

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
April 1, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:34 a.m. on Wednesday, April 1, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Moises (Mo) Dennis, Senatorial District No. 2
Senator Ben Kieckhefer, Senatorial District No. 16

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Chris Darling, Owner, A Track-Out Solution
Norberto Madrigal, Lunas Construction
Warren Hardy, SA Recycling
Andrew Zaninovich, Nevada Conservation League
Doug Dobyne

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Keith Brinkley, Project Manager, Balova Engineering
Brian Reeder, The Associated General Contractors of America, Inc., Nevada Chapter
Fred Reeder, President, Reno-Tahoe Construction
Sean Stewart, Executive Director, Associated General Contractors, Las Vegas Chapter; Nevada Contractors Association
Terry Graves, A&A Midwest
Frank Lepori, President, Frank Lepori Construction
Sean Higgins, Republic Services
Marty Mitcham, CORE Construction Services of Nevada
Kevin Linderman, Operations Manager, Q&D Construction, Inc.
Ken Mercurio, Owner, Diversified Demolition Company
Tillio Olcese, President, Olcese Waste Services
Jay Parmer, Builders Association of Northern Nevada
Michael Kimmel
Dan Musgrove, Southern Nevada Health District
Gustavo Nuñez, P.E., Administrator, State Public Works Division, Department of Administration
Josh Hicks, Southern Nevada Home Builders Association
Nicole Willis-Grimes, Nevada State Board of Contractors
Chris Ferrari, Nevada Dental Association
Adam Plain, Nevada Dental Association
Alfredo Alonso, United Healthcare
Bart Mowry, CPA
Robert Armstrong

Chair Settlemeyer:

We will open the hearing on Senate Bill (S.B.) 122.

SENATE BILL 122: Revises provisions relating to recycling. (BDR 54-893)

Senator Moises (Mo) Dennis (Senatorial District No. 2):

In addition to increasing recycling, S.B. 122 will create jobs. If post-recycling material has to be shipped to some place like China, Nevada does not benefit. The bill will create a stream of recyclables that can be used locally. You have my proposed amendment ([Exhibit C](#)). During the Great Recession that began in December 2007, the construction industry took a major hit. Now, we are seeing strong signs of an improving economy in Las Vegas. Old buildings are being torn down to build new ones. Demolition companies recycle debris on-site, including

glass and concrete, which can often be reused. However, other debris must be sent to landfills.

To reduce that burden on landfills, protect the environment and create jobs, S.B. 122 establishes a pilot program in Clark County. Solid waste haulers transporting construction and demolition (C&D) debris from a work site must dispose of it through a State-approved materials recovery facility (MRF) if one is within 30 miles of the work site. An MRF is a specialized plant that receives, separates and prepares recyclables suitable for use as fuel or as soil amendment. An MRF does not include a facility that only receives recyclables separated at the source of waste generation if further processing of the material generates less than 10 percent waste residue by weight on an annual average. Salvage yards that recover used motor vehicle parts and facilities that receive, process or restore concrete, masonry, asphalt, brick or uncontaminated soil or stones are not MRFs.

Section 1, subsection 1 of the proposed amendment to S.B. 122 establishes an MRF pilot program in Clark County under the Southern Nevada Health District. It would require solid waste haulers who transport C&D debris from work sites to dispose of it at an MRF, if the site is within 30 miles of an MRF. The bill defines "solid waste hauler" as "any person who for any remuneration or commercial purpose transports any construction or demolition debris from a work site." Exemptions are provided for property owners who transport such debris from building or improving their homes and contractors who transport such debris from a project that has a value of less than \$2,000. These contractors haul their own debris.

The Health District must submit a report on or before January 1, 2021, to the Legislature detailing the impact of the pilot program on the amount of material being recycled, versus material dumped in landfills. Section 1, subsection 4, paragraph (a) of the proposed amendment, [Exhibit C](#), defines "construction and demolition debris" as "any solid waste resulting from the construction, demolition, alteration or repair of any building, structure or other work of improvement." It excludes "Any recyclable material which has been separated at the work site, is not commingled with any other recyclable material or debris, and will be disposed of at a recycling center; [or] Soil, stone, brick or asphalt pavement." My proposed amendment deletes section 2 entirely. It would have required a study of the promotion of MRFs in Nevada. The bill will foster

competition among debris handlers and create more industries that use recyclables.

Chris Darling (Owner, A Track-Out Solution):

My construction demolition hauling company and MRF are privately owned. I have operated in Las Vegas for 15 years. Senate Bill 122 will encourage economic development, create jobs and enhance recycling efforts. You have my slide presentation, "Overview of Construction and Demolition Waste Recycling in Southern Nevada" ([Exhibit D](#)). The page 1 slide shows the recycling rate by private MRFs from 2010 to 2013 on the left side of the chart. In 2013, private industries recycled 72,889 tons of material. The right side of the chart shows that Evergreen Recycling, a privately owned MRF, recycled 77,798 tons. In 2010, Evergreen was bought by Republic Services, and the amount it recycled fell by more than half, to 31,061 tons. In 2013, Republic recycled 7,187 tons. The facility could process much more material than it is now handling.

