

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

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

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 2:11 p.m. on Monday, May 13, 2013, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Pat Spearman, Vice Chair
Senator Mark A. Manendo
Senator Pete Goicoechea
Senator Scott Hammond

GUEST LEGISLATORS PRESENT:

Assemblyman D. Paul Anderson, Assembly District No. 13
Assemblyman Richard Carrillo, Assembly District No. 18
Assemblyman James Healey, Assembly District No. 35
Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Heidi Chlarson, Counsel
Gwen Barrett, Committee Secretary

OTHERS PRESENT:

Paul McKenzie, Building and Construction Trades Council of Northern Nevada
Warren B. Hardy II, Associated Builders and Contractors of Nevada
Caleb Cage, Executive Director, Office of Veterans' Services
Earl Mitchell, Henderson Township Constable
P. Michael Murphy, Clark County

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Jordan Ross, Laughlin Township Constable
John Bonaventura, Las Vegas Township Constable
Jason Watkins, Las Vegas Township Constable's Office
James Kimsey
Mendy Elliott, Nevada State Apartment Association
Carole Vilardo, Nevada Taxpayers Association
Steve Hill, Executive Director, Office of Economic Development, Office of the Governor
Cadence Matijevich, City of Las Vegas
Richard Perkins, City of Henderson
Dan Musgrove, City of North Las Vegas

Chair Parks:

We will begin with the work session on Assembly Bill (A.B.) 25.

ASSEMBLY BILL 25 (1st Reprint): Revises provisions governing special assessments for the abatement of certain conditions and nuisances. (BDR 21-252)

Patrick Guinan (Policy Analyst):

This Committee heard A.B. 25 on May 3. There are no proposed amendments in the work session document (Exhibit C).

SENATOR GOICOECHEA MOVED TO DO PASS A.B. 25.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Parks:

The next work session bill is A.B. 87.

ASSEMBLY BILL 87 (1st Reprint): Revises provisions relating to consistency in zoning ordinances with respect to certain standards and specifications for the construction or alteration of public schools in certain counties. (BDR 22-274)

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Mr. Guinan:

The bill was heard by this Committee on May 3. Proposed Amendment 8724 is in the work session document ([Exhibit D](#)).

SENATOR HAMMOND MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 87.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Parks:

The next bill on work session is A.B. 99.

[ASSEMBLY BILL 99 \(1st Reprint\)](#): Revises the Uniform Law on Notarial Acts.
(BDR 19-1)

Mr. Guinan:

The Committee heard this bill on May 6. Proposed Amendment 8834 is in the work session document ([Exhibit E](#)).

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 99.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Parks:

We will move on to the work session on A.B. 172.

[ASSEMBLY BILL 172 \(2nd Reprint\)](#): Revises provisions governing bidder preferences on certain public works. (BDR 28-110)

Mr. Guinan:

The Committee heard A.B. 172 on May 8. Proposed Amendment 8835 is in the work session document ([Exhibit F](#)).

Senator Hammond:

I want to be sure this is the bill that revises some of the unintended consequences from A.B. No. 144 of the 76th Session. Did we have a conversation about vehicles on this bill?

Mr. Guinan:

Yes.

Chair Parks:

The proposed amendment inserts the words "or an entity," but I can see where "or entity" was stricken from the bill in a previous revision. Whether it is a person or an entity, it does not say one has to be an aggrieved party in order to file a challenge.

Heidi Chlarson (Counsel):

Without this amendment, in existing language the entity would have to have submitted a bid on the public work. The intent was for it to be a person who submitted a bid on the public work or an entity that believes the contractor was awarded the contract wrongfully. The entity would have to believe that the contractor wrongfully holds a certificate of eligibility, referred to as standing, in order to challenge. This change was meant to be consistent with another place in the bill. When we heard testimony on the bill, we heard the language being changed was to be in the original bill and it had been a mistake.

SENATOR HAMMOND MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 172.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Parks:

The next work session is A.B. 218.

ASSEMBLY BILL 218 (1st Reprint): Revises provisions relating to public works.
(BDR 28-981)

Mr. Guinan:

The Committee heard A.B. 218 on May 8. There are no amendments in the work session document ([Exhibit G](#)).

Senator Spearman:

Is this the one where people were making gym memberships and other things?

Chair Parks:

Yes.

Senator Goicoechea:

I understand that federal law requires the unions to annualize, but technically, we are putting a State law in place that does not require them to do it.

Paul McKenzie (Building and Construction Trades Council of Northern Nevada):

I briefly spoke with Senator Goicoechea about his concern with the second portion of the bill that excludes union benefit plans from the annualization. Our union benefit plans are required by federal law to annualize. If the labor commissioner was to make an investigation, the finding would be that unions are already compliant. We can remove that section if it would ease Senator Goicoechea's mind.

Senator Goicoechea:

I know how it does and does not apply. What are you proposing to delete?

Mr. McKenzie:

The provision is referred to twice in the bill; the first time is under the definition of a bona fide fringe benefit, and the second time is the application of annualization. The annualization is the concern—there are plans already in compliance with the annualization, so we could remove that language in the bill.

Senator Goicoechea:

Would that require another mock-up amendment?

Ms. Chlarson:

The change would be on page 7 of the bill on lines 36 and 37. This language says that the provisions of this section, which require the annualization, do not apply to workers whose benefits are determined pursuant to a collective bargaining agreement. The proposed change would remove that language in lines 36 and 37.

Senator Goicoechea:

Did you say that you have concerns with a defined contribution plan, that some companies were putting money in part of the time and using that to annualize?

