

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

**Seventy-Seventh Session
March 18, 2013**

The Committee on Government Affairs Subcommittee was called to order by Chairwoman Dina Neal at 8:07 a.m. on Monday, March 18, 2013, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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 Dina Neal, Chairwoman
Assemblywoman Irene Bustamante Adams
Assemblyman Skip Daly
Assemblyman James Oscarson
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Bonnie Hoffecker, Committee Manager
Lori McCleary, Committee Secretary
Cheryl Williams, Committee Assistant

Minutes ID: 553



OTHERS PRESENT:

Kimberlee Tarter, Deputy Administrator, Purchasing Division, Department of Administration
Yolanda King, representing Clark County
Ted Olivas, representing City of Las Vegas
Michael Cathcart, representing City of Henderson
John Slaughter, representing Washoe County
Megan Salcido, representing City of Reno
Priscilla Maloney, representing American Federation of State, County and Municipal Employees, Local 4041
Gary Milliken, representing the Las Vegas Chapter of the Association of General Contractors
Gustavo "Gus" Nuñez, P.E. Administrator, State Public Works Division, Department of Administration

Chairwoman Neal:

[Meeting called to order. Rules and protocol were explained.] I would like to open the hearing on Assembly Bill 169. I want to call Kimberlee Tarter to the table to discuss her amendment ([Exhibit C](#)).

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

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

I do have to admit there was an amendment from private industry, and I did not incorporate their language into my amendment. I added language to section 10, which may in fact assist the private industry concerns. In discussing this language with our legal counsel, there were concerns that under *Nevada Revised Statutes* (NRS) Chapter 333 there is a provision for contractors to protect portions of their proposals as proprietary or confidential information, some of which is the cost. The subcontractor's costs fall under those definitions. We had some concerns that the way it was currently written it did conflict with NRS Chapter 333. Our solution was to add this language that clarifies that if it is flagged under the confidential proprietary label, it would also still have to be protected. That is all we propose to do in section 10.

There is a simple change in section 11. We listened to Clark County, who said they do contracts up to five years and, per Assemblyman Oscarson's request in keeping continuity between the contract terms, we chose to change two years to five years but keep the same controls in place. That is the only change to section 11.

In section 12, again, we changed it from two years to five years. With respect to the portion that applied to local governments, we left that intact, so the bill language remained the same. However, we put additional controls in for the state. The control we put in is if an agency were to request a contract for longer than five years, they would have to go to the Purchasing Division with a justification. The justification would then be vetted and if it were determined to be in the state's best interest, an approval to contract for longer than five years would be provided. There is a second check on that because they would have to also take that request to the Budget Division and then to the Board of Examiners for consideration. There are other checks and balances within that process.

The other piece to this, which was not in the original language, is a reporting element. We added language that if the Purchasing Division is going to be vetting these requests, we would then be reporting those back to this body. We provide the justification, the number of contracts that were approved, the identity of the contractor, and dollar amounts, so that information will be provided back to this body.

In section 12, subsection 2, we talk about "Using Agencies," so we carved out that that additional requirement is only going to apply to the using agencies that are defined under NRS Chapter 333. Those include the state agencies, the commissions, and the boards. It does not apply to local government, the school district, Nevada System for Higher Education (NSHE), Legislative, and Judicial.

There was one other piece we added, which was to allow an agency to extend a contract for one year without having to go to the full Board of Examiners, if it was needed. There was no money authorized, it was simply to extend a contract to allow enough time to complete the procurement process. It is a very narrow authorization where they can go to the Clerk of the Board of Examiners, which again is the Attorney General, Secretary of State, and Governor, to get a time-only extension to complete a procurement process.

While it looks like a lot of language, those are the changes we proposed in section 12 to only impact the state and put additional controls in place.

