

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Seventh Session
April 4, 2013**

The Committee on Transportation was called to order by Chairman Richard Carrillo at 3 p.m. on Thursday, April 4, 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:

Assemblyman Richard Carrillo, Chairman
Assemblyman Joseph M. Hogan, Vice Chairman
Assemblyman Paul Anderson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman James W. Healey
Assemblywoman Ellen B. Spiegel
Assemblyman Michael Sprinkle
Assemblywoman Heidi Swank
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblywoman Lucy Flores (excused)



GUEST LEGISLATORS PRESENT:

Assemblywoman Dina Neal, Clark County Assembly District No. 7
Assemblyman Paul Aizley, Clark County Assembly District No. 41

STAFF MEMBERS PRESENT:

Vance Hughey, Committee Policy Analyst
Sean McCoy, Committee Policy Analyst
Scott McKenna, Committee Counsel
James Fonda, Committee Secretary

OTHERS PRESENT:

Frank Hawkins, President, Las Vegas Branch, National Association for the Advancement of Colored People
Leonard Hamilton, Project Director, Nevada Minority Business Center
Garrett LeDuff, Member, National Association for the Advancement of Colored People
Wendell Campbell, Member, National Association for the Advancement of Colored People
Devin Brooks, Member, National Association for the Advancement of Colored People
Marla Turner, Private Citizen, Las Vegas, Nevada
Craig Madole, representing the Associated General Contractors of America, Inc.
Jack Mallory, representing the Southern Nevada Building and Construction Trades Council
Paul McKenzie, representing the Building and Construction Trades Council of Northern Nevada, AFL-CIO
Dan L. Wulz, Deputy Executive Director, Legal Aid Center of Southern Nevada, Inc.
Cadence Matijevich, Assistant City Manager, City of Reno
Shannon Wiecking, Commander, Patrol, Police Department, City of Reno
Brian O'Callaghan, representing the Las Vegas Metropolitan Police Department
Ronald P. Dreher, representing the Peace Officers Research Association of Nevada
Danny Thompson, representing Nevada State AFL-CIO

Chairman Carrillo:

I will now open the hearing.

Assembly Bill 263: Revises provisions governing bidding on certain highway projects. (BDR 35-792)

I would like to welcome Assemblywoman Neal back to Transportation.

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

I am bringing forth Assembly Bill 263 and let us just consider this a low-hanging fruit. The reason why I brought this bill is that during the Interim I realized that the 2007 Availability and Disparity Study that was prepared for the Nevada Department of Transportation (NDOT) stated that there was a discriminatory effect in terms of NDOT prequalification bidding requirements that had not been remedied through statute. So, what you see is this clean language in section 1, subsection 1, lines 5 through 11 on page 2.

What you also see in Nevada Electronic Legislative Information System (NELIS) is an amendment ([Exhibit C](#)) that adds to that section to comport with the NDOT Disadvantaged Business Enterprise (DBE) requirements that they are currently following ([Exhibit D](#)).

What I want to state for the record is what was cited in the 2007 NDOT study, which actually covered the years 1999 to 2005. It was found the way NDOT prequalifies firms seeking to bid as a prime contractor on public works contracts with the Department under *Nevada Revised Statutes* (NRS) 408.333 meant that at the time that the firms were trying to prequalify for the bid, none of the firms had the ability to prequalify because they did not have specific NDOT experience. This was found to be a barrier to a company receiving a prime contract. The study looked at thousands of contracts, interviewed thousands of people who had done the work, and tried to understand what were the barriers. These firms were precluded specifically because the barrier was the contract requirement that they have worked with NDOT.

This language attempts, and I do not know how well it does, but it attempts to rectify that barrier. I uploaded the study on NELIS, but I am sure none of you have read this wonderful 408 pages, but what I am referring to is at the very beginning ([Exhibit E](#)). To get a quick snapshot, look at page 4 in section ES, the executive summary. The paragraph at the top says "Barriers in obtaining prime contracts." This is what I am referring to. The information about prequalification is found in section VI, pages 2-3.

That is what I am trying to remedy. I wanted to also state that the reason why I added the amendment is that there is a policy statement that NDOT currently operates under. The Department made an assurance to the federal government that it would comply with 49 CFR part 26, and that, based on receiving federal assistance, it would reach certain policy goals. Five of these goals fit the amendment where you have the responsible bidder and this DBE language.

One of the first goals NDOT said that it would meet was to ensure nondiscrimination in the award and the administration of U.S. Department of Transportation-assisted contracts in the highway. Number two, it said they would create a level playing field in which DBEs can compete fairly for assisted contracts. Number three, it said it would ensure that the DBE program was narrowly tailored in accordance with applicable law. Number four, it would ensure that only firms that fully meet 49 CFR part 26 and the eligibility standards are permitted to participate as DBEs. Number five, it said it would help remove barriers to the participation of DBEs in U.S. Department of Transportation-assisted contracts.

When I found out the barrier that the statute created had not been remedied, I decided to take the low-hanging fruit and bring a bill that flexes the language of what can be considered NDOT experience. I added the language that you see in section 1, subsection 1, lines 5-11 on page 2, which states that, "If the Director requests or considers information concerning the person's past performance on contracts or volume of business, the Director may not limit his or her request or consideration to such information concerning contracts for transportation projects but must request and consider such information concerning all contracts for public works and any other comparable experience."

I felt that was the best language to give some broad assistance to the director of NDOT, and also effectively attempt to remove the barrier that the required NDOT experience created a discriminatory effect under NRS 408.333. That is the short version. I do not have a long presentation on this, because it really is remedying and repairing what the 2007 Availability and Disparity Study found to exist, and then trying to repair that within statute.

Assemblyman Hambrick:

I take it this is a pre-award bill, rather than a post-award bill? As a quick background, the vast majority of my 30 years in law enforcement was contract fraud. There are certain standards. Reading this very quickly it looks like a pre-award bill, because post-awards are subject to lowest responsibility, particularly if the Small Business Administration (SBA) has given them certain remedies to bid and be considered special. There are certain benchmarks they have to meet independently. So, any contractor who would come in, from my

experience, which is interstate, but this is intrastate, so rules are a little different. If it is pre-award, it looks like a real good bill. If it is post-award there should be a mechanism already out there that makes sure that certain things are met; particularly in the disparity report that I glanced at very quickly, but there should be remedies on post-award.

Assemblywoman Neal:

My attempt was to deal with the prequalification requirements specifically.

Assemblyman Hardy:

Does this just address prequalification in DBE language, or is it across the board with any type of contractor who wants to be involved in state work?

Assemblywoman Neal:

It is only specific to NDOT and their prequalifications. It does not spread across NRS 338. It is NDOT specific, NRS 408, and then this responsible bidder language for the DBE is just following in line with the consistent goals that NDOT has already established for their programs. So it was not trying to have something in there with their current goals, it was just trying to align what they already have in place under NRS 408.