Mr. McKenzie:

The provision that outlines the defined contribution plan that limits it to 25 percent addresses our issue. We worked that out on the Assembly side with Warren B. Hardy II and the Attorney General. We are looking to see if we can resolve your issue.

Warren B. Hardy II (Associated Builders and Contractors of Nevada):

Mr. McKenzie is correct; that amendment was adopted on the Assembly side, which takes care of the issue that the nonunion side has with the differences in retirement plans. There are two sections of the bill with reference to exempting out the union programs: Legal Division identified the one giving exemptions to the provisions. The other is the definition of bona fide plans, which also provides an exemption for collective bargaining plans; it basically says any program collectively bargained is by definition a bona fide plan, and we believe that it is problematic as well.

With those two changes we have no objection to the bill.

Senator Goicoechea:

Are you referring to section 1, lines 15 and 16?

Mr. Hardy:

Yes, it is section 1 where it essentially says if it is a collectively bargained program, then it is automatically bona fide. It should be the same standard for everybody across the board. We have heard of gym memberships, Christmas parties and other things on the nonunion side that are certainly not intended to be included.

Senator Goicoechea:

Section 1, subsection 2, paragraph (b), line 15 reads: "the term includes, without limitation, benefits for a worker that are determined pursuant to a collective bargaining agreement." Mr. McKenzie, do you have a problem with that being deleted?

Mr. McKenzie:

I would have to check with other representatives on deleting that section of the bill. I do not think there would be a major issue because our plans are being governed by the Employee Retirement Income Security Act, which meets the definition of fringe benefit. This would save the labor commissioner and public agencies from investigating all the particulars.

Senator Goicoechea:

Public works jobs should be annualized but across the board and even.

Chair Parks:

We will put this on hold until Wednesday.

Mr. McKenzie:

I will get back to you today or tomorrow morning.

Chair Parks:

We will hold A.B. 218, pending clarification. We will go to A.B. 251.

ASSEMBLY BILL 251 (1st Reprint): Requires a public body to make available to the public certain contact information for its members. (BDR 19-159)

Mr. Guinan:

This Committee heard A.B. 251 on May 10. There are no proposed amendments to the work session document ([Exhibit H](#)).

Senator Manendo:

All the homeowners' association (HOA) boards and town boards in the entire State comprise a huge task. Who oversees that the information is public?

Chair Parks:

When we talk about a public body, are we including HOA boards?

Ms. Chlarson:

The only HOAs under the definition of a public body are rural agricultural common-interest communities. It is a limited subset of HOAs; it is not all HOAs.

Senator Manendo:

Even though HOAs have to abide by the Open Meeting Law and all else?

Ms. Chlarson:

The requirement that a typical HOA has in the terms of meetings is not pursuant to the Open Meeting Law, it is pursuant to provisions in the common-interest community law. Technically, HOAs are not public bodies, and this bill applies to those entities that meet the definition of public body.

Senator Manendo:

Town advisory boards?

Ms. Chlarson:

Town advisory boards would be included in this bill.

Senator Goicoechea:

I do not see a penalty for noncompliance.

Ms. Chlarson:

The bill as written lacks an enforcement mechanism and does not have any particular person or entity responsible for monitoring and overseeing this.

Senator Goicoechea:

I support the fact that an agency should be putting those contact numbers together. The effort on the bill is good, but it needs to be cleaned up — would it be the Department of Administration, and would there be a penalty? We can approve the bill and then fix it.

Senator Manendo:

Can we hold this bill so we can think about adding some provisions?

Chair Parks:

I was surprised by how many entities responded to the request for a fiscal note, and they were all nice and clean. If someone wishes to put some enforcement

into this, we will need to move fast. We will hold A.B. 251 for further information.

We have one more work session bill, A.B. 266.

ASSEMBLY BILL 266 (1st Reprint): Revises provisions relating to veterans.
(BDR 37-527)

Mr. Guinan:

This bill was heard by the Committee on April 29 and May 6. There are no proposed amendments in the work session document (Exhibit I). There was some discussion during our original work session about the definition; no changes have been proposed to the bill since that discussion.

Chair Parks:

Several veterans who testified during the hearing suggested a change.

Senator Goicoechea:

That dialogue pertained to general discharge versus dishonorable discharge.

Chair Parks:

Mr. Cage, would you like to come forward?

Caleb Cage (Executive Director, Office of Veterans' Services):

As I understand, the concern referred to defining veterans as not other than dishonorable conditions; that is the controversial piece.

This changes the definition within *Nevada Revised Statutes* (NRS) 417. It does not go into any other chapters that give benefits to veterans—exemptions from taxes or any of the benefits. It sets a baseline for us going forward. It does align with the federal definition—other than dishonorable conditions. A veteran deemed dishonorable receives little or no benefits.

This has been determined to be the best practice, not just the alignment with the federal definition but also with other states. We surveyed states in the region when the American Legion came to us with this bill—we pulled this language straight out of New Mexico, Montana, Utah and other states.

This is to ensure consistency in an overall inconsistent system. In previous decades, a woman may have been given a general discharge for being pregnant. This language is general enough to allow for variances and discrepancies, but it is specific enough to be aligned with the federal definition.

Senator Spearman:

Under Don't Ask, Don't Tell (DADT), some people were discharged, not with honorable but with general. There is some question as to whether they can or will qualify for benefits if there is not some type of stipulation. Even though the discharge happened before the repeal of DADT, I am concerned that they not get caught in the middle—not having an honorable discharge, but discharged under general conditions.

