent of the Legislature that each of the provisions of this Charter be liberally construed" That is where the potential lies for either inadvertent mischief or, sadly in other jurisdictions, possibly not so inadvertent. That is the problem here, as written, and I did look at the amendments. The city manager is going to have a wide swath of discretion here to create positions that could arguably not be in either place; no protections under a collective bargaining agreement, and not subject to the provisions of the Civil Service Commission.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee members? [There were none.]

Jack Mallory, representing Southern Nevada Building and Construction Trades Council:

Normally, I would not opine on issues related to the cities in northern Nevada, as it is outside my jurisdiction. However, it has been my experience in the legislative process that when you see one do something, you will see them all do something. This could potentially be expanded, either in other legislation or in future sessions, to chartered cities in southern Nevada. I am not going to belabor the point related to employment, as expressed by my counterparts representing public employees. However, I would like to speak directly to concerns with section 12 and section 27 of the bill.

Section 12, subsection 2, along with other sections defined prior to this, effectively, on its surface, appears to grant the city manager ex officio authority as a member of the city council, and in some cases, gives the city manager, on its surface, what appears to be greater powers, abilities, and authority than the city council itself, without actually holding an elected position. I understand the need of those executive positions to operate and perform their functions related to the management of the city. However, there are some provisions that do cause some concern. Granting the city manager the authority to call a special meeting of the city council, in my opinion, strikes as odd.

In section 27, I understand that the existing Charter currently states that city officials or elected officials shall deal through the city manager. To clarify that and establish a penalty within the Charter that if an elected city council member or the mayor violates that provision, then they are subject to removal, is pretty extreme, as well. I do not know if there are other provisions within the Charter related to the absence of the city manager and dealing directly with the assistant city manager, but the way this is written and with the lack of that clarification, it would appear that dealing directly with the assistant city manager in the absence of, or after the resignation of, the city

manager, would be a violation of the Charter. Hopefully, discussions with Ms. Matijevich would clarify that issue.

Chairwoman Benitez-Thompson:

Are there any questions from the Committee members? [There were none.] Is there anyone else wishing to testify in opposition of the bill? [There was no one.] Is there anyone wishing to testify as neutral on the bill? [There was no one]. I am going to go ahead and close this hearing on Assembly Bill 9. I will now open the hearing for Assembly Bill 169.

Assembly Bill 169: Revises provisions relating to contracts with a governmental entity. (BDR 23-793)

Assemblywoman Dina Neal, Clark County Assembly District No. 7:

I provided an actual packet ([Exhibit E](#)) to the Committee because I wanted to help give you a legislative framework and history of this bill. This bill was actually Senator Horsford's bill, Senate Bill No. 359 of the 76th Session. He was the Majority Leader in the Senate and is now Congressman Horsford. I have literally taken the amended bill that went through a three-day subcommittee and was vetted. This is the exact bill, with input from Legislative Counsel Brenda Erdoes.

I am setting this up in a particular way because I want to deal with some questions that came up. Madam Chairwoman, I am asking for some flexibility in my presentation because I am going to present it in three parts. I am going to discuss the intent of the bill generally, then I am going to quickly discuss issues that were asked and answered in a three-day subcommittee that occurred with this bill. I will then go through the bill, section by section. It will all work together, believe me.

I want to clear up some issues, and I want to add one last point. Because there was a three-day subcommittee where all parties were able to come in and state their complaints and issues, and they were able to deliver solutions, I want anyone who is in opposition to state on the record what has changed in the past two years within the circumstances with Senate Bill 359 of the 76th Session, which is now my bill, A.B. 169. I need the record to be clear on what occurred in the three-day subcommittee and what is now different in 2013.

The first intent of A.B. 169 is transparency in government efficiency and contracting. There was an issue in terms of abuse with contracts and I will get to that point. I will have Kimberlee Tarter with Nevada State Purchasing come up to discuss issues that occurred.

The second intent was to include nonstate agencies, but not to include unincorporated cities or smaller municipalities. Senator Horsford did not want overdue burden on smaller municipalities to get into dealing with reporting.