Assemblyman Hardy:

I understand about the DBE language, and I have not looked to see where it fits in other language. From my previous experience we had to follow this same prequalification language, and I think it is in another area in the NDOT language, to have that experience with NDOT prior to being able to go out on your own. I sure like that it is clearing it up in both areas, not just in the DBE language.

Assemblywoman Neal:

I will definitely make sure that it does. I know that there is a program right now for utilization of DBEs, and I think this language is attempting to meet that requirement. Probably this is in the other part of the statute that you are talking about. But I will make sure and I will send something to the Committee for clarification.

Assemblyman Wheeler:

I do have a concern, because if you have not had experience with NDOT, it is a different experience than any other contracting experience, so there is a reason for that language.

Assemblywoman Neal:

I understood that it is a hard qualification to meet, but we spent a lot of money on the 2007 Availability and Disparity Study and the finding was that the

specific NDOT experience requirement was a barrier. They offered suggestions that the statutory language needed to be dealt with somehow because the effect of it was discriminatory, because no one was able, during that period from 1999 to 2005, to even get the experience. They could not become a subcontractor because they were eliminated in the experience. They did not know how to get a track record if they could never do the work, and that was a legitimate concern. My bringing it in 2013 is only because I found out that it had never been remedied and I saw that we are still running into the same barrier. I was able to sit at the table for the new disparity study and it was brought up again that this is still a barrier. The way that the experience was being used prevented people from obtaining a track record. If you have a better way to help a business get a track record, so they can participate in NDOT and NDOT can meet the federal requirements for those dollars, I am wide open. I have never worked on an NDOT project.

Assemblyman Wheeler:

I will do what I can. Thank you.

Assemblyman Sprinkle:

I am just curious mostly with the very first part, line 5 on page 2, where it says "If the director requests." Had you given any consideration to making that mandatory, saying something like, "the director must request or consider information?"

Assemblywoman Neal:

The reason why I have the word "if" is that I am trying not to tie the director's hands. I could put "must," but then I am drafting a bill telling the director of NDOT what to do and I do not have NDOT-specific experience. I was trying to be somewhat permissive but not open a door. The "if" meant that the director did not have to do something. I can deal with that language, but that is why it was written that way, because I knew that I would be asked how I know what is really needed. All I had to base it on was that there was a study that spoke specifically to that statute, and when I looked through the legislative history to see if anyone else had touched it, I found out that no one had even tried to tackle what that 2007 study had brought out. So, if I need to put "the director will," I am okay with that, but I defer to Assemblyman Hardy because I would not want to deviate from the political will of this Committee. Right?

Assemblywoman Spiegel:

I had a question on your proposed amendment regarding the definition of responsible bidder, provision number four: "has met or exceeded the DBE goal on its past 4 most recent awards" ([Exhibit C](#)). So, if they are a relatively new business and they have only gotten three awards, they would not be considered

a responsible bidder? Is that correct, and they would not be able to bid then? How does that work?

Assemblywoman Neal:

You are referring to the prime contractor who has used a DBE. Are you talking about line 4 ([Exhibit C](#))?

Assemblywoman Spiegel:

Yes.

Assemblywoman Neal:

My understanding is that the way this applies is that when you have the responsible bidder and they have certified compliance with E.O.11246 affirmative action requirements in the recent past 12 months and have met or exceeded the DBE goal on their past four most recent awards. My understanding is that this is something NDOT is already trying to get a track record on. So this language is trying to reconcile what they are already doing and requiring from the prime contractor. They are trying to make sure they are meeting the goal or they are exceeding it.

My understanding is that "meeting it" means you should have shown that you attempted with your best effort to use a DBE, and if you used your best effort and then found someone who is not able, then you have shown that to NDOT and it is already tracked and recorded with your civil rights officer. That is my understanding on how that works, because they are already tracking a prime contractor and asking him if he has made the best effort to try to meet the goal. The Department has an established goal of 10 percent, I believe.

Assemblywoman Spiegel:

I guess the basic question then is, how do you, as a business owner who is a DBE become somebody who can be a responsible bidder if you do not have awards? Do you see what I am saying? It looked like the criteria meant that in order to become qualified as a responsible bidder, you would have had to have contracts awarded to you.

Assemblywoman Neal:

Two things are happening. It looks like what NDOT has currently tried to do is give credit to the people who have used DBEs. And, if you have not, now they are putting this additional requirement on you to try to do that. Does it eliminate you? I do not think it does because you have the best effort requirement that you attempted to find and you could not. The DBEs have a list of qualified DBEs or minority business enterprises (MBEs) and woman business enterprises (WBEs) that are eligible to participate.

Assemblywoman Spiegel:

Let us say that I am a MBE/WBE and I start out as a subcontractor and I have some awards, but I do not have any awards that would qualify me to become a responsible bidder. So, what I am wondering is how, as a MBE/WBE, do I get to the next level?

Assemblywoman Neal:

We are talking about the prime contractor in this particular instance.

Assemblywoman Spiegel:

But Ms. Neal, let us say that I am a MBE/WBE and I have goals.

Assemblywoman Neal:

Okay, I understand that. To get to the next level you show me your best effort that you attempted to find a DBE or a MBE/WBE. That is my understanding of how that works, but I will get clarification from NDOT. They really are trying to make people comport with the already existing goals the federal government gave them that said, if you are getting these federal dollars you need to do what is laid out in their 48-page document on the goals and policies. In reading through what they have already done, I was trying to comport with that. But, if I need to further examine my item four and flex it out, then I will bring this Committee back an amendment.

Assemblywoman Spiegel:

I just want to make sure that people do not wind up being precluded from ever reaching the next level because of language.

Assemblywoman Neal:

That is not the intent. That would be a double dose of discrimination where you are prohibiting someone on one side, while I am trying to remedy things on the other side. That is not the intent.

Assemblyman Hardy:

If you do not mind, I would like to try to explain for you how it works.

Assemblywoman Neal:

Be my guest.

Assemblyman Hardy:

The Department of Transportation has goals set for people to meet to be able to be general contractors. One gets to be in that order to become a general contractor by being a subcontractor that has worked under a general contractor in an NDOT experience. Once they have that NDOT experience, they can

become a general contractor specific to whatever their profession is in that field. So that is what it is trying to do. The goal is to try to meet a certain criteria of including those disadvantaged businesses. The state, as of about two years ago, was only at 6 percent plus. Now it has moved to 10 percent to try to increase that. It has been very difficult in the past to even get to 6 percent, but I believe their thinking is that by taking it to 10 percent, maybe it will draw more out. But, this attempt to go around the qualifications is a dangerous thing if you have not had that experience, because it can actually work to your disadvantage. If you have not worked for the state, it could cost you your bonds, your contractor's license, and everything else. So, there is a reason they have that situation, and I believe there are other people in the room that would either verify that or call me a liar.