Mr. Cage:

That is absolutely the case. I know of several cases before DADT that were discharged dishonorably. There is a mechanism for our service officers to appeal from dishonorable discharges all the way up to other than honorable, but those would be excluded if this came down to honorable. This language is absolutely intended, in part, to ensure that and other discharges from the military still have access to the federal benefits as long they do not have a dishonorable. We think that we should be right in line with them as well.

Senator Goicoechea:

The way this bill is written, if it was general or otherwise, you are fine. It has to be a dishonorable discharge.

SENATOR GOICOECHEA MOVED TO DO PASS A.B. 266.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Parks:

That concludes our work session. We will now go back to our hearing on bills, starting with A.B. 223.

ASSEMBLY BILL 223 (1st Reprint): Revises provisions governing constables.
(BDR 3-15)

Assemblywoman Marilyn Kirkpatrick (Assembly District No. 1):

This bill is about the technical changes that are needed to clean up the language in NRS regarding constables. I submitted a proposed amendment ([Exhibit J](#)) this morning. At the end of first House committee passage, I had said that if it could be proven that you could get your Peace Officers' Standards and Training (POST) certification in order to run for the office of constable, I would be happy to put in that amendment. I was unable to get a straight answer on whether that was true; we located the information, and I feel more comfortable putting that in. I will go through the bill and amendment for you.

Section 3 of the amendment clarifies that a separate notice must be posted and mailed to the tenant no later than 15 days before the date of sale of property which is a residential foreclosure. It goes to the constable's office that does the service of the notices.

Section 8 of the bill authorizes a board of county commissioners to penalize constables who fail to file reports, or any other document which is required by existing law, with the county or the POST Commission. Currently, paperwork is to be filed, but the law was not clear on where the paperwork was filed or how it was done; this is cleanup.

In the amendment, section 8.5 adds category I and II peace officer definitions. We want to make sure that officers and constables who are carrying weapons and serving people are certified to the proper standards.

Section 9 requires the oath of the constable to be filed and recorded in the office of the county recorder. This is cleanup language.

Section 10 requires deputy constables to be certified by the POST Commission as category II peace officers prior to commencement of employment. I had heartburn with this one in the Assembly because I wanted to prove there was an opportunity for people to get certified before they ran for office. I do not want it to be a select few who could run for office. Certification can be done at the College of Southern Nevada or Truckee Meadows Community College.

Senator Hammond:

Who gave you the information about being POST-certified?

Assemblywoman Kirkpatrick:

I got it from the Nevada Sheriffs' and Chiefs' Association. I sent an email and got the information. P. Michael Murphy and Earl Mitchell can clarify the one from the south.

Section 11 of the proposed amendment authorizes the constable to appoint clerical and operational staff subject to the approval of county commissioners. It also requires the board of county commissioners to fix clerical and operational compensation rates. It further provides that the clerical and operational staff do not have powers of peace officers and may not possess weapons. Most of those people are county employees, but we could not set their rates or sign off on budgets; this makes it clear that we can do that. We want to clarify what operational staff meant—operational people help you keep your business afloat.

Section 14 requires deputy constables in counties other than Clark County to be certified by the POST Commission within 1 year.

Sections 12, 15 and 16 make the constable and the deputy constables equal. Constables may only issue vehicle citations. Senator Parks, Assemblyman John Hambrick of Assembly District No. 2 and I spent a lot of time this summer on what was going on with these vehicle citations; we want to clarify the language. At one point constables were driving around the University of Nevada, Las Vegas, and handing out citations—we know that our out-of-state students pay more and are not allowed to get Nevada license plates.

The amendment in section 17 establishes the bill will not apply to POST-certified category I or II peace officers at the term of office prior to 2013. I never like to penalize the folks who have been there but give them time going forward.

There was a large amendment submitted. I do not know how much is friendly because I have not had time to go through it. I am working off the mock-up that I submitted today.

Chair Parks:

We have received several proposed amendments. Have you had discussions with any of the proposers of those amendments?

Assemblywoman Kirkpatrick:

I have not had any discussion. I may have received the amendment yesterday. I know there are only 3 days left. I want to be clear that I would be happy to go through it to see if anything is workable, but this is the bill that I have been working from.

Chair Parks:

One amendment was submitted by Laughlin Township Constable Jordan Ross.

Assemblywoman Kirkpatrick:

I do not have any of them.

Senator Goicoechea:

On your mock-up, a constable can cite for a traffic violation as long as he or she is in the appropriate township?

Assemblywoman Kirkpatrick:

The constables can already do that; this is a clarification. The bill was put into place in 2009. I do not agree with it. The Attorney General's Office has been in conversation with all constables in the State. If you want to take it out, I am not holding you back.

Earl Mitchell (Henderson Township Constable):

I have been authorized by North Las Vegas Township Constable Herb Brown and Boulder Township Constable Steven Hampe to speak on their behalf. We support Assemblywoman Kirkpatrick's bill with the amendments in her mock-up.

Chair Parks:

Have all the issues of concern to you been included in the mock-up?

Mr. Mitchell:

I understand how the process works. I have learned you do not get everything you want; it is an improvement and will enhance the credibility of the office and help ensure that qualified people are in the office.

To address Senator Hammond's question, it has always been the case through the law enforcement academies that nonaffiliates can attend, and this is sanctioned by POST. Joe Forti, retired Chief of Police of North Las Vegas, runs the Southern Desert Regional Police Academy down south. I believe he has conferred with POST Executive Director Richard P. Clark on this. It has been common practice—unfortunately the information was not easily available for Assemblywoman Kirkpatrick—that nonaffiliates can attend a number of academies throughout the State to obtain their certifications.