The slide on page 2 of [Exhibit D](#) shows the unused Evergreen MRF in November 2014. Republic captures 10 times the amount of C&D waste than does the private industry. Recycling is simply not happening; most of the waste is going to landfills.

The slide on page 3 shows the pricing issue experienced by private MRFs and why we do not capture all C&D material. The landfill prices graph on the left shows that in 2006, it cost \$185 to dispose of 10 tons of C&D debris at the Apex Regional Landfill. In 2014, it cost \$352. During a recession, landfill tipping fees rose 91 percent for private industry. The chart on the right shows Republic's retail Dumpster prices. In 2006, the charge was \$384 per Dumpster filled with 10 tons of C&D waste. This includes a driver picking up the Dumpster at a work site, disposal of the material at a landfill, profit, wages and overhead. In 2014, Republic charged \$255 for a Dumpster full of 10 tons of material, a decrease of 34 percent. Just to dispose of a Dumpster load costs private industry \$352, not including the cost of driving, trucking and wages. With landfill fees increasing 91 percent during a recession, private industry haulers using Apex Regional Landfill will go out of business in a few years—we cannot compete. Once its competition is eliminated, Republic will be able to increase its retail sale price.

How do we increase recycling while creating a level playing field? All C&D debris must be processed at an MRF, which increases recycling. Senate Bill 122

only pertains to counties with populations of 700,000 or more with MRFs within 30 miles of work sites. I cannot tell you how many jobs the bill could create. The empty Evergreen MRF will be full and have truck drivers and workers collecting and processing material to be reused in the County. Recycling rates will increase, as will the number of waste-to-fuel facilities. The County and State will gain revenue.

Senate Bill 122 will pave the way for a \$130 million C&D waste-to-energy plant in the City of North Las Vegas, boosting its economy and that of the entire County. The plant will produce enough clean-and-green energy to power four developments the size of MGM CityCenters. We can create power with material we do not put in landfills; we can do right by the environment. Jobs will be created to build the facility, plus long-term jobs will be needed to process the C&D waste to make it clean enough for the facility to use for power.

If S.B. 122 does not pass, millions of tons of recyclable C&D material will go to landfills. Private waste haulers might go out of business because of escalating Apex Regional Landfill dump fees, causing hundreds of County residents to lose their jobs. The \$130 million waste-energy facility will not be built.

Norberto Madrigal (Lunas Construction):

Lunas Construction has been a family- and minority-owned business since 1988; now, we have more than 150 employees. With a focus on Las Vegas, we haul C&D waste to our MRF, extract the recyclables and send the residuals to landfills. Passing S.B. 122 would affect the community in many positive ways. Lunas processes 350 tons of C&D material daily, 30 percent to 40 percent of which is recycled. I know I can find new ways to extract different recyclables, like wood and green waste. We now recycle concrete, asphalt, plastic, cardboard, metal, carpet padding, glass—and this is just the tip of the iceberg of what could be recycled.

I have been approached by numerous companies that want to relocate to Las Vegas. A relocating plastic-injection mold company asked me how much of their plastic could be recycled. When I told them about the inadequate recycling volume in Las Vegas, they went to a different state. The future holds more waste-to-value opportunities, including waste-to-fuel endeavors. Facilities need feed stock: C&D waste residuals from MRFs. Feed stock must go through MRFs because all contaminants, like metal, glass and aggregates, must be removed.

A few years back, the question was "Why now?" Tomorrow is too late, and yesterday has passed. Today, we have the power of decision, to make a choice, to scope our future and endure the survival of private businesses.

Senator Farley:

In reference to the Dumpster-fee charts on page 3 of [Exhibit D](#), are you saying that \$352 is the basic price for private haulers, but there are additional fees? Could I hire Republic and get the entire service for \$255?

Mr. Darling:

Correct. The \$352 is what A Track-Out solution pays at the landfill gate to dump 10 tons. We charge \$340 to \$375 per Dumpster load, which includes trucking, profit and overhead. We keep our prices low by recycling C&D materials such as wood and concrete. That lowers the Dumpsters' weight, and the 10-ton price drops. When I take 10 tons of residual waste to the landfill that costs \$352, if there is nothing recyclable in the load, we must absorb the drive time and wage cost. We can lose money on every load we haul.

Senator Farley:

Explain those fees to me again. Are you talking about MRFs?

Mr. Darling:

Yes, that is through the Evergreen MRF, which processes C&D material. Evergreen's processing volume in 2008 equaled that of all five County private haulers in 2014. Republic is not using Evergreen to sort its C&D material.

Senator Farley:

If I use Republic, the cost is \$255, all inclusive. Why is it so much less expensive?

Mr. Darling:

Republic owns the landfill to which we take our loads. It is the only licensed public landfill in the County, so they have a monopoly.

Senator Hardy:

The bill would establish a pilot program, but you have already instituted some of its provisions. Is that correct?

Senator Denis:

Currently, haulers are not required to take C&D waste to MRFs, but many companies do.