Assemblywoman Neal:

I do not think anybody would call you a liar, Assemblyman Hardy, but it is true that this is a niche area. I also think that because this lay dormant for so many years, we now have a real cavern in the experience you could achieve. If the study starts in 1999 and I am bringing this in 2013, you can imagine the struggle in trying to figure out how to obtain a track record when you never got the benefit of being a small person on a contract, and how to build your track record and get your experience. We want to at least open the door and attempt to relieve the barrier by saying, Okay, if you can get in on the small level and build your track record to become a prime, then we would like to do that. We would not want a study that we spent at least a \$100,000 on to lay dormant, and, we do not deal with the issues it found, because who knows what the 2013 study is going to find. If it is just a complete overlay of the 2007 study, then we are still dealing with the same issue. But as I said, whatever suggestions there are to try to deal with that comparable work experience, I am open to them as long as it allows the small parties to become involved and build a track record for NDOT work.

Chairman Carrillo:

Are there any other questions for Assemblywoman Neal? Seeing none I would like to move to support on A.B. 263 in Carson City? [There was none.] I would like to move to support on A.B. 263 in Las Vegas?

Frank Hawkins, President, Las Vegas Branch, National Association for the Advancement of Colored People:

I am a general contractor and developer here in Las Vegas. Before I make my comments I would like to make a couple of statements. I appreciate what Assemblyman Hardy says. While we support the bill, we do not think the bill goes far enough.

I agree that the pre-award should be spread across to everyone as opposed to being limited to either the DBEs or a small section, so we are advocating that across NRS 338.

There was another question talked about as to how you move to the next level. I think for the Assemblywoman who asked that question, I would say that is our challenge, because you cannot move to the next level. And all we have to do is look at the history of work and who has performed the work here in Nevada, and you will see the only competition that has really come is from outside of the state. We are not growing anybody else for the business. I would like to mention that I was on the selection committee for the new disparity study that is taking place now and I was quite taken aback by the way the human resources department handled the selection process. We were told that they would not be selecting anyone that day. After I left they turned around and made a decision and selected the firm. There are lot of people who had issues with BBC Research & Consulting, the firm that did the 2007 disparity study. Unbeknownst to me they ended up getting this study as well, so we will all be watching with curious eyes to see if those same mistakes are made.

I think that, we, in our state, need to look at the entire bidding process because we end up limiting competition. I do not think it is anybody's intent to do that. As we talk experience, if I have done ten \$10 million jobs, and now I want to do a \$15 million job; but yet they say, "Oh, Frank, you do not have experience doing the \$15 million project; therefore we are not going to allow you to bid the project." It is the same method for minority businesses, women-owned businesses, or small businesses now. You have to submit all of your information prior to a pre-bid so they can determine if you are qualified to, in fact, bid. This in my opinion, is just a way of eliminating people prior to getting a good number before they sit down with them to see if they are qualified to perform the work. I think that is a discriminatory practice that we should look at.

But back to the bill A.B. 263, I believe all of us want to grow small business firms in our state. We want to move away from favoritism, but allow competition, both with engineering firms and prime firms. We want to help small businesses and large businesses work. But, we have to do a better job of determining what "track record" is. If you examine the comment I made about having ten \$10 million projects, but when there is \$15 million project I am told I cannot bid, I think that poses a challenge that we all do not think is equitable or fair.

So we support the bill; we would like to see a lot of other changes. We know it is just a bite of the apple. We have been involved in this since before 2007 and

it is an ongoing challenge, but you have got to be relentless and you have got to be willing to stay the course, and we are. Thank you.

Leonard Hamilton, Project Director, Nevada Minority Business Center:

We are a function of the Minority Business Development Agency of the U.S. Department of Commerce, and we are also in support of this amendment to the legislation. We have seen over the past five or six years the operations at NDOT, and it really is a self-fulfilling prophecy when it comes to companies not ever being able to get into the system because we have a lot of self-performing that is being done by the primes. We have a situation where, if you want to become a contractor, you run into so many impediments that are all listed in that disparity study, and nothing has changed since 2007, with the recommendations that came out of that study. I am just glad that Assemblywoman Neal has started to really address some of the issues that need to be addressed. We are in support of the study.

Garrett LeDuff, Member, National Association for the Advancement of Colored People:

I am also in favor of this bill. I want to applaud Assemblywoman Neal for sticking with this bill and amending it to remove the existing barriers. Inclusion, transparency, that is the key. I applaud our Assembly for moving forward in this manner to face these challenges. To me challenges are opportunities. I feel that the verbiage is correct. I think there is a lot of latitude that needs to be given to the director. I agree with the verbiage. We do not know where we are going to be in two years or three years or four years. I believe that latitude needs to be incorporated in that verbiage and I think that is good it does not limit the director's ability. With that said, once again I am in favor of this bill and I would be more than happy to answer any questions.

Wendell Campbell, Member, National Association for the Advancement of Colored People:

I am in favor of the bill also and I would like to add that the purpose of the bill was for federal government and private contractors to ameliorate past discriminatory practices. So, with all of this the bill allows government to straighten out their wrongs as well as the wrongs of private contractors that governments do business with. Stay the power, Ms. Neal.

Devin Brooks, Member, National Association for the Advancement of Colored People:

I am in favor of and support the bill. I think it is important. I am a young entrepreneur and I want to get into many different endeavors, possibly development in the future. I want to feel like my future is secure here in Nevada as far as having the same opportunity as the next person who might

want to consider getting into development. I think it is important to understand things with NDOT, and understand our history as far as 2007 and some of the money and funds that have been disbursed already for the same exact study that we are doing in 2013. As a young man, I am extremely anxious to see if my fellow constituents and my political figures such as yourselves will make some of the right decisions for our future. I think this is something that is important and we will be watching. Thank you so much for your time.

Marla Turner, Private Citizen, Las Vegas, Nevada:

I did submit my report on NELIS. I am here simply to state my support A.B. 263 and encourage your support. Thank you.

Chairman Carrillo:

Any questions for Ms. Turner? Seeing none, is that everybody that is in Las Vegas in support? [There was no one.]

Is there anybody in opposition in Las Vegas? I see none. Is there anybody in opposition in Carson City to A.B. 263? [There was no one.]

Now we will go to neutral on A.B. 263.

Craig Madole, representing the Associated General Contractors of America, Inc.:

We are neutral on this bill, but we do think that some of the issues the bill may be trying to address have already been addressed by NDOT. In 2010, NDOT changed their prequalification for all contractors. The reason I was late to the Committee hearing is that I went down and printed a copy of their qualification standards so that I could leave it with the committee secretary ([Exhibit F](#)).