The other change we made is in section 14. We reworked it a little bit and added placeholders because our thought was, the way it was written, it captured every contract from \$1 to \$10 million dollars. We were not sure if your goal was to see all of the small-dollar contracts happening at the local agency level. We proposed to add a dollar amount to be considered by this body to see what you were trying to capture in this reporting section, whether it was \$50,000 or \$100,000. We also clarified the renegotiation.

Chairwoman Neal:

In section 14, subsection 2, you have the public body renegotiate the contract. Did you add this language as another safeguard?

Kimberlee Tarter:

We added that language more as clarification for paragraph (c) because the way this was originally written there was some conflict between the introduction of the section where it talked about renegotiating with an independent contractor. It did not really flow with what was in the body of the section where it talked about capturing all the contracts. We took the renegotiation out of the top to say if you enter into a sole source contract or a contract with an independent contractor, here are the things you need to report. We used subsection 2 to clarify by saying if you renegotiate a contract; you also need to report what is listed in section 14, subsection 1, paragraphs (a), (b), (c), and (d). The introduction only talked about renegotiating and sole sources, but when you got into the body of the section, it talked about the independent contractors. We did a minor modification to indicate that this applies to independent contracts and sole sources; we kept what you need to report the same, then proposed a threshold, and then clarified the renegotiation in subsection 2.

Chairwoman Neal:

Thank you for explaining the amendment. Are there any questions from the Committee on any of the proposed sections?

Assemblyman Stewart:

Are we going to hear from the counties and cities on this, as well? I would also like to hear from the contractors to see what their take is on this.

Yolanda King, representing Clark County:

What you should have before you is a proposed amendment ([Exhibit D](#)) to Assembly Bill 169. To give you a little bit of background as to how this amendment came about, there was a great deal of coordination between the entities that are listed on the first page, mainly the local governments. In addition, there were some comments or amendments that were presented by the Nevada Hospital Association and Anthem Insurance, as well as the American Federation of State, County and Municipal Employees (AFSCME) Local 4041, that are also incorporated into this document.

Chairwoman Neal:

I am going to stop you for one second so we can stay with Ms. Tarter's amendment and deal with Assemblyman Stewart's question. In regard to the amendment that Ms. Tarter proposed, section 4 in your amendment and section 4 her amendment are different. Ms. Tarter, could you explain why you kept

section 4 the way you did? Was there reasoning behind the inclusion? Then Ms. King can discuss the exclusion of section 4 in her amendment. You are taking two different actions in your amendment. Your section 4, Ms. Tarter, is inclusive to the sole sourcing and renegotiating for the counties, cities, schools, and state agencies. Ms. King's section 4 deletes county and local governments and makes it apply only to state contracts. We need to make sure that everyone is clear on that point. The first step is to discuss the difference and why it exists.

Yolanda King:

The difference between Ms. Tarter's amendment and the amendment being proposed here, specifically in sections 2 through 15, is it essentially takes out or eliminates the local governments from all of those sections. The thought on that was when we had first heard testimony about the particular bill, it appeared to me there were some issues with the state agencies as opposed to the local agencies. It is my understanding, and I can speak specifically for Clark County, that there are procedures, rules, and county commissioner or council policies that are in place to address these types of issues. Assembly Oscarson had wanted to make sure all of the local governments and state agencies were on the same page when it came to the term of the contract and the type of sole sourcing we are doing. My concern was the difficulty of trying to get everyone on the same page, simply because you have your small agencies and your larger agencies, in addition to the types of contracts, be it information technology contracts or goods and services contracts. To make this simpler, the thought was to remove local governments and have the focus be on the state agencies.

Chairwoman Neal:

Ms. Tarter, you included all of the local bodies in section 4. What was your reasoning behind keeping them in?

Kimberlee Tarter:

I left it in because I did not have reason to believe it was this body's intent or desire to carve them out, and I believed you were looking to capture this information for everyone. I went at the highest level and, based on the testimony presented earlier, tried to identify what were truly "do not pass go issues" and provide a solution that would be broad enough to allow all bodies to function.