The third intent was to eliminate, as much as possible, the renewal of contracts without review. What was happening is that contracts were being extended and they were being amended without a review. Say you had a five-year contract, next thing you know it is extended for another five years, and there was no review by anyone saying why it should be extended for the five years.

The fourth piece of intent was to have an agency not extend a contract by amendment, but to rebid at the expiration of the contract.

The fifth piece of intent was to have the option to have a two-year extension in the contract or, if needed, an extension that was different from the contemplated intent of the original contract.

The next layer of intent comes from section 9, which was to make sure that they disclosed fees that were charged to consumers. They had language that was added to the bill to disclose fees for any party not a part of the contract. The original contract had the word "consumers." It was the intent to deal with a contract that may have hidden fees that would only be applied to consumers.

The next piece of intent was for the nondesign-build team that was added to do reporting. Legislative Counsel Brenda Erdoes, included the nondesign-build team because the Nevada Department of Transportation (NDOT) was currently not collecting data to make sure that the data was not being collected twice. Because they were already collecting on the design-build team, she indicated we needed to collect on the nondesign-build team because she wanted to cover all aspects of the public works process.

Another part of the intent was that age, race, and ethnicity were added to deal with the gathering of information to determine if there was discrimination across the board in state contracts that were being issued. In the gathering of the data for the minority contracts, Brenda Erdoes reviewed both U.S. Supreme Court decisions and Nevada Supreme Court cases to ensure what statistics should be gathered, which is why the language of race, ethnicity, and gender were added. The age was added because Senator Parks, at the time, felt that there was age discrimination and he wanted that additional tier added.

The last focus of intent involves section 16. This language was added because Senator Kieckhefer felt it was inclusive to tell the data story of whether discrimination was occurring. Now mind you, Senator Kieckhefer was a part of

the three-day subcommittee that vetted the bill. Although he agreed with collecting the data, the original bill, Senate Bill No. 359 of the 76th Session, actually had language of preferences, which was deleted because legal counsel said you need to start at square one, which is to collect data to find out if discrimination is occurring because you cannot have preferences without stating a legal basis. That is the purpose of section 16.

I actually want to call Kimberlee Tarter to the table to discuss some of the abuses before I get into the questions that were asked and answered during the three-day subcommittee.

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

I can speak on this bill only with respect to the sections that apply to NRS Chapter 333. Any sections that apply to NRS Chapter 338 are outside my area of expertise or authority.

What did occur in the last session was there were two contracts, out of the hundreds of contracts that the state issues, that came before the body and for which there were concerns. One of them was a contract issued by the Nevada Department of Taxation. This contract was issued as a sole-source contract. The concern was that it was in place for a very long time. I believe the service provider was a lockbox service. Part of the reason it rose to be an item of concern was because the checks for the lockbox service were mailed to Arizona. Because it was providing the service of collecting taxes for the State of Nevada, but the checks were being sent to Arizona, is part of what caused this contract to catch our attention. Once that happened and they started to delve into it, the fact that it had been in place for an extended period of time and that it had not gone out to bid in any recent history was part of what brought this about.

The second contract that came to their attention was under the Division of Welfare and Supportive Services. There was a subcontractor in this contract that provided banking services to some of the welfare clients, I believe, as part of the electronic benefit program. When the Welfare Division loaded the funds onto the client's card, the client, in order to access those funds, had to use their debit card in the same manner as you and I use our debit cards. The clients would then be charged those associated fees. There was concern that there was an oversight into what fees those clients were being charged and, therefore, indirectly the state was also bearing that expense and it was reducing the amount of funds available to those individuals.

Those two contracts are the genesis of this legislation that was brought before you.

Assemblywoman Neal:

I appreciate Ms. Tarter offering that information because it speaks to provisions in the bill concerning the disclosure of fees when a party may not be a part of the contract, as in the Welfare Division example. There was a contract and a consumer was then charged a fee that was not a part of the original agreed-upon contract language.

Chairwoman Benitez-Thompson:

If I may interrupt, Assemblywoman Neal. I believe Assemblyman Ellison has a question about the testimony just provided.

[Fire drill from 10:46 a.m. to 11:09 a.m.]