For contracts of less than \$250,000, you do not even have to list any experience, so there is no experience required to be an NDOT prequalified contractor. For larger jobs, the prequalification does have a half page of experience and it does allow you to list any applicable experience. It does not have to be NDOT experience. Then the next nine pages are all financials. The biggest hurdle to actually become a prequalified contractor for NDOT is the financials, not the experience piece.

We believe the other issue is with the amendment, and I just read that while I was sitting down. We do have a little concern that, as written, it probably needs to be massaged. Depending on the delivery method that NDOT chooses, if it is a design-bid-build or a Construction Manager at Risk (CMAR) project, or whatever method they choose to deliver that project, and depending on the requirement of the self-performance of the contractor, they may not be able to meet those DBE goals because they may be required to perform the vast

majority of the work themselves. That is just something that may need to be manipulated in the process. I will be happy to leave these prequalification standards for the committee secretary.

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

We are generally supportive of what it is that Ms. Neal is trying to achieve, and after listening to the testimony and the questioning on the bill, particularly from Mr. Hardy, I switched our position to neutral, more or less because we support the concept but really want to see how this thing works itself out.

Chairman Carrillo:

Are there any questions for Mr. Mallory? Seeing none, please proceed.

Paul McKenzie, representing the Building and Construction Trades Council of Northern Nevada, AFL-CIO:

We too appreciate the concept the Assemblywoman is trying to achieve with this bill. There are a couple of things that we would like to take some time and sit down and talk to her about to see if we can work through. The way I read the bill originally is that she would want to consider non-road construction work as one of the criteria for prequalification. We would have a little concern with that. If a guy is building houses and then he wants to jump right onto the highways, that is not necessarily a direct switchover in construction methods. We agree, and have for a long time, that there needs to be a definition of responsible contractor in the statute. We would agree with Mr. Hawkins that the definition needs to be not only in NRS 408, but it also needs to be in NRS 338. We believe we need to work with Assemblywoman Neal a little bit because we think that there are more components to a responsible contractor than the ones she listed. There are a couple of areas there that are a little restrictive and may keep a person who is a responsible contractor from qualifying as one under the standards she established there. I would be happy to answer any questions.

Chairman Carrillo:

Any questions from the Committee members? Seeing none, is there anybody neutral to A.B. 263 in Carson City?

I would like to have Assemblywoman Neal come up if she would like to do a closing statement.

Assemblywoman Neal:

I did look at the current NDOT policy, but what needs to be understood is that it is policy. And, although the federal government is directing them, it is not in statute. So, codifying, or at least allowing some open door to deal with the contracts of less than \$250,000 that do not require experience, if people are willing to have that captured in statute, then that deals with the issue of the tracking. But, it is a policy. It is not like I did not look at the policy that NDOT had set forth. I said that they were department policies, not statute. And so that is why I went in this direction. And so the comments saying that they would help me massage the language, I am open to that. I am not sure about spreading the DBE requirements or the responsible bidder language specifically across all the statutes. I would have to get with Legal to find out because the problem with that, and the question that they would need to answer for me, has to do with the fact that NDOT had a disparity study that allowed them to do the DBE language. They also were affected by a Ninth Circuit Court of Appeals [*Western States Paving Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005)] case that further established the need for the study to see if there was a discriminatory pattern that was going on at NDOT. [Background at <<http://www.nevadadbe.com/>>] When you talk about the other public agencies and you try to mandate a DBE requirement, I do not mind attempting it, but if it falls out of the legal framework in terms of where is the study that proves that you make another department do that, that is an entirely different conversation. With NDOT I know I have the legal grounds to say it, and I know that there is case law that backs it up. You can make that requirement and you can mandate it because it was already a finding.

Chairman Carrillo:

I now close the hearing on A.B. 263 and open up the hearing on Assembly Bill 282.

Assembly Bill 282: Revises provisions governing certain sales of motor vehicles. (BDR 43-640)

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

Nevada Revised Statutes (NRS) requires that a company that sells automobiles must have \$100,000 bond. The bond was originally intended to protect the consumer, someone who purchases an auto and something goes wrong and he has a claim against the seller. The bond is there to satisfy the claim of the person who was wronged. The Supreme Court of Nevada interpreted later that anybody would be eligible for those funds, including a finance company that was also hurt and wanted to collect. They could apply for the \$100,000. The bill attempts to make this narrower, so that only the consumer would be eligible for those bonds. It seems reasonable because there is other recourse

available in other situations, other bonding and other insurance to cover the other car cases. That is the brief summary of the bill. It is to narrow that bond to benefit only the consumer. [Assemblyman Aizley supplied information on bonds ([Exhibit G](#)) and written testimony ([Exhibit H](#)).]

Assemblyman Wheeler:

Why should not some other entity be able to get this bond? If the car dealership, manufacturer, or whoever, owes them money, and that money is sitting there, why should they be precluded?

Assemblyman Aizley:

Apparently the intent of the bill was to protect the consumer. There are other protections for other areas. They can have their own insurance, or their own bonding. The intention of this was for the consumer, but the court interpreted differently. It is trying to narrow it down to original intention.

Assemblywoman Carlton:

I am looking at the definition of consumer. It means "any person who comes into possession of a vehicle as a final user for any purpose other than offering it for sale." Does that mean this goes from owner to owner to owner, because cars can have multiple owners?

Assemblyman Aizley:

I believe it means in the original transaction the consumer who buys from the auto agency or the seller, and that is it.

Assemblywoman Carlton:

So the consumer can mean the seller also if they are in possession of the vehicle. Would you say so?

Assemblyman Aizley:

I think so.

Assemblywoman Carlton:

Clear as mud. Thank you.

Assemblyman Aizley:

Well, let me add that an individual is not required to do that. An agency is required to have the bonding.

Chairman Carrillo:

I will move to support on A.B. 282 in Carson City first. [There was no one.] Now we will go to support in Las Vegas.

Dan L. Wulz, Deputy Executive Director, Legal Aid Center of Southern Nevada, Inc.:

I have worked with Assemblyman Aizley in putting this bill together and also worked with the Legislative Counsel Bureau (LCB) on language. It was an issue I brought to Assemblyman Aizley's attention in light of the Nevada Supreme Court case that he mentioned. We are here to have the law say what I think most of us, including administrative law judges at the Department of Motor Vehicles (DMV), thought that the law meant. That is, that the bond was meant to protect consumers. So we are correcting an oversight which a Nevada Supreme Court case named *Western Surety Co. v. ADCO Credit, Inc.* [127 Nev. Adv. Op. No. 8, 251 P.3d 714 (2011)] made clear: that using the words "any person" in this statute means not just a consumer, but also a finance company can be a claimant under a dealer bond.