Senator Goicoechea:

Do you typically write traffic citations?

Mr. Mitchell:

I do not. I have 27 years of experience in law enforcement, 22 of those years in Henderson. Almost all of my deputies are retired law enforcement officers. We have had decades of writing citations, but just because you can do something does not mean that you should. We do not go through our township doing traffic stops under what is known as the Fair Share program that Senator Parks sponsored in 2009.

Once we verify that someone is a Nevada resident and the person does not have his or her vehicle registered in Nevada, our policy is to contact the person at home or place of business. We will not make a traffic stop—that is not a wise move. We know who these folks are and where they live, and we will get in touch with them that way. We do not do traffic stops in Henderson.

P. Michael Murphy (Clark County):

Clark County supports the mock-up by Assemblywoman Kirkpatrick. We have had issues with the Constable's Office; this bill will go a long way toward settling those concerns and providing further guidance to the process.

In reference to Senator Hammond's comments and to echo what the Henderson Constable indicated, I am the former Chair of the POST Commission; while we had a hard time getting some letters drafted, we provided written documentation to Assemblywoman Kirkpatrick indicating nonaffiliates can, through Truckee Meadows Community College and the College of Southern Nevada, be entered into the POST training for the purposes of obtaining POST certification. That is one of the ways it can be done, and we worked on that a number of years ago. Mr. Clark was familiar with that process.

Chair Parks:

Can somebody set up a POST academy, or does it have to be certified through Mr. Clark?

Mr. Murphy:

Individuals have set up academies privately. It must be sanctioned and appropriately controlled by the POST Commission, specifically by Mr. Clark and his folks. Sherri Randazzo set up an academy a number of years ago; the first time it had occurred in Las Vegas or the State. She was able to have nonaffiliates go through the process, but they still had to meet all of the same standards in training and testing that every peace officer does. When the process is complete, the nonaffiliates are held in abeyance and not qualified as police officers until affiliated with an organization. Many young people would do that as they went through their college process or while working evenings. They could go to smaller agencies and offer their POST certification, which allowed them to start working as soon as they finished the last certification piece.

Jordan Ross (Laughlin Township Constable):

We support this bill. Some fine points of language offer serious potential problems, and we ask the Committee consider them.

We offer technical corrections ([Exhibit K](#)). Due to the lack of familiarity on the part of some people with the constable system, there could be unintended consequences, and we need to close some gaps in the intent. My agency is not asking for any changes in sections that affect NRS 40, NRS 107, NRS 248 and NRS 482 as currently amended. There are substantive policy changes in my requested technical corrections ([Exhibit L](#)).

We are asking for a few changes to section 10 which would prevent the evasion of the intended restriction by not allowing the appointment of deputy constables who do not have an employment status, such as independent contractors who constitute all of the deputy constables in Clark County, or through the appointment of reserve deputy constables. It also sets an absolute standard that there will be no grace period for obtaining a POST certificate for deputy constables in counties of a population of more than 700,000. It also allows the appointment of various constable personnel as civilian deputy constables who carry no weapons and make no arrests but need the authority to perform certain acts such as executing certain writs of the court, much in the same way the county clerks make appointments as deputy county clerks to all

their employees regardless of their different job titles. This affects us in Laughlin as a rural constabulary.

In section 11, our requested changes would prevent the evasion of the intended restrictions by paying anyone who does not have an employment status, such as independent contractors, and would eliminate confusion over the definition of clerical or operational staff in the original language. It clarifies the control over pay is intended to apply to a person paid by public funds, not persons personally contracted by constables and paid with their personal funds as is the case with townships. This is the case in all the townships in Clark County, except Las Vegas which operates on an enterprise fund. With the exception of a few county clerical personnel, all deputy constables and all additional clerical people not paid for by the County are paid for by us personally.

Changes in section 14 affect NRS 289 by eliminating those changes for two reasons: eliminating the need to effect any change to NRS 289 and eliminating the serious conflict between two different reforms for the same purpose in the bill which could result in lengthy administrative appeals or litigation. One section simply says you cannot be a deputy constable in Clark County until you have your POST certificate, and then section 14 says you have a year, but it adds certain prior additional restrictions. This would eliminate the confusion.

Because of our unique financial model, we are able to do a great deal for county and city agencies, but we do not have the financial authority to be paid for them; the second document, [Exhibit L](#), addresses that. The technical corrections are the most critical.

Chair Parks:

We do have both the technical corrections in [Exhibit K](#) and policy changes in [Exhibit L](#). We will take them under advisement.

John Bonaventura (Las Vegas Township Constable):

There are a couple of flaws in the first reprint of the bill. I had a chance to glimpse over Assemblywoman Kirkpatrick's proposed mock-up; some are addressed in our amendment from the Las Vegas Township. I have a summary ([Exhibit M](#)) and a proposed amendment ([Exhibit N](#)). There is an opinion letter ([Exhibit O](#)) from the Legislative Counsel Bureau (LCB) to Senator Manendo in regard to requested research. Our office is unable to break even, and we are

losing money on the Fair Share program. A document detailing revenue and expenses ([Exhibit P](#)) has all the figures on the Fair Share program.

The first reprint of the bill changes the word “clerks” to “clerical and operational staff,” and two other sections in statute should be changed. Nevada law has the county responsible for paying the clerks per the LCB opinion letter, [Exhibit O](#). The bill requires the county to no longer pay for the county employees, making the constable’s office responsible. This would have a negative effect on constables who have clerks, such as Jordan Ross, Earl Mitchell and Herb Brown. The constables work on commission and would have to use their commission to pay the clerks. Our amendment makes a clarification and puts it back in a way that does not hurt anybody.

