

**MINUTES OF THE
SENATE COMMITTEE ON TRANSPORTATION**

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

The Senate Committee on Transportation was called to order by Chair Mark A. Manendo at 9:04 a.m. on Monday, March 18, 2013, in Room 2135 of the Legislative Building, Carson City, 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 Mark A. Manendo, Chair
Senator Kelvin Atkinson, Vice Chair
Senator Pat Spearman
Senator Donald G. Gustavson

COMMITTEE MEMBERS ABSENT:

Senator Joseph P. Hardy (Excused)

STAFF MEMBERS PRESENT:

Jered McDonald, Policy Analyst
Darcy Johnson, Counsel
Jennie F. Bear, Committee Secretary

OTHERS PRESENT:

Craig Madole, Senior Associate, The Associated General Contractors of America, Inc., Nevada Chapter
Chris Ferrari, The Associated General Contractors of America, Inc., Las Vegas Chapter; Nevada Contractors Association
Jack Mallory, Southern Nevada Building and Construction Trades Council
Mary C. Walker, Carson City; Douglas County; Eureka County; Lyon County; Storey County
Carl Ruschmeyer, Director, Public Works Department, Douglas County
Darren L. Schulz, P.E., Deputy Director, Public Works Department, Carson City
Jeff Page, County Manager, Lyon County
Greg Hess, Vice Chair, Board of Commissioners, Storey County

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Jeffrey Fontaine, Executive Director, Nevada Association of Counties
Alan Kalt, Comptroller, Churchill County

Chair Manendo:

The first agenda item is Committee introduction of Bill Draft Request (BDR) 35-1075.

BILL DRAFT REQUEST 35-1075: Revises provisions concerning the membership of the Board of Directors of the Department of Transportation. (Later introduced as [Senate Bill 322](#).)

SENATOR ATKINSON MOVED TO INTRODUCE BDR 35-1075.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senator Atkinson:

I will open the hearing on Senate Bill (S.B.) 217.

SENATE BILL 217: Revises provisions relating to the manner of performing work on roads in smaller counties. (BDR 35-925)

Senator Mark A. Manendo (Senatorial District No. 21):

I am sponsoring S.B. 217 and will read my prepared testimony ([Exhibit C](#)).

Craig Madole (Senior Associate, The Associated General Contractors of America, Inc., Nevada Chapter):

The Nevada Chapter of The Associated General Contractors of America, Inc. (AGC) supports S.B. 217 with a conceptual amendment ([Exhibit D](#)) provided for your consideration. I will read my prepared testimony ([Exhibit E](#)).

Senator Spearman:

What is the average cost for a road or bridge project in today's dollars?

Mr. Madole:

That is a complicated question. For instance, a mile of new pavement costs about \$1 million. The cost of chip-sealing roadways varies with the price of oil. For a small box culvert or small bridge, the cost may be \$300,000 or \$400,000. The bridge on Interstate 580 between Reno and Carson City cost about \$400 million. The cost of a project depends on its complexity.

Senator Atkinson:

My question involves section 1, subsection 2 of S.B. 217. The bill allows a county to perform its own work if the probable cost of the project does not exceed \$25,000 and if the board of county highway commissioners is not satisfied with bids received pursuant to chapter 332 of *Nevada Revised Statutes* (NRS). Can you explain this? Does this mean counties still will accept bids?

Mr. Madole:

Yes. The law now requires counties to advertise for bids. Once a county receives bids, it can determine to use its own resources if the bids are not sufficient. Counties have this right. Chapter 332 of NRS states that all work exceeding \$500 must be advertised for bid.

Senator Atkinson:

I want to understand the reasons a county would be dissatisfied with the bids. Is it due to the dollar amount or bid specifications?

Mr. Madole:

The answer is found within [Exhibit D](#) which quotes NRS 338.1444, subsection 2:

Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the local government determines that: (a) the quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications; (b) The bidder is not responsive or responsible; or (c) The public interest would be served by such a rejection.

Senator Gustavson:

What are the changes on the amendment? They are not highlighted.

Mr. Madole:

We are proposing to update section 1, subsection 3 of S.B. 217 to reflect sections 1442, 1444 and 1446 of NRS chapter 338. This update will give smaller counties the same flexibility enjoyed by Washoe and Clark Counties.

Senator Spearman:

This may be after the fact, but you indicated that they could reject it if they are not satisfied with either the bid or the quality of work. Is that correct?

Mr. Madole:

Yes. That is the language written into NRS 338.

Senator Spearman:

Who provides oversight of a job's quality and safety, regardless of whether the work is completed by a contractor or a local entity?

Mr. Madole:

County road departments have managers responsible for overseeing each construction project. This is similar to the oversight of projects managed by the Nevada Department of Transportation and the regional transportation commissions in Washoe and Clark Counties. This process is in place when contracts are let for highway work. The bill proposes to define the limitations of funds used for such projects.

Senator Gustavson:

Are there problems with the bidding process in the rural counties?

Mr. Madole:

My organization met with the Nevada Association of Counties (NACO) and Mary Walker, who represents several of the small counties. The amendment is being proposed to define better the language affecting small counties. Our intention was not to be more restrictive but to reflect accurately the wording of other parts of NRS related to this subject.