Chairwoman Benitez-Thompson:

Due to the fire drill interruption, and because Committee members have some obligations at 11:30 a.m., I am going to let Assemblywoman Neal finish with her opening comments and take questions from the Committee. We will then adjourn the meeting, but continue the hearing with support, opposition, and neutral testimony on Monday, March 4, 2013. I believe Mr. Ellison had a question prior to the fire drill.

Assemblyman Ellison:

I had a couple of questions, but I found the data I needed. I just needed clarification as to whether or not the jobs Ms. Tarter was speaking of were public works jobs.

Kimberlee Tarter:

No, they were not public works jobs.

Assemblywoman Bustamante Adams:

Ms. Tarter, I know you stated that the Department of Taxation contract had to do with a vendor in Arizona, but in the contract with the Welfare Division, where was the vendor from?

Kimberlee Tarter:

The Welfare Division contract was done through the competitive solicitation process. The subcontractor was Wells Fargo and I believe the Nevada branch of Wells Fargo was processing the debit cards.

Assemblyman Stewart:

There were these two cases out of how many contracts?

Kimberlee Tarter:

Those two cases were out of between 500 and 600 contracts that are awarded annually by the State of Nevada.

Assemblyman Stewart:

There were no other problems in any of the other contracts?

Kimberlee Tarter:

No, sir.

Chairwoman Benitez-Thompson:

With these two contracts, the one with the checks going to Arizona might be hard to quantify. However, with the second one, what was the total of the unknown fees?

Kimberlee Tarter:

There was never a total on those fees presented, so we do not know what it was in whole. Wells Fargo was the subcontractor on the contract, so the fees were disclosed to the Welfare Division. I think part of the issue was that the end users did not feel that the knowledge of the fees was communicated to them. They did not feel they were truly aware that every time they made a transaction there was a \$3 charge that came out of their funds.

Chairwoman Benitez-Thompson:

When we are talking about the card, are we talking about the food stamp card, or are we talking about their cash assistance?

Kimberlee Tarter:

I am not sure which program it was, but I think it was the Electronic Benefit Transfer (EBT) card. If they walked into the bank and went to the teller to get cash, that was one fee. If they went to an automated teller machine (ATM) to get cash, that was another fee. They needed \$20 here, then they needed \$20 there, and every time it was not really \$20, it was \$23. They did not really understand how that was totaling up and it came out during the hearing that the Welfare Division, working with Wells Fargo, needed to do a better job of educating the end users regarding the fees and the impact if they continued to transact business that way.

Chairwoman Benitez-Thompson:

Are there additional questions from the Committee? [There were none.]

Assemblywoman Neal:

I also want to put on the record that I had offered an amendment ([Exhibit F](#)), but I am pulling that amendment back until I hear on the record who is coming up in opposition or who has changes. I really want the record to be clear dealing with the three days of the subcommittee and the comments that were made, so I have the ability to match or deal with the contradictions that may exist within the three days of subcommittee hearings in 2011. I may come back to that amendment later with different language, because it brought cause for concern when I talked to the original sponsor and creator of the bill. He felt that the vetting process was significant and there were both parties on both sides in the Senate who offered very good comments and it was great dialogue and conversation. I just wanted to put that on the record because I did not start out saying that. We will close with that and pick up the hearing in terms of me moving into what was asked and answered during those three days to help people understand what the vetting process was and how intricately involved Brenda Erdoes was in developing this bill and also developing my bill, A.B. 169. Assembly Bill 169 is literally the amendment that came out of the Senate after all of the discussion and conversation.

Chairwoman Benitez-Thompson:

Thank you. That will be a good stopping point. Committee members will continue the bill on Monday morning. With that, I will close this hearing of Assembly Government Affairs [at 11:16 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 28, 2013

Time of Meeting: 9:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 9	C	Cadence Matijevich, City of Reno	Written testimony
A.B. 9	D	Cadence Matijevich, City of Reno	Proposed Amendment
A.B. 169	E	Assemblywoman Dina Neal	Legislative History of S.B. 359
A.B. 169	F	Assemblywoman Dina Neal	Proposed Amendment