The other flaw, without going into detail on Assemblywoman Kirkpatrick’s mock-up amendment, is that all peace officers in the State have 1 year to get their POST certificate—except the marshals and school police who have 18 months. The first reprint bill says constables do not have a year, even though we are peace officers in the State.

Our amendment requires that Las Vegas Township Constables have a stricter POST certificate category I. All the deputy constables in our office currently have a category I, even though we are a category II agency. We do not oppose the added strictness.

We would like to see the law apply across the board in a nondiscriminatory manner for all peace officers in the State. If the 1 year is taken away, it should be taken away for all category I or II peace officers, whichever one will be proposed to change.

Jason Watkins (Las Vegas Constable’s Office):

We have no problems with the mock-up amendment, [Exhibit J](#), proposed by Assemblywoman Kirkpatrick. I suggest section 12 be changed from “each constable must” to “each elected constable must.”

Chair Parks:

In section 12, you want to add the word “elected”?

Mr. Watkins:

Yes, section 12 of Assemblywoman Kirkpatrick’s mock-up amendment.

I am going to walk you through the proposed amendment, [Exhibit N](#), that the Las Vegas Township Constable's Office submitted.

In section 9, subsection 3, paragraph (b) we deleted the date of May 28, 1979. The law pertains to a particular constable, Woody Cole, which is constitutionally questionable. The paragraph or date should be eliminated.

Section 11, subsection 1 is a reference point for POST qualifications addressed in the original bill. I will come back to it when I get to section 19. Constable Bonaventura also touched on subsection 1, requiring just the constables for the 1-year grace period be eliminated. The problem is that it affects a class; category II is a class of deputies—targeting one class is problematic. Subsection 3 changes the days from 30 to 15 to coincide with POST requirements for a new hire. We should standardize everything and have it all at 15 days. Subsection 4 added a POST requirement already in the *Nevada Administrative Code*, putting the 15-day requirement there as well.

Section 12, subsections 1, 3 and 4 cover clerks, clerical and operational staff, and payment.

Section 13, subsection 2 changes the registration fee we collect from \$100 to \$200. Our office does the majority of the Fair Share in the State. We have submitted the revenue and expenses brought into the State, [Exhibit P](#). We are working to break even but continue to lose money on the program. Raising the fee does not affect the State or any other monies.

Section 14, subsection 2, paragraph (e) adds the ability for the constable's office to enter into interlocal agreements. Various agencies call us for assistance because they lack the manpower or ability; we cannot be paid for our assistance. This change will allow us to enter into interlocal agreements and follow those rules.

Section 15 continues the interlocal language as in section 14.

Section 17 adds a new subsection to recognize the increased need for professionalism in the townships and county whose population is more than 700,000 by making our agency a category I.

Section 18, subsection 2 cleans up existing language, keeping the constables in a township of less than 700,000 at a category II agency.

Section 19, subsection 1 adds a new subsection 1 requiring all category I agencies in a county of 700,000 or more to be certified without a grace period. This brings us back to the original intent that new hires must be certified by POST. We would delete subsection 2 for consistency.

Section 20, subsection 1, paragraph (h) adds new language to be consistent with section 17.

Assemblywoman Kirkpatrick has received this amendment but not had the opportunity to review. It will fit nicely into her mock-up amendment. It is a friendly amendment that specifically puts more requirements and standards on our Office.

James Kimsey:

As a member of the public, I am in support of A.B. 223 and its amendments. Professionalism, standardization and consistency are of the utmost importance. The requirement of POST certification for elected constables is along the same line as the requirement that a justice of the peace be a licensed attorney—the need is to have a professional in the office, and that is a good thing. The date in NRS 258.010 is a 34-year-old holdover that continues to cause a lot of confusion, inconsistency, court actions and headaches. The whole subsection could be removed.

Mendy Elliott (Nevada State Apartment Association):

We support A.B. 223 and Assemblywoman Kirkpatrick's mock-up. We have not had an opportunity to review the proposed amendment; we would be happy to provide comment to you and Assemblywoman Kirkpatrick upon review.

Chair Parks:

The Nevada State Apartment Association has a strong reliance on the constables.

We are closing the hearing on A.B. 223. If anybody wishes to provide us further input, we ask it be done expeditiously. I will open the hearing on A.B. 321.

ASSEMBLY BILL 321 (2nd Reprint): Revises provisions governing the Merit Award Program for state employees. (BDR 23-760)

Assemblyman D. Paul Anderson (Assembly District No. 13):

The State has a Merit Award Program that rewards employees for finding cost savings in their agencies ([Exhibit Q](#)). The program has been around since 1967 with a \$500 reward threshold. In 2011, changes were made and the Program was expanded. In the last 2 years, there have been 11 cost-saving suggestions. About 8 weeks ago, the first award was given. A State employee recognized about \$8,000 in savings and received a 10 percent award, which amounted to about \$800. Since the award was given, there has been a significant increase in the amount of suggestions submitted to the Program.

Section 1 requires that State agencies talk about the Program when giving employee evaluations; how to participate; where to get access to forms; and how to make suggestions. Section 8 is the digital component, updating employee portions of the Website on the next reprint of the employee manuals.

Senator Hammond:

This bill is an educational component to a program already instituted. This will get more people to understand it, know it and act upon it in order to help the State save money by incentivizing employees.

Assemblyman Anderson:

All the components you described are in the bill. It is an educational and awareness piece. The incentive program is good. We just need everybody to know about it and look for ways to help the State continue to save money.