Senate Hardy:

Would the bill impose a mandate on the Health District to institute the pilot program then report on its status by January 1, 2021? Does that mean the pilot program would end before then?

Senator Denis:

Yes, the way S.B. 122 is currently written. The Health District would also be required to issue an annual progress report.

Senator Hardy:

Obviously, no one has figured out how to negotiate a recycling partnership that would work for both construction companies and recyclers.

Mr. Darling:

Many Las Vegas construction companies use MRFs, as per the list on page 1 of [Exhibit D](#). For example, my company is recycling C&D material at the MGM Grand Arena now being built in Las Vegas. We added language to the proposed amendment that would make its provisions fair for contractors and to answer their questions about it.

Senator Hardy:

From a logistics standpoint, would contractors prefer that you haul their debris, instead of hauling it themselves, because you pay them for that privilege?

Mr. Darling:

We do not pay them; they pay us to haul the debris.

Senator Hardy:

They will have to pay someone for hauling.

Mr. Darling:

Correct. Contractors either self-haul and incur costs, or they hire a company geared to do that kind of work.

Senator Hardy:

Is self-hauling more expensive than what you charge?

Mr. Darling:

I do not know. I think it is cheaper to hire us because we are being utilized in the market.

Warren Hardy (SA Recycling):

SA Recycling supports S.B. 122, with one minor amendment to the proposed amendment, which we have discussed with Senator Denis. SA Recycling recycles metal. Goals were set about 10 years ago for Nevada's metal recycling, and it has gone well. We should create a better market for other recyclable materials, which the bill will do.

Our concern was that we be able to continue our operations unfettered by the bill's provisions. In the proposed amendment's section 1, subsection 4, paragraph (a), subparagraph (2), the definition of solid waste "Does not include: (l) Any recyclable material which has been separated at the work site, is not commingled with any other recyclable material or debris, and will be disposed of at a recycling center." We have asked Senator Denis to remove "... and will be disposed of at a recycling center." If C&D material has already been separated at the source, there is no reason to indicate in *Nevada Revised Statutes* (NRS) where it will be disposed of. We do not like the words disposed of. If they are removed, we fully support S.B. 122 and the proposed amendment, [Exhibit C](#).

Metal recyclers have struggled with constant opposition to being defined as "solid waste." We are a commodity. SA Recycling drops off Dumpsters at MRFs with loads already source-separated. We then pay haulers to pick it up. This is a source of revenue for construction companies, so we do not want to discourage that.

Andrew Zaninovich (Nevada Conservation League):

The Nevada Conservation League supports S.B. 122.

Doug Dobyne:

I support S.B. 122. You have my written testimony ([Exhibit E](#)). For 7 years, I worked for a large MRF in southern Nevada. I am the business representative on the Board of Health of the Southern Nevada Health District, specializing in solid waste matters. I am speaking on my own behalf. In 1991, the Legislature

established a 25 percent recycling goal for the State. Southern Nevada has only met that goal once, in 2012. We have one of the lowest recycling rates in the Country, while we have the largest U.S. landfill.

In 2014, Republic Services was granted a 471-year-capacity landfill, so large that they import solid waste from California. My chart in [Exhibit E](#) indicates that southern Nevada's recycling rate is far below that of western states that have legally mandated recycling goals. In 2013, we recycled less than half as much as nearby states.

In a Health District board meeting, Republic stated that it cost much more to recycle C&D debris, as opposed to taking it to landfills. That cost difference for a 30-cubic-yard Dumpster was about \$200. I have spoken with several of Republic's competitors that operate MRFs, and they say their additional cost to process a 30-cubic-yard Dumpster is about 1 1/2 hours of labor.

Republic recently applied for a license to build and operate a \$30 million MRF. Its main focus will be collecting residential recyclables, but they requested that they also be allowed to process C&D waste. If it costs them so much more, why are they asking for that ability? Please support [S.B. 122](#) to prove that recycling is good for Nevada's job creation and economic growth.

Keith Brinkley (Project Manager, Balova Engineering):

You have my written testimony ([Exhibit F](#)). Balova Engineering, a small civil engineering firm in Las Vegas, supports [S.B. 122](#). Balova has found a niche in recycling, assisting with the permitting and engineering of most of the recycling centers and MRFs in the Las Vegas Valley. We have also been deeply involved in every conversion technology project that has been permitted and or is in development in the region, with one exception.

Conversion technology is a combination of old and new technologies that converts part of the waste stream into usable materials, such as crude oil, which, with further refining, can be a superior, low-sulfur diesel fuel. The C&D debris can also be converted via gasification into clean, renewable, dependable electricity. This renewable-source electricity does not depend on the whims of nature and will help NV Energy, Inc. meet its renewable-energy portfolio, as required by NRS.

Balova Engineering is aware that a lot of C&D debris that could be recycled ends up in landfills. Part of the reason is simple inertia and a “That’s the way we’ve always done it” mentality. Another reason involves cost, plus some waste is simply being diverted from where it could be best utilized. In addition to being wasteful, the environment is harmed. We all know about increased fugitive methane emissions being produced by landfills.