Chairwoman Neal:

What we have not been privy to, even from 2011 to now, is whether there were any abuses at the local and county levels. Do we take it on good faith that everyone is being prudent with dollars when it comes to sole source contracting? That is up to the Committee to decide. That is the question that

has never been answered, and I am sure no one is just going to lay their dirty laundry on the table for me and admit they have had abuses. After we flesh this out, I want the other cities and counties who have a stake in how section 4 is being played out to come to the table and put their comments on the record.

Assemblywoman Bustamante Adams:

Ms. King, I know you said you do not see abuses as a problem in the local government agencies. Is there reporting on sole sourcing? Could you describe what the checks and balances are, if there are any in place?

Yolanda King:

In terms of the sole sourcing, I believe there is something right now in the statutes. I am responsible for submitting Clark County's budget document. The last time we did our budget submittal, I recall there was information that we had to submit to the state with regard to contracting and sole sourcing. *Nevada Revised Statutes* Chapter 354, section 1, requires that the local governments do submit to the state the contracts that they already have in place. In regard to what that specifically includes, I would have to find that out for you. What I am trying to say is I believe that information is being submitted by the local governments. I want to say that the first time that occurred may have been over fiscal year 2013.

Assemblywoman Bustamante Adams:

What about the checks and balances that exist to prevent any type of abuse?

Yolanda King:

Specifically for Clark County, over the past three or four years our county commissioners have been very vigilant when it comes to looking at these contracts. The contracts go before the Clark County Board of Commissioners for review. They have often come back and asked staff to go back to the contractor to try to renegotiate where there are renewals involved. There are many times our government has renegotiated for a lower price because of the recession. They question the sole sourcing. As a matter of fact, if there is a sole sourcing contract that we are asking our board to approve, there is a policy in place to complete a form detailing why it is a sole source contract and asking if there is anyone else available. There are checks and balances within the Clark County government that will ask those questions and those are forwarded to our senior management team, as well as the county commissioners. We have some internal checks and balances that we are providing to our Clark County Board of Commissioners whereby they can validate that information. I am not sure how it happens with other governments.

The board does ask the same questions about the number of years on the contract. As a matter of fact, we did have a resolution that had

a seven-year term. They have knocked that resolution down to a five-year term because they had the same concern that you have. They wanted to be able to review the contracts sooner rather than later. Our checks and balances are really at our county commission level, whereby they do review every contract that comes through them. They have been asking the tough questions.

Assemblywoman Bustamante Adams:

Madam Chairwoman, just like Assemblyman Stewart, I would like the other entities associated with this amendment to actually verify what the county does for their process.

Chairwoman Neal:

If there are any other municipalities here, I would like you to come to the table. However, Ms. Tarter, can you answer the question regarding NRS Chapter 354? What is the state's process for sole sources and would they send that to the Purchasing Division?

Kimberlee Tarter:

The state has a similar process for its sole sources. The administrator of the Purchasing Division, by regulation, is the only one authorized to approve sole sources. There is not a dollar limit on our sole sources. A sole source contract has to be submitted in writing with the justification vetted. If it is approved, then a signed document is returned to the agency. If they amend their contract, they have to amend their request. If they mark the contract as a sole source in the online contract tracking system, that document has to be uploaded and it must be submitted to the Board of Examiners with their contract.

As far as local governments, that does not come through purchasing and does not go to the Board of Examiners. If it is being referenced as NRS Chapter 353 or Chapter 354, which is the State's budget act statute, it would be submitted to the budget analyst who oversees the budget tracking for the local governments.

Ted Olivas, representing City of Las Vegas:

We also have a similar process to Clark County. Keep in mind, our city council and the county commission see contracts every two weeks. There is a process by which we update them on the weeks in between. We provide quarterly reports for the contracts that have been awarded. We also provide information to them on the bids that we received the previous week, what the bid results were, and when bids are coming up. A lot of information is provided on a weekly basis to our city council. I know there are similar systems for the other jurisdictions. I would be happy to answer any questions.