Chair Parks:

In the 1970s, the City of Las Vegas put in a program, but it fell aside and nobody knew it existed after a few years. It can be a beneficial program.

Assemblyman Anderson:

We want to avoid this great program falling aside. We want to continue to expand awareness and usage of the program.

Carole Vilardo (Nevada Taxpayers Association):

Employees are your first line of defense. You will be amazed at how exponentially you will see suggestions come in. We support the bill.

Chair Parks:

We will close the hearing on A.B. 321. The next bill in front of us is A.B. 333.

ASSEMBLY BILL 333 (1st Reprint): Revises provisions relating to incentives for economic development. (BDR 31-811)

Assemblyman James Healey (Assembly District No. 35):

This bill creates an analysis of the cost and benefits to the incentives provided by both the Governor's Office of Economic Development (GOED) and the Office of Energy. We want to be sure there are benchmarks placed on the incentives that GOED is able to provide to new industries. It has been successful so far, and now we want to create the benchmarks in order to hold those incentives accountable, ensuring the industries or companies that are receiving those incentives hold up to their end of the bargain. In the event the industry or company does not hold up to its end of the bargain, a clawback is exercised and those incentives are taken back.

Section 1 requires GOED and the Office of Energy to conduct an analysis of costs and benefits of the incentives in effect during the immediate proceeding 2 fiscal years. These reports would become public record. Because these businesses are new to the State, as is their expertise, they are finding areas that they want to improve upon. With reports made public, Nevada taxpayers can know whether they truly get the best benefit for the dollars they contribute.

Steve Hill (Executive Director, Office of Economic Development, Office of the Governor):

A company will come to us seeking tax abatements or we may recruit a company and offer tax abatements. Our office oversees these economic development tax abatements. In order for Nevada to be competitive, we offer these companies a lesser tax rate. Companies have to do things in order to pay taxes and in order to receive the abatements; if they do not move forward, that activity is not there and that tax is not there.

For the most part, Nevada taxes companies when they buy things. The primary taxes generated by businesses outside of specific industries are real and personal property taxes when properties are bought and sold and sales taxes when businesses buy or sell things. The abatements do not include sales taxes when a company sells something. Abatements apply to buying initial equipment

and buildings in the start-up phase. We may abate the sales tax that is part of the initial investment.

Statute requires that we look at the number of jobs created, the average wage of those jobs and the amount of the investment the company is making. This bill expands what we look at to include the health care that companies provide to their employees. It does not make sense to incent companies to come to Nevada and then supply health care to their employees. The bill also requires that we look at the economic impact in Nevada—the taxes generated by both direct and indirect taxes.

In Years 2 and 5, the Department of Taxation will analyze the performance of the abatements to see how the company has performed with respect to the contract. Historically, the GOED has provided a report on the abatements issued, but that reporting has not included the information developed from the Department of Taxation audits. We have talked with the Department of Taxation to ensure we can include information that is not confidential in nature, allowing us to report on the number of jobs, the wages paid and the real and personal property values created by these companies and incented through the abatement program.

This statute provides the framework for the abatement process. It is good policy. We support the bill.

Senator Spearman:

You said the evaluations will occur in Years 2 and 5. If businesses are not on course to accomplish their goals in Year 2, is there some type of mediation that can be done so when they get to Year 5, we have not wasted 5 years?

Mr. Hill:

Yes, and we currently do that. Following the approval of an abatement, we enter into a contract with the company; the company agrees to create a certain number of jobs in a certain time frame and at a certain level of wages. In exchange, the company is approved for the abatements. The audits the Department of Taxation performs are designed to check the progress of the contract, and clawbacks can be implemented in both Years 2 and 5.

Assemblyman Healey:

For clarification, I noticed that my comments read in the immediate proceeding 2 years; to clarify, it is in Years 2 and 5.

Senator Spearman:

Do we have anything that speaks about best practices with respect to how successful these companies have been in other locations? Perhaps a company has tried this in three other states, maybe it worked or maybe not. Perhaps a template says these are best practices that you might look for—so we do not have to learn on our own and can learn from other people. Does that make sense?

Mr. Hill:

Yes, it does. In fact, the Pew Center on the States publishes a study that points at which states are doing the best job at tracking this kind of program; many do not track at all. It is one of the studies that was brought to our attention, causing us to look at our process. What the Pew Center on the States points out is this should be a virtuous circle of effort where the Legislature sets a policy on how it should work; we implement it, measure it and use that information to inform the policy during subsequent legislative cycles. We have looked at what some of the other best states have done, and those ideas are included in both our process and legislation.

Senator Hammond:

All over the world, people want to find a way to attract businesses to their area—best practices from one state to another and also from one country to another. This bill is expanding our overview, because we are looking at how we are spending tax dollars and how we are incentivizing companies to move here. We are not just concentrating on how many are being employed but expanding it out to see more accountability and transparency. In Years 2 and 5, this bill is asking for an audit to see if companies are in compliance with what we have asked them to do to receive those incentives. The hammer is the removal of those incentives after Year 5. Is there anything between the audit, finding out they are not in compliance and the hammer coming down? Is there anything a company can do to redeem itself?

Mr. Hill:

The agreements, per Nevada statute, require companies maintain the presence at the facility for which they will receive abatements for a period of 5 years.

After 5 years they have grown roots; they will probably be here; they are not getting additional abatements, but there are no additional requirements. Nevada's incentives are performance-based per the contracts. We have reviewed the clawback success rate. If a company has gone bankrupt, that clawback is not possible. In cases where the company has not gone completely out of business and there has been a need for clawbacks, it has been much more effective than anticipated.