The bill, and my comments are with respect to the bill as proposed to be amended, presents a win-win-win opportunity. It is a win for surety bond companies, as they would only have to pay consumers. This should result in reduction of the premium for obtaining the surety bond. It is a win for car dealers. If the surety bond premium is reduced, then they have to pay a lower premium. It is a win for consumers. The entire bond will be available to satisfy only consumer claims. It is a win for the courts and DMV in administering the claims, as the bill brings clarity. The only entities that lose under the bill are creditors of car dealers like finance companies. Under the bill they can no longer make a claim on the bond. But dealer creditors have available to them other means of obtaining security. They can require a dealer to purchase a separate bond of some kind or put up collateral in their contract as a condition for doing business. So today after the *Western Surety* decision in the Nevada Supreme Court, we are here to correct an oversight.

Over the years, in amending the statute in 2001 and 2005, I believe it was always Assemblywoman Barbara Buckley's intent to make clear that the surety bond was for the protection of consumers, not creditors or car dealers. The bill as proposed to be amended makes clear that the bond is there for the protection of consumers, as defined, and for consumers alone. The bill as proposed to be amended ([Exhibit I](#)) deletes language from the current NRS 482.345, subsection 6, that one "may apply to the Director, for good cause shown, for compensation from the bond," because that same language is already stated in NRS 482.345, subsection 7, paragraph (b). So the intent there is simply to delete duplicative language, and it should not be inferred that one cannot apply to the Director, for good cause shown, for compensation from the bond.

The bill as proposed to be amended has also added some provisions for clarification designed to avoid litigation. In litigating a claim against the surety

bond of a payday lender, I was alerted to potential problems in the language of the statutes covered by the bill. We have removed the language "injured by," which is ambiguous and arguably problematic, and replaced it with broad language stating the bond is "for the use and benefit of the consumer." We have also expressly spelled out the losses and damages a consumer might have that are covered by the bond, again, to clarify what I believe a court would rule under the majority view of case law, but avoids litigating those issues.

Assemblyman Hardy:

Is a sole proprietor business a consumer?

Dan Wulz:

I would think so. A sole proprietor would be a consumer if they went to buy a car from a car dealer, I would think. I will say that the definition of consumer in the bill was language selected by the LCB, and I did not select that specific language. All I asked for was that the definition be as broad as possible and cover a consumer. In my opinion, the answer to your question is yes, but we might have to ask Legal on that.

Chairman Carrillo:

We will see if Mr. McKenna has a comment about that.

Scott McKenna, Committee Counsel:

In looking at the definition of consumer that is in A.B. 282, that is a definition of consumer that has been patterned in several places around NRS, including just this one example: NRS 370.020. The way that definition has been used in the past, and with its exclusion of repeated sales in a wholesale or retail manner, the idea is generally to say that a consumer is an end user and not somebody who will be further selling the product to someone else. In response to the question that was asked, I would say that a sole proprietor would be considered a consumer, provided he had no further intent to resell the item in question.

Chairman Carrillo:

Is there anybody else in support of A.B. 282? [There was no one.] I would like to direct it back to Carson City in opposition? [There was no one.] Back south, is there any opposition? While we are south, is there anyone in neutral? [There was no one.] Now Carson City, is there anyone neutral. Seeing none, I would like Assemblyman Aizley to come up for a closing statement.

Assemblyman Aizley:

Thank you Mr. Chairman. I think it is a fairly direct bill, helping consumers. And I would like to thank Dan Wulz for helping.

Chairman Carrillo:

Thank you so much, Assemblyman Aizley. I really do appreciate your bringing this bill forth and any consumer protection we can add is much appreciated.

I would like to close the hearing on A.B. 282 and open the hearing on Assembly Bill 416.

Assembly Bill 416: Revises certain provisions governing the enforcement of parking laws. (BDR 43-983)

Cadence Matijevich, Assistant City Manager, City of Reno:

Joining me today is Commander Shannon Wiecking from the Reno Police Department. We very much appreciate the opportunity to present Assembly Bill 416. We are also appreciative of the Assembly Committee on Government Affairs bringing this bill forward. We believe it is a simple bill. What it is seeking to do is expand the allowances that are already in statute for volunteers of our law enforcement agency to issue citations relating to parking. I would note that the language of the bill as it came out of drafting indicates that these would govern the stopping, standing, or parking of a vehicle. I know when we had an opportunity to meet with some of you to discuss this bill, there were some concerns around that. We certainly intended this to be for parking, so if there are concerns around the language of stopping or standing, we would have no opposition to striking those so as to make it clear that these allowances would only be related to parking of vehicles, essentially unattended vehicles.

A little history on why we are seeking this. You may hear from some of the opponents of this bill that this is a job-killing bill, and I would argue exactly the opposite. We are bringing this forward because we are, much to our pleasure, seeing some resurgence in some of the smaller business districts in our community. We have had the merchants in those communities reach out to us say, "We need assistance from the City of Reno in ensuring that the parking near our small businesses is available, that it turns over throughout the day, so that our customers know when they come to see us they have got a chance of getting a parking spot near our business; and that there are not people who park in those spots all day long, every day, and prevent access to our small businesses." And so, as we look in our toolbox, this is something that we see as an added tool for us. It is not intended in any way to replace paid city employees, it is intended to be an enhancement to that. It is an attempt from us to support small business in our community to help them grow. We know that when they grow, city revenues will grow, and hopefully grow enough that perhaps we can put some more police officers and community service officers back to work. We would be pleased to answer any questions that you may

have about our volunteer program and how it is administered, and we would ask for your support of this bill.

Assemblyman Sprinkle:

When I met with your associate, the potential for the full-time employees losing their jobs was one of the concerns that I brought up with her as well. So I appreciate your stating that for the record. Are there any other assurances you can give for down the road. Say these volunteers prove to be very useful, that concern still stays with me as to how the people who are already fully employed by you will be able to say that their job is secure.

Cadence Matijevich:

These employees do not report directly to me. Right now we have three employees who are Community Services Officers (CSOs); two of them are dedicated to parking citations. Commander Wiecking may want to add in here. Certainly what happens to their positions in the scope of things, I cannot guarantee you today that those positions are going to be there forever. I wish that I could, but I cannot guarantee that we are not going to see additional revenue declines and that someday we may not have to lay off one additional employee. It is absolutely our hope that does not happen. These are areas that are specifically targeted for replacement when our revenues do recover. I can tell you that it is absolutely not our intent for these volunteers to ever be a replacement for paid staff. They are intended to be an enhancement. The challenge we have is that these small businesses have asked us, "Please do not put in metered spaces where people would have to pay," but the meters are what will often generate the revenue to pay for paid employees. So we have tried to be creative and look at the statute. We have had success with these volunteers in dealing with handicap parking violations. I believe that Commander Wiecking has some information about the history with our volunteers, the numbers of people we have had in the paid positions, and how those relate to one another. Perhaps that will give you a little greater comfort with your concerns.