Europe has made great strides in reducing its landfill use, with many countries reporting single-digit percentages of waste going into the ground, with the rest recycled or used in waste-to-energy projects. Balova’s C&D debris conversion technology projects meet or exceed the U.S. Environmental Protection Agency’s air quality standards necessary to permit them as minor emissions sources.

The proposed waste-to-energy plant in Apex Industrial Park in the City of North Las Vegas has a projected construction cost of more than \$130 million and is expected to produce 90 to 100 construction jobs, plus a like number of post-construction full-time, well-paid jobs with full benefits. One wonders what the benefits would be of a few more such facilities converting waste to clean, green energy in the Las Vegas Valley.

By allowing the necessary feed stock—C&D waste—to be concentrated and processed at a few specific locations, hauling costs would be decreased while the overall green energy balance would increase. Senate Bill 122 will help ensure the viability and sustainability of this and similar projects. These are not pie-in-the-sky endeavors; they are real-world opportunities for Nevada to become a leader in the renewable-energy theater.

Chair Settlemeyer:

The Committee has received a letter of support ([Exhibit G](#)) for S.B. 122 from Clark County Commissioner Chris Giunchigliani.

Brian Reeder (The Associated General Contractors of America, Inc., Nevada Chapter):

The Associated General Contractors of America, Inc., Nevada Chapter, opposes S.B. 122. Its requirements will create an unfunded mandate that will increase the cost of demolition. It is more expensive to process C&D material in an MRF than to take it to a landfill. Those extra costs will be absorbed by project owners and/or contractors. We are surprised that there is no fiscal note from State and local governments attached to S.B. 122. It will apply to projects

formed under public works statutes and to private projects, increasing the cost for both.

Other testifiers have referenced a level playing field. If a business provides better service at a competitive price, it will be successful. Businesses become successful without laws that alter customer behavior; recycling and the waste-management businesses should not be different. Contractors recycle as much as is practical, which may be reflected in low bid prices.

Fred Reeder (President, Reno-Tahoe Construction):

Reno-Tahoe Construction is a general engineering contractor in northern Nevada. We oppose S.B. 122, even though it will not directly affect northern Nevada. It seems as if anything that happens in Las Vegas or California creeps into northern Nevada.

Historically, MRFs have had limited success due to a poor return on selling recyclables and to the volatile recyclables market. Making C&D waste recycling mandatory for all contractors creates a winning opportunity for anyone who wants to start an MRF when it creeps up to northern Nevada.

We recently demolished the University of Nevada, Reno's (UNR) Getchell Library, a \$941,000-plus contract. The majority of that C&D waste went to the Lockwood Landfill, but we did recycle some steel and aggregates, despite the time limitation of having to work between classes. If I had hauled that material to an MRF, the cost would have risen to \$1.9 million—a million-dollar increase to a State project. To arrive at that figure, I took the Lockwood Landfill dumping rates and compared them to Luna Construction's tipping fees. I used the same hauling estimate as if that MRF were in Lockwood. White Pine Hall at UNR will be demolished in summer 2015. There will be an additional cost of \$200,000, if we have to use an MRF.

These costs are passed on to consumers. The bill's magnitude will really hurt the already-weakened construction economy. I cannot think of one job—a school, building a road or highway, any public works project—that does not have C&D debris that will have to be recycled under S.B. 122. The State will lose projects. We demolished the Young Men's Christian Association building on Foster Drive in Reno to make way for the Boys & Girls Club of Western Nevada. It was a \$450,000 job, but if we had had to use an MRF, it would have been

\$1.1 million. The Boys & Girls Club could not have paid that much, and we would still have a decaying building on Foster Drive.

In the last 5 years, contractors have had quite a struggle, and there are more struggles ahead of us due to increased taxes and the impact of paying prevailing wages. I do not know if we can bear the costs of S.B. 122, nor if agencies can pay their construction bills.

Sean Stewart (Executive Director, Associated General Contractors, Las Vegas Chapter; Nevada Contractors Association):

The Associated General Contractors Association, Las Vegas Chapter, and Nevada Contractors Association oppose S.B. 122 as written. We support recycling, as do many of our contractors. We have not reviewed the proposed amendment, [Exhibit C](#), to see if it addresses our concerns.

Senator Manendo:

I do not know if Fred Reeder has seen the proposed amendment, because it would only apply to southern Nevada.

Mr. F. Reeder:

I realize that, but the bill would affect the State as a whole. If southern Nevada projects are impacted, there will be less work to share in northern Nevada. If construction costs are driven up at the University of Nevada, Las Vegas, UNR will also take a hit.

Senator Manendo:

We cannot control the actions of future Legislators. The Committee needs to worry about what we have in front of us, not what may happen 10 or 20 years from now.

Senator Farley:

When I look at the chart on page 3 of [Exhibit D](#), do the landfill tipping fees include recycling costs? Under S.B. 122, would that cost rise if C&D waste is recycled in a different manner, i.e., going through MRFs?

Mr. F. Reeder:

I do not know what Republic Services charges to process recyclables. I used comparisons of the charges by Lockwood Landfill, which is operated by Waste Management, Inc. (WMI), and the Roseville, California, landfill to what MRFs

charge. When the Carmel family developed the Lockwood Landfill, rates were fairly reasonable. Now, landfill tipping rates have risen due to environmental mandates, but it is still much less expensive than taking C&D debris to MRFs.