Senator Hammond:

Year 2 is the critical year. Is that correct?

Mr. Hill:

It is an important year. The audit that takes place after Year 2 looks at the first 2 years, and the audit that takes place at Year 5 looks at the prior 3 years.

Senator Hammond:

Are there evaluations and suggestions after the 2-year audit?

Mr. Hill:

The Department of Taxation provides us with information from the audit. The Department of Taxation determines whether the company is in substantial compliance; the language in statute is "substantial compliance with the contract." We are tightening the language to make the line clearer. If the company is not in substantial compliance, we bring the company before the Board of Economic Development for the opportunity to restructure the agreement.

Senator Hammond:

How many businesses are we talking about right now?

Mr. Hill:

We provide abatements to between 40 and 60 companies a year.

Senator Spearman:

I want this bill as tight as we need so we have a carrot represented in the abatements. Is substantial compliance purely subjective, or is it numeric? If companies do not make substantial compliance and do not go bankrupt, is there any mechanism we might look at that would speak to remuneration for this State?

Mr. Hill:

If companies are not in substantial compliance, then they are responsible for repayment of some or all of the tax abatements received. It has actually worked better than I had thought it would. There has been solid work done to collect that money. Often, the companies realize they have not met the terms of the agreement, and they are willing to pay that back. The State has the ability to take it to a legal setting.

Senator Spearman:

How is "substantial" represented?

Mr. Hill:

Several variables can move around, but the three numerical measurements used to determine substantial compliance are number of jobs, the average wage those jobs would have and the amount of investment by a company.

Assemblyman Healey:

We will continue to add a level of transparency to our constituents, which is a great thing for our State. We hope that you support moving this bill forward.

Chair Parks:

We will close the hearing on A.B. 333 and open the hearing for A.B. 363.

ASSEMBLY BILL 363 (1st Reprint): Makes various changes relating to abatement of public nuisances and conditions by local governments. (BDR 20-663)

Assemblyman Richard Carrillo (Assembly District No. 18):

Assembly Bill 363 will give local governments the authorization to add abandoned, inoperable or junk vehicles to the list of debris or rubbish which constitutes a public nuisance for the purpose of complying with an ordinance adopted by a board of county commissioners.

An amendment was proposed and accepted which changed the language a little. The language mistakenly removed is being replaced.

There might be complaints about a vehicle being torn up in the front yard for the last 10 years and no one has done anything about it. Because the vehicle is on private property, the local government has no say. This bill requires the property

owner to deal with it by making it out of sight. The bill is subject to any county whose population is 700,000 or more. This part of the bill does not pertain to the City of Reno. In the process of making modifications to the bill, the section that pertained to the City of Reno was accidentally pulled. This bill would not have affected them at all.

The bill itself is the keeping of the nuisance, abandoned or junk vehicles out of sight. I will defer to Ms. Matijevich to go over the amendment.

Senator Manendo:

With this amendment, do we go back to the original bill?

Cadence Matijevich (City of Reno):

I had originally signed in as opposed. I have a friendly amendment ([Exhibit R](#)).

The original bill authorized any local government with a code violation that had to do with an abandoned, inoperable or junk vehicle to allow a tow operator to go onto the private property and remove that vehicle. The policy decision by members of the Assembly Committee on Government Affairs was to see that provision relating to the tow companies be put into place in Clark County. We were supportive of that language being included in Washoe County. I understand that was the decision of the Assembly Committee to only add those provisions in Clark County; however, in drafting the language, they removed the language in statute that would allow us to continue what we already do through our code enforcement. We require the private property owner to abate that condition: screen a vehicle, move it into a backyard or conceal it from an open area where it would meet the definition of a nuisance.

Language drafted to make the provision related to the private tow operator for Clark County only took away that existing ability. We propose returning the language of NRS 268.4122 as it appeared in the early subsections and take what had originally been drafted to appear in a subsection plus adding a new subsection to that chapter with provisions for the private tow operators and make that applicable only in Clark County.

Senator Spearman:

When I think of abandoned vehicles, I also think of abandoned property like refrigerators and stoves, things that are not just nuisances but have potential safety problems. I am concerned about children. Are there provisions that make

owners aware that it is their responsibility or they are culpable if something happens to someone else even while it is on their property?

Assemblyman Carrillo:

There is nothing in this language right now, and I am not sure if there is something in ordinance. I will find out. The doors should be removed on appliances and refrigerators. A child being locked in a vehicle, especially with the high temperatures, is just as dangerous as a child being locked in a refrigerator. We want to make sure that it is safe for our children.

Ms. Matijevich:

Per NRS 268, we have the authority to enact ordinances that would allow our governing bodies, through our code enforcement efforts, to order an owner of a property within the city to repair, safeguard or eliminate a dangerous structure or condition. This bill is about clearing or removing the vehicle. Washoe County has a special event that has to do with classic cars. A lot of people work on cars; this bill is not intended to address that. It is meant to address the abandoned vehicle that is no longer operable and potentially a safety hazard.

Senator Spearman:

Who would oppose this and why?

Richard Perkins (City of Henderson):

A handful of people just like their stuff. Sometimes it accumulates and becomes a hazard—as we have all seen and read stories about—as described here today. Typically, the people do not want government involved in their lives. The reason this bill addresses vehicles only is that vehicles tend to have a special status; you are not allowed to take somebody's vehicle without a particular reason created by statute. Tow operators are regulated by the State, not local government. That is why this authority is needed at the State level.