Shannon Wiecking, Commander, Patrol, Police Department, City of Reno:

One of the main differences you are going to see as far as ensuring that we do not replace the current Parking Violation Attendants (PVAs) is they are two different job functions. The Community Services Officers (CSO-1s) who are the PVA's, the parking enforcement people—we currently have two who work enforcement and one who does towing—are very different than a Senior Auxiliary Volunteer Effort (SAVE) volunteer. The SAVE volunteers, who we are proposing at this time to do the parking enforcement, are nonconfrontational. The CSOs answer parking calls for service active that involve citizens in

occupied vehicles. They deal with the citizens out on the street. The SAVE volunteers do not; they are nonconfrontational.

So in any circumstance where we use these volunteers, they are told if it is an occupied vehicle, if there is any kind of confrontation, you immediately leave, you back off, and call the police. These are two different job functions. The CSOs also tow vehicles and the SAVE volunteers do not, so the job description is different. We actually had seven CSO-1s back in 2004, four of whom did parking enforcement, and three did towing. At that time, we actually had volunteers participating in parking enforcement, at full staffing. So to assume that now, because we are down to two, we are trying to supplement the actual CSO function, does not match with our past practice.

Assemblyman Bobzien:

I want to express appreciation to you for coming in and talking about this ahead of time. I did have a question about the language, and we discussed it a little, but I want to revisit this. On line 7, I was a little bit confused reading subsection 1 of section 1, "ordinances enacted by a local authority that governed the stopping, standing, or parking of vehicle." Am I to understand that the stopping, standing, or parking is meant to, number one, mirror other statutes, and number two, encompass the range of what it means to be a parker or engaged in parking. We are not talking about stopping vehicles in terms of a traffic stop. We are talking about where your vehicle stops. Is that what this is?

Cadence Matijevich:

You are correct. As indicated this was not language that we drafted. Our understanding, having asked the question as to why it was drafted that way, is that those words typically go together in the statute where there are references to stopping, standing, or parking. Stopping and standing you might think of someone who may be double-parked, where they are still occupying the vehicle. It is not like stopping at a stop sign, but actually being stopped in a fixed location. Again, as Commander Wiecking has explained, the purpose that we are looking for, these volunteers would not be engaging with persons who were stopping or standing. The only place where we are looking to use them is if there is a vehicle that is parked, which would be unoccupied. For the purposes of this, again if it causes anyone concern, we do not have any issue with having those words removed. I believe the intent was just to remain consistent within the statutes.

Assemblyman Wheeler:

I have seen this program in other jurisdictions and it works very well. Douglas County is one of them. To answer Mr. Sprinkle's question, what

happens a lot of times is when you have the volunteers that are unpaid that are actually writing tickets, they are generating revenue. When they generate those revenues, you are actually able to hire more people.

Assemblywoman Carlton:

I think my concerns boil down to having a volunteer out on the street in a uniform. What happens when that person gets hurt? How do we deal with the workers' compensation, the deemed wage, they are making nothing. Mr. Sprinkle may need to bring another bill on deemed wage again. Parking enforcement is not just parking enforcement; there is a lot going on in the community, and I look at it as community policing. I have concerns. If you have a parking enforcement unit or cadets on the job, it seems to me that using cadets would be an excellent way to do this. I am just always worried. I have watched people go after the tow truck driver. Granted, Reno is not downtown Las Vegas, but anyone in a uniform who is a volunteer and not getting paid still has a target on their back because they are wearing a uniform. I would have concerns for their safety, ultimately, because someone will think that they are a police officer.

Cadence Matijevich:

Those are good questions and good concerns. I think Commander Wiecking can probably address many of those. We have policies and procedures in place to help to the greatest extent possible avoid those confrontations, and we do also have provisions that would provide for them if they got hurt. With that, I would ask Commander Wiecking to expand.

Shannon Wiecking:

We do have a thick manual of policies and procedures. They receive basic 40-hour training. They are always paired up. They have a police radio, they have a call sign, and they have supervision by a sworn officer. Obviously, the training for the new statutes that would be included in parking enforcement would occur through our traffic division also. I can tell you that we currently cite for handicapped parking right now. On the confrontations, we do not deal with occupied vehicles at all, and if there is any chance of the vehicle being occupied, they back out. It is not so important to have a ticket. The priority is safety. As far as covering them for workers compensation, we do cover them as an employee if they are hurt on the job.

Assemblywoman Carlton:

Do you cover them at a level that you would cover a POST-qualified officer?

Shannon Wiecking:

I am not sure on that. I know that we treat them as an employee, and that the policies and procedures outlined are identical to what they would be for a sworn employee. I know that as far as blood-borne pathogens and any on-the-job injury, the language is identical to what we have for sworn officers.

Assemblywoman Carlton:

Here comes the boomerang. What about heart and lung, because that is in the officer's manual? Heart and lung is for all peace officers.

Shannon Wiecking:

The policies and the procedures do not list heart and lung. The ones that they do list are the on-the-job injury and the blood-borne pathogen. When they sign up they go through the manual and those are the ones I am speaking of.

Assemblywoman Carlton:

Okay, and heart and lung is a presumptive benefit for sworn officers.

Shannon Wiecking:

Right.

Assemblywoman Carlton:

If they are being correlated as sworn officers, I am curious what their wage would be, because it is two-thirds of the deemed wage. I will not do a tutorial on workers' compensation in Transportation. I would just be concerned if someone got seriously hurt, and they are volunteering, they may be of an age where they have another job and they cannot work that other job and the money that they are going to get will not cover them for their livelihood. People want to volunteer out of the goodness of their heart, but we do not want them to have a financial impact if something goes wrong.

Chairman Carrillo:

I have a question in regard to the volunteers themselves. Do they actually have to suit up? Are they required to wear a certain uniform? Then if they are volunteering, do they have set hours of actual work time? If they see an infraction and are in their uniform but off duty, are they required to follow through with a citation? We know an off-duty sworn officer is going to uphold the law 24/7, but if it is a volunteer and their shift is done we do not want them thinking that their job is 24/7 as well.

Shannon Wiecking:

I agree with you 100 percent. The policies and procedures and the training that they receive requires that they do not put the uniform on. Their tools of the

trade they operate with during their volunteer hours are a car and a radio, and that is not take-home equipment. The only item that would be taken home would be a uniform, which is the white top. They have the car, the radio, and the ticket book. Those are assigned to them when they go out and are returned upon finishing their duty.