Terry Graves (A&A Midwest):

A&A Midwest is a scrap metal recycler in the City of North Las Vegas. A&A Midwest opposes S.B. 122 as written, but we have reviewed the proposed amendment. It addresses many of our concerns, which mirror those of Mr. Hardy. In reference to the proposed amendment's lines 4 through 7 on page 2, [Exhibit C](#), scrap metal is often commingled with other recyclable C&D material. We think we understand the lines' intention, but there are different types of scrap metal—copper, aluminum, iron—and it needs to be clarified that that does not constitute "commingling" in the recycling process. A&A Midwest is also concerned with the 10 percent waste residue provision on lines 19 and 20 on page 2 of the proposed amendment. We do not think we can achieve that figure.

Frank Lepori (President, Frank Lepori Construction):

I oppose S.B. 122. I have been in business in Sparks for 30 years. We did not recycle anything in 1985; now, every year, we recycle more and more. If Las Vegas contractors are already recycling, and we are also doing so in northern Nevada, why is this bill necessary? We are concerned about the 700,000-plus population cap in the proposed amendment. We are worried that the trend outlined in the bill will creep northward.

Sean Higgins (Republic Services):

As a representative of Republic Services, it is difficult for me to testify against a bill that will increase recycling; however, S.B. 122 will just increase the cost of development and construction. The proposed amendment, [Exhibit C](#), is taking the bill in the wrong direction. The onus is no longer on developers or contractors, but on the entity picking up the C&D waste.

Over the past 6 years, Republic has increased its recycling by 93 percent, currently processing more than 99,000 tons of waste annually. Residential and construction accounts have primarily accounted for that tonnage increase. Construction waste is much more difficult to recycle than is residential waste, and almost none of the resulting material can be resold. Wood, concrete, dirt, metal, fiber and plastic constitute most of such waste, and only approximately

15 percent can be salvaged. Up to 90 percent of residential or commercial waste can be recycled and resold.

Because of the low resale rate, Republic imposes a significant premium on recycling C&D waste. That added cost falls back on contractors and/or developers. Since MGM CityCenters was completed in 2009, Republic has had very few customers willing to pay the added recycling cost. Republic received the C&D waste from the recently completed Downtown Summerlin mall project. We charged them \$600 per load, as opposed to \$250 to \$300 per load had we taken the debris directly to a landfill. Recycling significantly increases construction costs.

In 2007, Republic processed about 7,000 to 8,000 tons per month of C&D waste; today, we handle about 150 tons. Our Evergreen MRF was closed because the work was simply not there due to developers' unwillingness to pay the recycling cost. In 2007, developers were receiving Leadership in Energy and Environmental Design (LEED) tax credits for recycling that offset the additional costs. A few developers seeking LEED certificates still recycle.

Senate Bill 122 will mandate that all southern Nevada contractors and developers must recycle C&D waste. Mandates are a poor way to govern. Republic has made huge investments in recycling, pouring more than \$40 million into our MRFs over the past 5 years. In the next 5 years, we will invest another \$75 million. In November 2014, we broke ground on a \$35 million MRF. It is untrue for anyone to claim Republic is not doing its share of recycling.

[Exhibit D](#) should give the Committee pause to enact S.B. 122. Private industries have steadily increased recycling of their C&D materials, as indicated by the list on page 1 of [Exhibit D](#) of contractors who use their services. Free enterprise seems to be working, because these MRF operators are thriving. If the price to dump C&D waste at the Apex Regional Landfill has increased at a compound annual growth rate, recycling has become economically feasible. If that is true, why enact legislation to mandate it?

Senator Manendo:

Will Republic's new facility only process C&D waste or also residential curbside recyclables?

Mr. Higgins:

It will be a general recycling facility. We also applied for an MRF permit at the site.

Marty Mitcham (CORE Construction Services of Nevada):

As we attempt to set budgets for public works projects, we must factor in certain required recycling capabilities and the need to correctly dispose of C&D waste. Senate Bill 122 does not reduce construction costs. CORE Construction Services of Nevada supports conservation as the responsible action and to create better Nevada communities. To a point, we support legislation that supports conservation and recycling. Senate Bill 122 does not provide avenues to fund its mandates.

In our budgeting efforts, we try to find ways to put money back into projects; this bill takes money from projects. We just finished pricing and budgeting for a southern Nevada project. General disposal of C&D waste was \$1.1 million. Our client and end users were interested in recycling the waste. We based our cost analysis on utilizing two private MRFs and Republic Services. The lowest cost for recycling and C&D waste disposal was \$2.2 million—twice the original cost, in a highly competitive market.

Salvage revenue from recyclables becomes profitable for MRFs; otherwise, they would not do it. We look for ways to set up budgets based on putting money back into projects before we start them, not afterward when they are ongoing. Senate Bill 122 does not address two critical issues. Why is the burden of increased costs forced onto agencies that cannot complete or perform projects that are desperately needed? How will the State regulate recycling fees once the bill is passed?