Assemblywoman Bustamante Adams:

The quarterly reports go to the people who you report to, is that correct?

Ted Olivas:

That is correct.

Assemblywoman Bustamante Adams:

Do they ever make it to the state level?

Ted Olivas:

No, they do not.

Chairwoman Neal:

Are there any additional questions for Mr. Olivas? [There were none]. Is there anyone else here from the local governments?

Michael Cathcart, representing City of Henderson:

We do have processes in place for contracting. Our city council does see contracts every two weeks and we keep them up to date on what is happening through briefings prior to the council meetings where they approve contracts.

Chairwoman Neal:

What is the normal length of the terms in these contracts?

Michael Cathcart:

I am trying to verify that now, but I am not aware of any long-term sole source contracts we currently have in place.

Chairwoman Neal:

What kinds of services does your sole source contracting revolve around?

Michael Cathcart:

If we did do sole source contracting, it may be associated with an information technology system that we purchased. A lot of times the support for that would be from the company we purchased the software through.

Chairwoman Neal:

Are there any questions from the Committee? [There were none.] Is there anyone here from Washoe County?

John Slaughter, representing Washoe County:

We have similar procedures when there is a sole source agreement. It is first reviewed at staff level. There is a form that is prepared by the staff who is

proposing the agreement and then reviewed by our purchasing agent. It then goes on to the Board of County Commissioners' agenda and reviewed at that level with all of the information. Very similar processes have been described by the other jurisdictions.

Assemblywoman Bustamante Adams:

Do you have that process mapped out and is it easily accessible so you can show us?

John Slaughter:

It is a format that we could provide you. I am not sure if it is easily accessible online, so maybe that is an improvement we could make, but it is a form that is standard throughout all the agreements.

Chairwoman Neal:

Can you provide that to us? We are not necessarily going to have another subcommittee, but I do want everyone to have the benefit of seeing the process. We trust what you are saying. We are also trusting that there has not been any abuse in terms of contracts because we would have to spend some time reading all the newspapers and going through your minutes. I might do that anyway, because it begs the question of whether everyone is doing this perfectly and whether there has been a situation where someone charged fees or abused the renegotiation of a contract.

John Slaughter:

I do understand, Madam Chairwoman, and I can get you a copy of the form I described to you. If you have any questions at that time, we would be happy to follow up with you.

Megan Salcido, representing City of Reno:

We have similar policies in place by which all contracts are awarded and renewed in public hearings.

Chairwoman Neal:

Are there any questions from the Committee for Mr. Slaughter or Ms. Salcido? [There were none.] Are there any contractors in the audience who would like to discuss Ms. Tarter's amendment regarding sections 2 through 15 and the application of section 4 to those sections? [There was no one.]

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

Ms. Tarter might want to come back up because she may have to answer this question. Ms. King's amendment basically takes out NRS Chapter 281 altogether. Ms. King's amendment is now completely under NRS Chapter 333. Ms. Tarter's amendment keeps sections 1 through 8 in NRS Chapter 281. Ms. Tarter's amendment does not have the State Controller listed, as we requested, incorporated into section 8, subsection 1, paragraph (c), but Ms. King's amendment does.

Chairwoman Neal:

I will have Ms. Tarter answer your first question. We wanted to deal with both amendments and I am aware of yours. I have talked to Kim Wallin at the Office of the State Controller. She is okay with that. There will be a merging, but after we have a discussion on the application. The Legal Division will give me an answer on NRS Chapter 281 and the juxtaposition of NRS Chapter 333. There is a thumbtack in that issue.

Priscilla Maloney:

That is what I wanted to know. *Nevada Revised Statutes* 333.165 does give authority for the Purchasing Division to do contracts for services, which is the American Federation of State, County and Municipal Employees' (AFSCME) focus. The only thing I could find in NRS Chapter 281 right now in existing law is NRS 281.221, which is a general prohibition against conflicts of interest for public service contracts for public officials. Those are the only two areas that currently seem to be covering this.