Chairman Carrillo:

Okay. So none of that stuff would be in their possession to use after hours, correct?

Shannon Wiecking:

Yes sir.

Brian O'Callaghan, representing Metropolitan Police Department, Las Vegas:

I am signing in here for Lieutenant Eric Spratley, who is not able to be here, and he is in full support of this bill.

Chairman Carrillo:

Anybody else in support of A.B. 416 in Carson City? I see no one. I do not think there is anybody signed in down south, but as a courtesy is there any support on A.B. 416? [There was no one.] We move for A.B. 416 opposition in Carson City.

Ronald P. Dreher, representing the Peace Officers Research Association of Nevada:

I am here today to oppose A.B. 416 for several reasons. Assembly Bill 416, in our opinion, could potentially eliminate classified jobs in the City of Reno by using volunteers rather than hiring more employees. The impact of enhancing the provisions of NRS 484, inclusive, to allow volunteers to issue additional traffic violations seems harmless in its concept. In reality, though, what this would do is eventually, based on the history of the City of Reno, eliminate the current Community Services Officer positions and create an entire volunteer force. While the city may claim otherwise, as you have heard, here are some statistics regarding the current elimination of these jobs over the past three years. This came to me this afternoon from Jerry Frederick. He is the business representative for International Union of Operating Engineers, Stationary Local 39, AFL-CIO (Local 39), and the CSOs we have talked about are part of the Local 39 bargaining group in the City of Reno.

According to him, in the past three years the CSO-1 positions, which include the parking violation attendants, as you heard, were reduced from seven to three. The CSO-2s, who take reports and are Community Services Officers have been reduced from 24 to 6. The CSO supervisors have been reduced from

three to one. Now, the City of Reno has a history of attempting to utilize a volunteer workforce. Several years ago, the city attempted to create a part-time police department using what we considered cardboard police. In other words they hired back police officers, put them in uniforms, and put them downtown, and that is all they did. When they had calls for service or things that they observed, they called police officers and we came in and did the job. It took several long years to take care of this issue, but we ultimately resolved that through the negotiation process. As you heard, the city currently has what are called Senior Auxiliary Volunteer Effort (SAVE) people. The unit is made up of volunteers who patrol handicapped parking areas and currently issue citations for those violations. They have now been in service for many years. However, the only justification that we can see for expanding these duties and providing these volunteers extra enforcement power is to eventually reduce the current employees working in the CSO classifications, perhaps to zero. We urge this Committee to oppose this potential job-elimination bill. We have worked hard to do that.

In response to Assemblywoman Carlton's question, it is my understanding the City of Reno has another bill coming forward. I do not know why Ms. Matijevich did not bring that forward, but there is a bill that would provide certain types of workers' compensation to volunteer employees like this. I really did not think much of that until I saw this bill come forward, and I said maybe this is another reason why. They do not get heart and lung coverage, and it is my understanding that they did get some kind of insurance protection if they are injured in the line of duty. Now, Shannon Wiecking may know a little bit more about that as far as the workers' compensation coverage, but there is another bill that we have in this body, too, that would provide some form of workers' compensation to search and rescue volunteers through the sheriff's department and the like. I am not sure if there is any nexus between those two, but we have a real concern. I will give you some history. For 29 years I have been representing Reno police officers, Reno Police Protective Association, and other city employees. I will tell you, as I explained to Ms. Matijevich, that I think the world of her and she is a very honorable person. I do not believe in any way, shape, or form that there is any mistrust coming from her, but that is from her.

From my history with the City of Reno, there is a credibility problem as I portrayed to you. In just a few hours here I found out that they have reduced the force tremendously over the past few years. I met with the assistant city manager when I was still a police officer there and when I was the president of the Reno Police Protective Association, when they started this concept of volunteers and bringing people back. From a historical standpoint, they said back then, as you heard Ms. Matijevich say, they cannot guarantee they are not going to do this, but they can tell us today they are not going to do it. They do

not tell us about next week or next year, and we have employees that need the jobs. The City of Reno, as you all know if you follow anything with the City of Reno, has a shortage of about \$600,000 plus in parking revenues that they have not been able to collect because of a problem they had in trying to put together a new parking meter system. So there are all kinds of problems here, and our biggest concern from an employee standpoint is, why would you be bringing forward legislation for volunteers? We see it as more mistrust, unfortunately, not on Ms. Matijevich's part, but on the City of Reno's part, as an avenue to perhaps circumvent hiring more employees. We see it as a job-elimination bill and ask this Committee to oppose A.B. 416.

Assemblyman Wheeler:

The CSOs that have been laid off apparently, are they laid off because of volunteers or because of budget cuts due to the recession?

Ron Dreher:

I would say that it is a little of both. They have used the senior volunteers for a long time. But the City of Reno has not done a very good job at bringing in revenues and solving the budget problems. We have had police officers laid off. They have situations going on right now with fire consolidation and the like. I have been very much a part of these types of discussions with the City of Reno for many years, but there is a revenue problem. And when there is a revenue problem, are you going to lay off all the employees and hire volunteers? Is that the appropriate way to do it? Are we going to bring in part-time employees? Is that the appropriate way? I think there are many other avenues to explore and that is something that they have to figure out, and we would be more than happy to help them. We just do not want to lose any more employees because of volunteers. You are talking about the SAVE people. These are really good people, but most of them are retired, so they have already come from jobs where they have had employment. We are talking about people now, as with state employees, who have taken reductions and have not kept up with inflation and the like. So to answer your question, Mr. Wheeler, it is probably both, in my opinion.

Assemblyman Paul Anderson:

Thank you for your time here. I do not suppose you are against all volunteers, you are just opposed to the expansion of their authority. Is that what I am hearing? Because we certainly use volunteers across even in the Las Vegas Metropolitan Police Department, and across all kinds of different patrol areas. Is that correct?

Ron Dreher:

You are correct. We are not after eliminating the senior volunteers, they serve an appropriate function. But to enhance that, we see that enhancement as perhaps eliminating the other positions, if the budget gets worse, then let us just go to volunteer force.