Half of the demolition projects done by CORE and mentioned by Mr. F. Reeder were condemned buildings. The structures were on badly needed parcels on which State agencies and universities were paying taxes and upkeep costs on structurally unsound buildings. New, viable projects are going into those spaces. This would not have been possible if we had had to follow mandates for full recycling.

Kevin Linderman (Operations Manager, Q&D Construction, Inc.):

Q&D Construction, Inc. opposes S.B. 122. I understand the proposed pilot program will be in Clark County, where we do not have many projects. The

proposed amendment, [Exhibit C](#), specifies that MRFs must be within 30 miles of a project, but not whether that is according to air or highway miles. In northern Nevada, 30 air miles is a big distance, without intervening roads.

Q&D Construction, Inc. operates one of northern Nevada's largest concrete, asphalt and dirt recycling facilities. The bill could cause problems for us if it is applied to the region or if a facility similar to ours opens in southern Nevada. We process and recycle metals in debris and separate out some C&D waste for recycling. Q&D recycles the contents of all of its jobsite Dumpsters, hauling them ourselves to save money. How will the bill's provisions be regulated? What will the fines and fees actually be? The bill references a volume percentage of material that must be processed at an MRF. How will that be monitored and governed?

Ken Mercurio (Owner, Diversified Demolition Company):

I oppose S.B. 122. I have offices in Reno and Las Vegas, as one of the largest demolition debris generators in the State. We imploded the Clarion Hotel and Gramercy Tower buildings in Las Vegas. We were the demolition contractor at MGM CityCenters and involved in its LEED program, achieving a 98 percent debris recycling level, at great expense. We used several Las Vegas-area MRFs.

We use value-management processes on almost all of our projects, separating out everything—concrete, metals, carpet—that can be diverted from landfills. However, a certain amount of waste cannot be recycled. We work all over the West, and we are already handcuffed as to where we can dispose of C&D debris. In northern Nevada, WMI owns all of the landfills and Dumpster services. When they became the sole provider of services, prices increased significantly. Southern Nevada has a similar trash-collection monopoly.

On our southern Nevada jobs, the sorting process is already in place, and the companies with which we work are profitable. If further restrictions on where solid waste needs to be diverted are imposed by S.B. 122, our costs could escalate out of control. This would result in higher costs for project owners, and developers could change their minds on project locations.

A greater concern is, fewer eyesore condemned buildings would be demolished, either to free up open space or clear lots. Added costs could prevent cleaner communities. Many of the costs we have been quoted today are skewed by general residential recycling and do not reflect those of the demolition or

construction industries. Best-management practices are being used on almost all of my jobs.

Tillio Olcese (President, Olcese Waste Services):

I am a northern Nevada demolition contractor and garbage collector. I oppose S.B. 122 as written.

Jay Parmer (Builders Association of Northern Nevada):

The proposed amendment, [Exhibit C](#), takes S.B. 122 out of NRS 624, alleviating homebuilders' concerns. It includes a population cap, which will limit the provisions to Clark County.

Michael Kimmel:

I am an attorney practicing in Nevada and California and a member of the Builders Association of Northern Nevada. I represent contractors, subcontractors, homeowners and haulers. Senate Bill 122 would choose who gets to own the commodity. We have heard a lot about how C&D debris is a commodity. Contractors and haulers would no longer have the ability to take recyclables wherever they want and sell it to the highest bidder for the best price. They would lose the ability to repurpose the material, taking it back to their yards and separating it for use on other projects. That choice should not be taken away.

Dan Musgrove (Southern Nevada Health District):

The Health District is neutral on S.B. 122. There was a large fiscal note on the original bill because it would have been the Health District's responsibility to regulate contractors. Now, we would have to regulate the solid waste haulers, and that cost is unknown. The Health District will be responsible for enforcing the bill's provisions and provide pilot program progress reports to the Legislature.

Gustavo Nuñez, P.E. (Administrator, State Public Works Division, Department of Administration):

The State Public Works Division submitted a fiscal note ([Exhibit H](#)) on S.B. 122. However, we have not seen the proposed amendment, so the note will be revised. Because the bill only applies to Clark County, the note will be reduced. On March 30, we received an email from the contractor with whom we are working on a project proposed in the 2015 capital improvement plan, the new Department of Motor Vehicles (DMV) office on East Sahara Avenue in

Las Vegas. It will require demolition of two buildings, the Buildings and Grounds Building and the existing DMV office. They will have to be demolished in such a way that the C&D debris can be accepted at an MRF. The cost estimates range from \$1.1 million to \$2.5 million.

Josh Hicks (Southern Nevada Home Builders Association):

The Southern Nevada Builders Association is neutral on S.B. 122 after reviewing the proposed amendment.

Nicole Willis-Grimes (Nevada State Board of Contractors):

My comments pertain to the proposed amendment [Exhibit C](#). The bill had been in NRS 624, the NRS pertaining to the State Contractors' Board. Moving it to NRS 444A allows us to take a neutral stance. A fiscal note was submitted for the original bill, but the proposed amendment would remove it.