Chairwoman Neal:

Are there any questions from the Committee for Ms. Maloney? [There were none.] Assemblyman Stewart, were your questions answered? No contractors came to the table, but municipalities did.

Assemblyman Stewart:

I would like to hear comments from the contractors regarding both of the amendments in totality. This may not be the place to do that, but I would like to hear from them before we are finished.

Chairwoman Neal:

There are two issues on the table, and section 4 is the difference between the two. Ms. Tarter's amendment gives a carve out for the local governments, and Ms. King's amendment only applies to the state. Because the examples that were on the record apply to state contract abuses, their thought was this bill should only apply to the state. I do not have anything in public record that

shows abuse by the cities or the counties. The reason why the school district is still included in this bill and has not been deleted in either of the amendments is because in 2011 they were brought in by the Senate. If this bill makes it to the Senate, I will let the Senators decide if the school district is going to come out. Senator Kieckhefer wanted to capture the multi-million-dollar contracts of the school districts and he wanted some provision to deal with them.

I believe on the first day of the subcommittee, the school district opposed the bill. The reason they are still included is because I am going to keep them in the bill until someone who actually has the power to vote says they disagree.

If anyone is here to discuss section 16, which definitely relates to contractors and subcontractors, please come to the table. We will discuss Ms. Tarter's amendment first and Ms. King's amendment second.

Kimberlee Tarter:

I do not have any changes to section 16, which falls under NRS Chapter 333. My office has no authority under NRS Chapter 333 other than services and commodities.

Chairwoman Neal:

Then we are only discussing the proposed amendment to section 16 from Ms. King.

Gary Milliken, representing the Las Vegas Chapter of the Association of General Contractors:

I believe Mr. Olivas might try to clarify this later, but I am still concerned about the term "not responsive." Are we talking about considering declaring a contractor not responsive in the middle of a project? If you declare him not responsive, then he is off the job site. I would like clarification as to whether the contractor will be considered not responsive as he is making the bid or in the middle of a project, and then asked to leave the project so another contractor can be brought in.

Chairwoman Neal:

I believe you are in section 16, subsection 1, paragraph (e), which says, "Deem a bid that does not contain the information that the public body is required to gather pursuant to paragraph (a) to be not responsive." Are there any questions from the Committee?

Assemblyman Daly:

My question would be for Mr. Nuñez.

Chairwoman Neal:

Before he answers that question, I would like to talk about the discussion we had before, which is up for debate. When we had our first subcommittee meeting, we found out there was an electronic system for the certified payroll that was being operated by some of the municipalities. What was also put on the record was there is an issue of accuracy and veracity of information. Certain directors knew there were certified payroll documents being input that were not accurate.

This is an issue because the intent of section 16 is to collect truthful and accurate information. We now know, even with an electronic system which is reducing the burden of a contractor and reducing paper, it is still not being input correctly. We have to deal with that issue in some format. What that format is is up for debate. If a director was aware that information was being input that was not truthful or was inaccurate, they should have stopped it at that moment. I should not be hearing now that there was an issue in the pilot program that has been implemented over six months or longer. That is my issue. Can someone answer the question why a contractor would provide the wrong information?

What then do we do when we say we have gathered all this information and then on day 900 it turns out there were 100 certified payrolls input into LCPtracker that were inaccurate? What does that do to the data collection itself? At some point, the contractor has to answer the question of why they are either unknowingly or knowingly inputting information that is not accurate. I want to know why an agency director would allow a contractor to input information they know is inaccurate. That can of worms was opened by Assemblyman Daly, and now we have an issue of how to deal with a person who is not responsive.