Chris Ferrari (The Associated General Contractors of America, Inc., Las Vegas Chapter; Nevada Contractors Association):

I represent the Las Vegas Chapter of the AGC and the Nevada Contractors Association. Both organizations support S.B. 217.

Jack Mallory (Southern Nevada Building and Construction Trades Council):

The Southern Nevada Building and Construction Trades Council supports S.B. 217.

Mary C. Walker (Carson City, Douglas County, Lyon County, Storey County, Eureka County):

We oppose S.B. 217. However, we have worked with Mr. Madole and the AGC. We generally agree with the amendment. The local entities I represent perform public work and seek bids in accordance with NRS 338.

Our original concern with the bill is that the \$25,000 limit will result in job loss in Carson City and the counties I represent. These entities perform much of the work with their own staff members. County and city employees have experienced salary and benefit cuts due to the recession. Nearly 30 percent of their coworkers have lost their jobs. We do not want to see any more jobs lost in Nevada, particularly in rural Nevada where employers are less numerous. Additionally, we oppose S.B. 217 because of the cost and length of time involved in the bid solicitation process for small projects.

The proposed amendment is consistent with NRS 338 with one exception. In S.B. 217, section 1, subsection 2 refers to NRS 332 and reads "If the probable cost of the work does not exceed \$25,000" This language does not comply with NRS 332; it is more restrictive. We recommend working with the AGC further to revise the amendment, ensuring it complies with NRS 332 and NRS 338 and is not as restrictive as proposed.

Senator Spearman asked me a question last week that I could not answer, but I found the answer. The question was: "How do we ensure the quality of a project is the same whether it is performed by public entities or by contractors secured through a bidding process?" There are two parts to the answer. First, you see NRS 338.1446 excerpted at the bottom of the conceptual amendment [Exhibit D](#). Subsection 2, paragraph (a), subparagraph (3) states " ... the public work will adhere to the same quality and standards as would be required of a properly licensed contractor if the public work had been awarded to a properly licensed contractor" We are required by NRS 338 to ensure our work is at the same level of quality as that performed by a contractor. Second, I have two experts with me who can testify to the process local governments undergo to oversee project quality.

Senator Spearman:

Your response is parallel to the question I asked Mr. Madole involving consistency in inspections.

Carl Ruschmeyer (Director, Public Works Department, Douglas County):

Road maintenance in Douglas County is a division of the Douglas County Public Works Department. An engineering division within the Public Works Department specifically employs a senior traffic engineer who coordinates all the roadwork, runs the Douglas County's regional transportation commission and oversees our 5-year transportation plan. When Douglas County constructs its own projects, as allowed under NRS, the work is reviewed and prepared by registered civil engineers in my department. In this way, we ensure the project is built to our design standards. Douglas County has adopted design standards setting criteria for material workmanship, inspection, testing and other elements. We institute this level of review internally. Furthermore, we hire consultants for specialized inspections, materials testing, compaction testing and other components as necessary for in-house projects. Douglas County complies with NRS 338. Construction projects are built according to adopted standards and practices.

Senator Gustavson:

Would you support the bill if the amendment revisions were made satisfactorily?

Mr. Ruschmeyer:

Yes, Douglas County supports the proposed amendment.

Darren L. Schulz, P.E. (Deputy Director, Public Works Department, Carson City):

Along with Mr. Ruschmeyer and Ms. Walker, Carson City supports the amendment with a couple of changes that still need to be made. I second Mr. Ruschmeyer's comments regarding internal quality oversight. When we in Carson City construct public works projects, we follow the same standards as we do when we formally bid a project. We ensure consistency. We are aware of what is required of private developers, and we follow the same requirements. No one can say Carson City gets away with cutting corners. We follow the standards. In a typical project, we develop a set of design drawings and associated standards for our builders.

I must mention the issue of limiting the amount of in-house work allowed for city and county staff. We often cannot construct all the projects we want to do because of time restrictions. Due to this reason, even the projects we can and

are allowed to build may need to be contracted through bid solicitation. The road crews that work on these projects also are responsible for many duties other than road repair. For instance, our road crews close Fifth Street for the Legislature and plow snow in the winter. I want to caution that we be careful not to reduce road crews that are allowed to perform the sizable projects, because these are the same crews helping to run Carson City and the local public works department. This point struck us immediately when we read S.B. 217. Diminishing our crews will have an impact on other Carson City services.

Senator Atkinson:

All of the last three testifiers spoke to the amendment but not to the bill. Are you in favor of the bill in concept but wish to revise the amendment? If so, this places you in a neutral stance on the bill rather than against it.

Mr. Schulz:

We were opposed to the initial wording of the bill, but we are in favor of the amendment.