Senator Denis:

We have been told that the DMV office demolition will increase the project cost from \$1 million to \$2 million. However, based on our calculations, it would entail 31,000 Dumpster loads, so it is impossible for the cost to go up that much. We have heard many "what ifs" concerning cost increases. Senator Farley asked about the \$352 landfill tipping fee cost on page 3 of [Exhibit D](#). That is the total price to haul off a Dumpster. There was discussion about cost increases if recycling increases. What will the price be when all of the private haulers go out of business and the only hauler left has a regulated monopoly?

This pilot program will not affect northern Nevada. Testifiers used southern Nevada recycling prices to extrapolate costs in the north, but there is a huge difference. It costs \$37 per ton in Clark County, versus \$24 in Carson City. Since a similar bill was introduced in the 77th Legislative Session, recycling has not increased. Republic Services says it has—of course, it has—because it does more hauling of residential recyclables. Data from the Health District indicates the recycling rate has not gone up since 2013.

The chart on page 3 of [Exhibit D](#) shows it costs private recyclers \$352 to haul a ton of material to the landfill, yet Republic only charges \$255. The bill will level that playing field and force down the cost due to competition. If the Committee does not like S.B. 122, let us craft a bill that requires Republic to charge the same as private haulers. We could create competition for landfill use and allow

other businesses to build them; that is the real problem: the uneven playing field. Senate Bill 122 will create jobs, increase recycling and level the playing field for small businesses. If everyone goes out of business, recycling costs will soar.

Chair Settlemeyer:

We will close the hearing on S.B. 122 and open the hearing on S.B. 341.

SENATE BILL 341: Revises provisions relating to plans for dental care. (BDR 57-261)

Senator Harris:

My husband is a dentist, but the Legislative Counsel Bureau's Legal Division told me I do not have a conflict of interest concerning S.B. 341. Under Senate Standing Rule No. 23, I will participate in the discussion and vote on the bill.

Chris Ferrari (Nevada Dental Association):

The Nevada Dental Association (NDA) supports S.B. 341. It addresses insurance companies selling contracts and access to provider networks to third parties that may not be subject to oversight by the Division of Insurance. The process is called "down streaming sales of contracts" or "rental networks." As of 2010, 17 states had passed legislation to address this inequity and give transparency to service providers and consumers so they know exactly what they are purchasing.

Most of the aforementioned laws are based on language from the National Conference of Insurance Legislators, which has a rental network contract agreements model bill. In 2014, I attended a meeting of the Southern Nevada Dental Society, where a Las Vegas dentist speaker found out rental networks existed in our State. He asked the audience of about 40 dentists, "How many of you have signed contracts with Insurance Company X?" It was an obscure name, and after a few minutes, the dentists said no one had heard of the company. His next PowerPoint slide was a screen shot of the Las Vegas provider list of Insurance Company X. Not only were most of the dentists on the list, but many were "featured providers" with their name and office location shown prominently on the company's Website. Not only do insurers sell contracts and access to third-party provider networks, in many instances—as in my example—providers are not notified of the sale.

The goal of S.B. 341 is to require basic communication in contract-selling transactions so providers will know if they are subject to another's agreement terms. The bill would also allow providers to opt out of rental networks if they cannot handle the anticipated additional patient load under the new agreement.

Opponents of S.B. 341 will testify that the NDA is trying to nullify signed contracts or shirk its obligations. That is inaccurate. Our members may sign agreements with insurance companies to provide services, but they are not signing up to have those agreements resold to multiple third parties without their approval. Here is an example: Chair Settlemeyer knows his cattle business needs cash flow to keep things running. He signs a deal to sell 100 head at a steep discount—say \$1,000 per head, when the market price is closer to \$1,500 per head—to get cash flowing and because the buyer said he would sign a contract to that effect. Chair Settlemeyer then finds out that his buyer sold the terms of the signed contract to five other parties, and he is now on the hook to provide them with the same deal he gave the first buyer. Chair Settlemeyer finds out that if he does not do so, he will lose the initial contract.

Returning to the dental industry, let us say a negotiated agreement has been sold to multiple parties. The provider may not be aware of that until patients are in his waiting room presenting insurance cards and insisting they are in the dentist's network. The provider may not have a contact number, Website or any information to ascertain if patients really do have that coverage.

The NDA is not asking the Committee to ban the rental network process. We are not seeking to penalize insurers or make the sale of networks an unfair trade practice, as have some states. We are asking for a free flow of information and that contracts clearly disclose terms regarding sales to third parties. We are also asking that if contracts are transferred to a third party, providers be given basic contact and coverage information and be able to opt out of contract expansion that jeopardizes their ability to offer patients quality care.

Adam Plain (Nevada Dental Association):

The Legislative Counsel's Digest on the front page of S.B. 341 references providing dental care and cites NRS 695D. A common error in dealing with dental insurance is referencing NRS 695D, when it can actually be offered by many companies licensed under different NRS chapters. Should the bill be processed and moved forward, the NDA requests that its scope be expanded to

all of the other licensed entities that offer dental products. This would avoid carving out just a small niche of the market.