At the end of the day, I could say we can delete "not responsive," but then what is the code of conduct a contractor is supposed to adhere to? If I give you the option of inputting the information electronically and you still do not do it right, then I am back with this bill trying to deal with the issue of what a director did not clean up when they knew it was not accurate information. That is what you need to help me understand, and we need to figure out how to flex that language to deal with behavior. This is an issue of behavior. I do not know the answer; I just know someone said on the record that the information was inaccurate. If they had to verify it, they knew for a fact something was wrong with the information.

**Gustavo "Gus" Nuñez P.E., Administrator, State Public Works Division,
Department of Administration:**

At the last meeting, you asked me to put the comments that were expressed during the workshop into an amendment, which I did ([Exhibit E](#)). With respect to what the public body must do in section 16, subsection 1, paragraph (d), subparagraph (2) of the bill, "Compiles and maintains pursuant to paragraph (c); and (e) Deem a bid that does not contain the information that the public body is required to gather and maintain pursuant to paragraph (a) to be not responsive." The concerns expressed to me were for the words "and maintain." If the public body does not maintain the records of what has been submitted, then they will hold the contractor responsible for something they have no control over. They did not have a concern with the words "required to gather." In my amendment, I kept the word "gather" because the information is going to be gathered at the bid or, as suggested in the two amendments I have looked at, within two hours with the 1 percent list. Gathering that information is okay, but if the public agency does not maintain that information, then the contractor is going to be deemed not responsive for something they have no control over. That was the issue and that is why I deleted the words "and maintain."

Assemblyman Daly:

I have looked at this and it is part of my frustration and problem. As to the direction I thought we were heading in, there is nothing in his amendment that addresses that. First, you are telling contractors to ask for information they cannot legally ask for, then to maintain the information, and put it on the website. I know there is another bill that directs a person to ask the age, gender, ethnicity, et cetera, and if the person gives it voluntarily, then it can be included on the certified payroll reports. That is one part. The other part is collecting the data that Assemblywoman Neal wants collected so we can figure out if there is a problem or not. That would be at the end of the job. I have talked to a couple of different contractors and they indicated they could do that. They are not set up to do it now. Some contractors can do it easier than others can. I think that is the direction we need to go. You can gain compliance at the end if they did not turn in the job-end report. If it is a subcontractor to a general contractor, you put the subcontractor who did not turn it in on the non-prequalified list. They can no longer bid on public works, but make it so when he does turn in the report, then he is removed from the non-prequalified list, unless there is some other issue. I think that is the way to get compliance in order to get the information you want.

I talked to you about when contractors do the 5 percent list. They are doing it a few minutes before they turn in the bid, and it has to be included in the bid. The contractors can put that information in generally, but maybe not always. They can change them in the last few minutes before the bid is turned in.

There could be a subcontractor who did not give the contractor his price. It is the same way on the 1 percent list two hours later. You could ask for all the backup information 24 hours after the bid. If you still have a problem and if you are going to be enforcing this, are you then going to potentially deem a contractor not responsive? What is going to happen if the contractor asks the information, but the employee states they are not going to give that information because they are not required to? Is the contractor supposed to guess? Do you want them to put down information that they did not get authorization to put down? Then the contractor is deemed not responsive. What would you put down for a gender for Granite Construction? Granite Construction does not have a gender, ethnicity, or race. Are we going to deem a contractor not responsive because Granite Construction does not have those answers? If I were a contractor, I would say I could not get the information from anyone, I would not bother to ask; that way I could never be deemed not responsive for some response I might give. We can figure this out, but this is not it.

Chairwoman Neal:

Mr. Nuñez, can you speak to the utilization reports ([Exhibit F](#)) that you provided to us that capture certain information? I think there was a discussion that since certain information is already being captured, there are variations of reports that can be created or delivered. The volunteered information I understand. The first question that needs to be answered is whether ethnicity is already being collected in some format associated with the project. The second question is what should be our threshold of responsiveness?