Assemblyman Carrillo:

We removed unregistered vehicles on the Assembly side. A lot of people want to keep their vehicles, and people will not be subjected to a tow company snatching vehicles off their property. There is a process in place with citation and notification. If the property owner will not take care of it, the next step is to remove the vehicle. The bill gives us the jurisdiction to take care of this.

Senator Goicoechea:

The City of Reno is covered because it has abandoned or junk vehicles added to the list, but I am not sure the counties under 700,000 would be included. Do we want to preclude them?

Ms. Matijevich:

With the provisions of the first reprint of the bill and our proposed amendment, only local governments in Clark County would have the authority to tow. Cities not in Clark County would have the ability to require an owner to remove abandoned or junk vehicles. That ability exists in statute today for cities; it does not exist for counties. Our proposed amendment is seeking to return to the existing statutory language. We did not include what would have been additional language for counties. Cities and counties try to advocate for one another, and being able to require the owner to abate the condition would be useful. My understanding is that counties do not have that ability and the amendment would not change that.

Senator Goicoechea:

That is a concern. With the amendment in counties over 700,000, it clearly specifies that counties under 700,000 do not have the right to pass it by ordinance. Correct?

Ms. Chlarson:

The amendment for section 3 of the bill the City of Reno is proposing applies to cities. Section 2 of the bill applies to counties, and the specific authority is for a city in a county whose population is 700,000 or more. The city may authorize the county to request a tow car and abate the nuisance by towing the vehicle; thus, the specific authority does not relate to Clark County. It is a policy decision of the Committee if you want to change the population cap.

Senator Goicoechea:

We are precluding counties under 700,000.

Chair Parks:

Mr. Perkins, do you have any other comments?

Mr. Perkins:

I want to be here as a resource in case your Committee has any questions. Abandoned vehicles are something we have dealt with and continue to deal

with in the City of Henderson. It has become difficult to move them off private property because of the special status that vehicles have in our State, and the State regulates tow operators.

Chair Parks:

Dealing with nuisances and abatement in the 1980s, we found a lot of properties that had all kinds of junk on them. To get property owners to acknowledge their trash was not treasure was difficult at best. We dealt with the justices of the peace, which was a process to educate them. In more recent years and within the Las Vegas Metropolitan Police Department jurisdiction, there has been a reluctance for the Department to recognize the need to move vehicles off public streets; hence we passed legislation about 6 years ago allowing for the constable's offices to coordinate the removal, and that has worked well because the Police Department did see that as being a priority even when neighbors complained. This bill goes onto private property. Would it be up to the police in the various jurisdictions to start removing these vehicles?

Ms. Matijevich:

In most municipalities, it would be the code enforcement division of the city or county; in our instance, it would through City of Reno ordinances and carried out by our code enforcement staff. I want to be clear the intent is not to give code enforcement the ability to cruise neighborhoods looking for nuisance vehicles. It is an extensive process engaging the property owner, issuing a courteous notice asking the owner to correct the nuisance. This is not going to apply to us. In practice, before any city or Clark County goes to the point of enlisting the assistance of the tow company, it would have had extensive contact with the property owner in attempting to work out an abatement in advance of having the private tow operator come onto the property.

We have the ability, if the owner does not abate dangerous conditions such as appliances and refrigerators, to go to a judge to have the items declared nuisances and abate on our own.

You heard some bills this Session about recuperating the cost of abatement—if it is not paid, it becomes a lien on the property. This will be one additional tool for the local governments in Clark County to address those issues.

Chair Parks:

Does the City of Reno initiate something because of a complaint? They do not drive around looking for issues?

Ms. Matijevich:

In about 90 percent of the cases, we become aware of nuisance issues because they are reported to us. Abandoned vehicles on public property are a big problem, and the calls come into our customer service call center. The staff creates a service request that goes out to the appropriate department. Occasionally, in the process of responding to a nuisance complaint, code enforcement may find another nuisance property and take proactive actions. Because of our resources, we react more to a complaint received, and that is when the contact is initiated.

Dan Musgrove (City of North Las Vegas):

We support the bill and the City of Reno amendment.

Ms. Elliott:

We support the bill and the amendment.

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Chair Parks:

We will close the hearing on A.B. 363. The meeting is adjourned at 4:43 p.m.

RESPECTFULLY SUBMITTED:

Gwen Barrett,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	8		Attendance Roster
A.B. 25	C	1	Patrick Guinan	Work Session Document
A.B. 87	D	3	Patrick Guinan	Work Session Document
A.B. 99	E	3	Patrick Guinan	Work Session Document
A.B. 172	F	10	Patrick Guinan	Work Session Document
A.B. 218	G	1	Patrick Guinan	Work Session Document
A.B. 251	H	1	Patrick Guinan	Work Session Document
A.B. 266	I	1	Patrick Guinan	Work Session Document
A.B. 223	J	13	Assemblywoman Marilyn Kirkpatrick	Proposed Amendment
A.B. 223	K	6	Jordan Ross	Proposed Amendment, Technical Corrections
A.B. 223	L	5	Jordan Ross	Proposed Amendment, Policy Changes
A.B. 223	M	2	John Bonaventura	Summary Letter with Amendments
A.B. 223	N	15	John Bonaventura	Proposed Amendment
A.B. 223	O	3	John Bonaventura	LCB Letter to Senator Manendo
A.B. 223	P	3	John Bonaventura	Fair Share Program Revenue and Expenses
A.B. 321	Q	1	Assemblyman D. Paul Anderson	Merit Reward Program for State Employees
A.B. 363	R	2	Cadence Matijevich	Proposed Amendment