Section 1, subsection 1 of S.B. 341 outlines a basic notification requirement. When a dentist enters into a contract, the insurer must notify the dentist if the contract is sold. Then, there is no requirement that the insurer proactively notify the dentist of contract sales. Notification is triggered solely at the dentist's request as to whether the contract has been sold or transferred to a third party.

Section 1, subsection 2 delineates the information to be transmitted to dentists after they ask about their contracts' status. That information should be very basic: who was it sold to, what is the name of the plan to which it was sold, who can they contact for claims-submission information, how many new patients will they see as a result of the sale?

Section 1, subsection 3 stipulates that if you sell the contract or transfer the agreement to a third party, that party needs to honor the original contract's terms. The act of transfer should not change its terms, leaving the dentist beholden to providing services for rates never agreed upon. Section 1, subsection 4 requires there be a contact phone number, Website or email address by which a dentist can ascertain if patients are really covered by insurance, if the dentist has not heard of the network, and what services it includes.

Section 1, subsection 5 provides that if a contract is transferred or sold to a third party, and the provider cannot service the resulting patient load, the provider can opt out of the sale or transfer. This is a consumer protection issue because without an opt-out ability, the third party acquiring the provider's services can advertise the provider's practice in their network, even if it is common knowledge that the office is not accepting new patients. Listing such a practice is misleading, at best.

Alfredo Alonso (United Healthcare):

I understand the concerns of Mr. Ferrari and Mr. Plain, but I am not sure if S.B. 341 will rectify them, particularly with respect to contracts. The ability to opt out of contracts for any reason needs to give us all pause. Limiting the notification requirement to any time a network is rented out is one way to limit the scope of an opt-out ability. Granting the ability to opt out of contracts is a bad precedent.

Mr. Plain:

The opt-out option proposed by the NDA is only for transfers of contracts, not of the original contract entered into by the first and second parties.

Chair Settlemeyer:

We will close the hearing on S.B. 341 and open the hearing on S.B. 384.

SENATE BILL 384: Revising provisions relating to family trust companies.
(BDR 55-279)

Senator Ben Kieckhefer (Senatorial District No. 16):

Senate Bill 384 makes technical changes to NRS 669A and substantive statutory improvements to the utility of family trust companies in Nevada. Family trust companies serve as trustees over several trusts that allow businesses succession between generations. Family trust companies are critical vehicles for family business investment continuity, focused management of special assets, better long-term investments, economies of scale, comprehensive family planning, favorable jurisdiction selection and preservation of family values.

It is important that our State retains the leadership position it has held on the issue since 2007 and remain competitive with other jurisdictions that permit family trust companies. It is a growing industry, and other states are trying to leverage companies out of Nevada. Those jurisdictions include Wyoming, South Dakota, New Hampshire, North Carolina, Delaware, Tennessee and Florida. It is expected that other states will follow suit, recognizing the value of family trust companies.

Senate Bill 384 would permit family trust companies to serve as trust protectors, investment advisers and distribution advisers; use various types of accounts for beneficiaries; create good-faith presumptions over trust business activities; preserve privilege and confidentiality; confirm that the commissioner of the Division of Financial Institutions will supervise licensed trust companies; and protect the industry from retroactive application of new statutory or fiduciary duties. You have a proposed amendment ([Exhibit I](#)).

Bart Mowry, CPA:

I have been a licensed attorney and licensed certified public accountant with the firm of Maupin, Cox & Lowry for 35 years. I am known as a tax, business,

trusts, estate and business lawyer, assisting families with establishing family trust companies and family trusts, which are different areas, and with business-succession planning. With the rise of long-term "dynasty trusts," Nevada has stayed on the cutting edge of trust and estate laws. When I served in the Nevada State Bar's Executive Committee Business Law Section, which drafts legislation for business entities, our mantra was to "out-Delaware Delaware" in the family trust company arena.

Since permitting legislation was enacted in the 75th Legislative Session, there are now 60 family trust companies in the State. Many of them have offices here, are hiring local people for well-paid, white-collar jobs and are good corporate citizens. The industry is nonpolluting. Several families have brought with them foundations that anonymously support State educational institutions.

Robert Armstrong:

My qualifications are similar to those of Mr. Mowry. Family trust companies have been a very positive development in our area of law practice. I ask the Committee to carefully consider S.B. 384.

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Chair Settlemeyer:

We will close the hearing on S.B. 384. Seeing no more business before the Senate Committee on Commerce, Labor and Energy, we are adjourned at 10:07 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A			Agenda
	B	5		Attendance Roster
S.B. 122	C	3	Senator Moises (Mo) Denis	Proposed amendment
S.B. 122	D	5	Chris Darling	Slide presentation
S.B. 122	E	3	Doug Dobyne	Written testimony
S.B. 122	F	2	Keith Brinkley	Written testimony
S.B. 122	G	1	Senator James A. Settlemeyer	Letter of support from Chris Giunchigliani
S.B. 122	H	1	Gustavo Nuñez	Fiscal note
S.B. 384	I	9	Senator Ben Kieckhefer	Proposed amendment