Gustavo Nuñez:

Hopefully I understand your questions. There have been a few things being said here. First, not being an attorney, I am not going to try to answer whether we can legally ask for this information or not. That is another discussion on how we can properly and legally gather that information. The other question is when the information should be submitted. Obviously, the longer you wait to require this information be submitted, the more difficult it will be. Usually, when contractors are not the successful bidder, they are ready to move on to the next bid, and trying to get them to come back to submit the information is going to be quite difficult. *Nevada Revised Statutes* Chapter 338.141 requires the three lowest bidders to submit their 1 percent lists within two hours of the end of the bid opening. In my opinion, that would be the last chance a public agency would have in order to enforce and require the information, assuming we can legally ask for the information. My intention to tie section 16, subsection 1, paragraph (a), subparagraph (3) to NRS Chapter 338.141, is because I believe if we wait much longer than those two hours, it is going to make it that much more difficult to gather the information.

With respect to your question regarding the utilization reports, we are currently using software that many state agencies are using, such as the Department of Transportation. On the forms, if the information is provided with the weekly certified payroll reports, the software will compile the information at the end of the job, instead of going back week by week to add up the information.

Public Works is currently undertaking a pilot program on one job with that software. Our intent is to start using it across the board on all prevailing wage jobs. It will save staff time. I will stop here to see if I answered your questions.

Chairwoman Neal:

Yes, you did.

Assemblywoman Bustamante Adams:

On the demographic profile in your exhibit on page 3 ([Exhibit F](#)), how difficult is it to add another line in order to capture another demographic? I am only asking since some third-party vendors make it extremely difficult if you do not follow the model that is already set up.

Gustavo Nuñez:

I do not have an answer to that question today. In southern Nevada, there was a desire to do this, and I do not know what prompted them to add the information beyond what is required for prevailing wage reporting.

Chairwoman Neal:

Mr. Milliken, based on what Mr. Nuñez just said, what is your suggestion to "not responsive" in section 16, subsection 1, paragraph (e)? What do you suggest we put there?

Gary Milliken:

I would tend to agree with what Assemblyman Daly said. You need to have accurate figures and all the information turned in properly. If there were some variations, those should be explained as to why they were not accurate. In the end, if they made too many mistakes, they would be considered to be not responsive.

Chairwoman Neal:

We are compiling the information, so we need to receive the information. Does the deletion of "maintain" address your concerns?

Gary Milliken:

It makes it easier. As an example, in Clark County they are building a new detention center. What would Clark County do if they were halfway through that project and there were some inaccuracies or challenges on some of the reports the contractor turned in? Would the contractor be considered not responsive and taken off the project? Would Clark County have to go out to bid again?

Chairwoman Neal:

It is not my intent to take anyone off a project. It is my intent that there should be accuracy of information. Regardless of the race, ethnicity, age, or gender, it is still taxpayer dollars at the end of the day. If you are getting taxpayer dollars and you are being provided a format to deliver information and it is inaccurate, what is the answer?

Gary Milliken:

I do not have a complete answer for that. You have to keep some things in mind when you talk about certified payroll. I believe you have eight different categories of drivers. Perhaps it shows on the certified payroll that the contractor paid an employee as a laborer. The employee was actually a Teamster and should have been paid as a Teamster and not as a laborer. It is inaccurate, but is the contractor going to be punished for that? It would be corrected in a period of time. It is just difficult to nail this down.

Chairwoman Neal:

I appreciate the dialogue. There are clearly some issues in section 16. Please schedule time with me in my office. We are going to close the subcommittee hearing on Assembly Bill 169 [at 9:00 a.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblywoman Dina Neal, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 18, 2013

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 169	C	Kimberlee Tarter, Purchasing Division	Proposed Amendment
A.B. 169	D	Yolanda King, Clark County	Proposed Amendment
A.B. 169	E	Gustavo Nuñez, Public Works	Proposed Amendment
A.B. 169	F	Gustavo Nuñez, Public Works	Utilization Reports