Danny Thompson, representing Nevada State AFL-CIO:

Local 39 is an affiliate of the Nevada State AFL-CIO and the business agent could not be here today because he is currently in Mineral County. We are adamantly opposed to this bill and this practice for the same reasons that Mr. Dreher stated. You can either afford to do something or you cannot. Relying on volunteers to enforce the State of Nevada's laws or the city's ordinances, volunteers who come to work some days and other days they do not. There is nothing you can do to control that. Further, I think Assemblywoman Carlton's concerns are valid, and even beyond workers' compensation, because there currently is not a deemed wage for these people. I do not know how you settle that. I know there is the uninsured fund. But, beyond that I think the question of liability to the City is a bigger question, and I will explain. I know of cases where parking meter attendants have been attacked because the person walks out of the casino, they have been drinking, and they see a guy putting a ticket on their car, and because they are there, they want the ticket to go away. What do you do when someone walks out of one of the casinos downtown and one of these individuals is standing there putting the ticket on the car? I know the volunteer is not supposed to do it when the driver is there, but it is a confrontational situation, and one of the two parties is going to be hurt. Now the city has incurred potentially a very serious problem and a very serious expense, depending on what happened. I will tell you that one of the reasons that the Legislature created the school police was that, prior to the creation of school police in the school districts of Nevada, they had security guards. When they acted, they were not acting as peace officers, they were acting as security guards, and the liability problem with that was one of the reasons they decided to make those positions full-fledged police officers. These are confrontational jobs. I know it does not seem like it, but if you ask any cop they will say if you run into a drunk and you are going to give him a ticket, you are going to have a problem sooner or later. We are opposed to this bill. Thank you.

Assemblyman Paul Anderson:

I understand the expansion of the volunteer effort here and I guess I am just trying to get a balance of what we already do on the volunteer programs. I mean if we think this is a job killer, there are a wide range of volunteer programs that are taking potential jobs as well, right? I just hit the Las Vegas Metropolitan Police Department site and there are 12-15 different

opportunities to volunteer. Some of them are response teams, domestic response things that I would assume to be pretty dangerous situations. I do not know when they are responding or anything about that. I guess I am trying to figure out a balance between what we already do and what we are considering at this juncture.

Danny Thompson:

You heard Ron Dreher testify that there are currently people in these jobs, and the fact is that they have laid off these people and we see this as an attempt to further lay off more. Look, either you have the money to enforce the law or you do not. That is the way we see it, and we see this as a job-killing measure. But further, I think the liability measure is a bigger measure, and I would guarantee you that those volunteers are not responding to domestic disputes, because that is the most dangerous call any police officer can get.

Assemblyman Hambrick:

Mr. Thompson, in the restaurant industry they have a term they call "turning a table," getting the customers in and getting them out. If we can turn the customers in these shopping areas, restaurants, whatever, would that not at some point come back as a potential benefit to the city to do what we all want, to have some recovery to hire? If this bill failed, how could we then have the city or any community turn those parking spots over to get more people into the shops and restaurants to empty their pockets. Whether it be a restaurant, casino, or five-and-dime, how do we turn those spots to get the revenue back into those industries or buildings?

Danny Thompson:

I do not know. There are other alternatives: eliminate the meters or let people park there for free. I do not know the exact answer to that but I guarantee you that this will not, I believe, enhance anybody's business that much. Maybe a better case could be made in downtown Las Vegas where parking is very hard to come by. I have parked in Reno and I have never ever had a problem finding a free spot. I might have had to walk a block or two, but I have never had a problem, given all the parking garages that are downtown. I do not see this as a great need, if you will.

Chairman Carrillo:

I do not know if you would be the one to answer this question, Mr. Thompson, in regard to parking enforcement in Las Vegas. Is that done by the City? I know we have somebody with the city in the room, maybe they could answer the question, or the police department, or anybody willing to take a stab at it.

Danny Thompson:

Currently the City of Las Vegas has their own internal parking enforcement bureau. They do their own parking enforcement and they are paid city employees.

Chairman Carrillo:

It sounds like from what they are getting paid to do, the volunteers would be doing the same thing in this bill, correct?

Danny Thompson:

I cannot speak for the City of Reno or what their intent is, but I would assume so.

Chairman Carrillo:

Well, I am just going under the assumption that it is for volunteers and there is no intent on paying these individuals who are going to be basically doing parking enforcement, correct?

Danny Thompson:

I do not know, but I would tell you going forward, had we known about this bill (we did not track this bill), I would have brought some of these parking enforcement officers here and let them tell you some of their personal experiences. I believe we had workers' compensation cases based on some of these altercations.

Paul McKenzie, representing the Building and Construction Trades Council of Northern Nevada, AFL-CIO:

As a member of Local 39, we represent public employees and police officers, throughout the northern part of the state. This bill would not just affect Reno. This would affect every city in the state. We have a concern about the budgets in all of our cities in northern Nevada, except for Elko and Eureka, and I am sure that there is a concern in southern Nevada about the budgets. But, the reduction of safety officers should not be the first concern of city government when they are looking at adjusting their budgets. These volunteers they want to do parking enforcement are doing some stuff that I could not believe.

I was involved in a traffic accident a couple of years ago. We sat alongside Kietzke Lane waiting for a police officer to come to the accident. The guy who rear-ended me was loaded in an ambulance and hauled off, and we still waited. A couple of the volunteers showed up and told us we would have to go to a police station the following day and report the accident. A couple weeks ago my neighbor's burglar alarm went off on his house. We called the police department and about an hour later here came one of these volunteer cars

cruising by to check the house out. It was about three hours later that a police officer finally got free from other duties to come to the house. The police department in Reno is understaffed, and to replace peace officers with volunteers is not the solution. We fear this is going to get worse if we broaden the scope of duties that you give these volunteers. They are not police officers, they are volunteers, and they are not just going out and giving handicapped parking spot tickets right now. Currently, they are using them to check on stuff that they do believe is dangerous, and these people are not armed and they do not know what they are getting into.

Many traffic accidents turn into violent situations. We had a traffic accident outside of Sparks last year, or year before last, that turned into a gunfight, and I would love to see a volunteer show up there to take a traffic accident report when there is a guy waving a gun around. I have a concern about the safety of the volunteers, and that we are going to eliminate needed peace officer positions by replacing them with volunteers, which is going to adversely affect the public safety of all of the cities in this state, not just the City of Reno.

Chairman Carrillo:

We move to neutral on A.B. 416. I know we do not have anybody signed in to Las Vegas. We will bring it back to Carson City and close the hearing on A.B. 416. We will move to public comment. [There was none.] Meeting adjourned [at 4:36 p.m.].

RESPECTFULLY SUBMITTED:

James Fonda
Committee Secretary

APPROVED BY:

Assemblyman Richard Carrillo, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Transportation

Date: April 4, 2013

Time of Meeting: 3 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 263	C	Assemblywoman Dina Neal	Proposed Amendment
A.B. 263	D	Assemblywoman Dina Neal	Disadvantaged Business Enterprise Program
A.B. 263	E	Assemblywoman Dina Neal	Availability and Disparity Study
A.B. 263	F	Craig Madole	Contractor's Statement of Experience
A.B. 282	G	Assemblyman Paul Aizley	Information on Automobile Fraud
A.B. 282	H	Assemblyman Paul Aizley	Remarks
A.B. 282	I	Assemblyman Paul Aizley, Dan Wulz	Proposed Amendment