Jeff Page (County Manager, Lyon County):

Lyon County is opposed to S.B. 217 as written. We have read the amendment this morning and have consulted our lobbyist and others. We support the amendment. We will discuss it further with our lobbyist and NACO to work out the details. Lyon County has concerns similar to Carson City and Douglas County. We have had major budget cuts during the last several years. Our road department is relatively small now. Five to ten years ago, we performed the majority of our own chip sealing, as an example. We stopped doing this due to lack of manpower, not due to legislation. We want to ensure our crews are not reduced further so we can handle regular duties such as snow removal and grading maintenance. More than 50 percent of the roads maintained in Lyon County involve grade operations because they are not paved or chip-sealed. We have numerous dirt and gravel roads. We want to maintain the stability of our crews to continue to perform these duties. We do not want to oppose the private sector. Generally, the private sector can provide more time than we can.

Greg Hess (Vice Chair, Board of Commissioners, Storey County):

Storey County also is against the bill as submitted, but we would like the chance to revise the amendment. This bill might be good in Washington, D.C., or Philadelphia but not necessarily good in our State. Each county is unique and autonomous.

Most projects these days are expensive, and many will fall within the \$25,000 to \$100,000 range. This could be detrimental to Storey County. We have crews working only in the summer on infrastructure projects such as pipe, water, sewer and paving. These projects are the sole job of the crews. If these jobs go to the private sector, we would lose about 75 percent of the Storey County workforce.

The other point is that counties have many unique events. Last weekend, we had the Rocky Mountain Oyster Festival in Virginia City. We have "Thunder on the Mountain," "Street Vibrations," "Outhouse Races" and more. We can easily schedule public work crews around our events. A private contractor would not have as much flexibility with scheduling. Furthermore, there are not many private contractors doing this kind of work in and around Storey County, although Washoe County is not far away. We can stop a pavement project, for example, before a special event begins and then restart the project after the event ends. Contracting with a private firm for these projects would be a burden on Storey County. We intend to work with the AGC and Ms. Walker on the wording of the amendment.

Jeff Fontaine (Executive Director, Nevada Association of Counties):

For all the same reasons you have heard from previous testifiers, NACO is opposed to S.B. 217. We have not heard from all the counties about the proposed amendment, but our particular concern is for the frontier counties and most rural parts of our State. In these areas, being required to contract for public works projects can result in greater expenses for mobilization, per diem and housing—and the counties may not even receive a good bid. My organization wants to ensure these counties are not locked into having to solicit bids for projects without receiving value for their outlay. We need to hear from the other counties in our membership and will work with everyone here and with the AGC to provide more bidding opportunities for their contractors.

Alan Kalt (Comptroller, Churchill County):

Churchill County is rural but operates a full-service road department that maintains 196.11 miles of paved road and 271 miles of gravel, or unpaved, road. The department budget is \$2 million. Infrastructure project costs can rise quickly. As a finance person, I see gas tax revenues falling because cars have become more efficient. Simultaneously, material costs for projects are rising. Much of our materials are petroleum-based products purchased from private industry. The costs of asphalt and hot mix asphalt have gone up. All of this leaves an infrastructure deficit.

I asked Churchill County's road superintendent what the cost is to maintain a road. She told me, "Every penny that Churchill County can give me." We need Churchill County general fund resources in addition to gas-tax revenue. The Churchill County Road Department is able to construct its own projects. Some of our finished projects exceeded the \$100,000 threshold set in NRS 341.148. We partner with industry. For example, one project cost \$277,000 with material costs of \$246,000 for asphalt procured from the private sector. That was 89 percent of the total cost of the project. Labor costs were \$15,000, and equipment costs were \$16,000. At times, Churchill County hires equipment and labor from private industry to complete projects. Innovation becomes essential when resources are limited. Our roads must be maintained so people can reach the variety of recreational opportunities, geothermal plants and other parts of Churchill County.

We are concerned that our 5-year road plan will not be completed due to price increases, turning it into a 15-year plan. Needed maintenance projects, such as asphalt repair, might have to be deferred. Putting off basic maintenance for any planned project costs more in the long run.

Regarding inspections, Churchill County uses the same firm that private industry uses for core samples, compaction testing and standards review. We obtain all necessary permits and professionally perform the projects.

Churchill County is opposed to S.B. 217. We could support some parts of the proposed amendment, but more work needs to be done on the language. One concept we might offer is a population threshold. As the speaker from Storey County noted, communities like his and Churchill County have smaller populations. The details in the bill may not work as well in such communities as they might in communities with more residents.

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Mr. Madole:

I agree with the speaker from Churchill County that we need to increase funding for our infrastructure. We support any efforts you, the Legislators, make to accomplish this.

I have been given a copy of NRS 332, and there are conflicts between it, NRS 338 and the amendment. We will resolve the conflicts and bring a revised amendment back to the Committee soon.

Senator Atkinson:

I was about to provide the same advice. Work with the people here and our Chair, since this is his bill. Then return with an amendment for our consideration. The hearing on S.B. 217 is now closed.

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Chair Manendo:

Today's Committee meeting is adjourned at 9:40 a.m.

RESPECTFULLY SUBMITTED:

Jennie F. Bear,
Committee Secretary

APPROVED BY:

Senator Mark A. Manendo, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 217	C	1	Senator Mark A. Manendo	Written Testimony
S.B. 217	D	1	Craig Madole	Conceptual Amendment
S.B. 217	E	1	Craig Madole	Written Testimony