MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Eighth Session
May 6, 2015

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:22 p.m. on Wednesday, May 6, 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 Pete Goicoechea, Chair
Senator Joe P. Hardy, Vice Chair
Senator Mark A. Lipparelli
Senator David R. Parks
Senator Kelvin Atkinson

GUEST LEGISLATORS PRESENT:

Assemblyman P.K. O'Neill, Assembly District No. 40
Assemblyman Tyrone Thompson, Assembly District No. 17

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Mac Bybee, President, Nevada Chapter, Associated Builders and Contractors, Inc.
Warren Hardy, Associated Builders and Contractors, Inc., Nevada Chapter
John Madole, Executive Director, Nevada Chapter, The Associated General Contractors of America, Inc.
Tray Abney, The Chamber
Paul Moradkhan, Las Vegas Metro Chamber of Commerce

Edward Seward
Scott Leedom, Southern Nevada Water Authority; Las Vegas Valley Water District
Jack Mallory, Southern Nevada Building Trades Council
Nathan Ring, Laborers International Union Local 872 AFL-CIO
Yolanda King, Chief Financial Officer, Clark County
Lee Thomson, Department of Aviation, Clark County
Richard Daly, Laborers' International Union of North America Local 169
William H. Stanley, Southern Nevada Building and Construction Trades Council
Gus Nuñez, Administrator, State Public Works Division, Department of Administration
Keith Lee, Board of Medical Examiners
Scott Gilles, City of Reno
Karl Hall, City Attorney, City of Reno
Andrew Diss
Josh Hicks
Dagny Stapleton, Nevada Association of Counties
Todd Koch, Building and Construction Trades Council of Northern Nevada
Janice Flanagan
Modesto Gaxiolo, United Union of Roofers, Water Proofers and Allied Workers Local 162
Joanna Jacob, Las Vegas Chapter, The Associated General Contractors of America, Inc.; Nevada Contractors Association
Karen Duddlesten, Deputy Director, Licensing and Enforcement, Department of Planning, City of Las Vegas
Jacqueline Holloway, Director, Department of Business License, Clark County
Michael Harwell, Assistant Manager, Department of Business License, Clark County
Mike Cathcart, City of Henderson
Scott Anderson, Chief Deputy, Secretary of State
Bob Webb, AICP, Planning Manager, Planning and Development, Community Services Department, Washoe County
Adam Mayberry, City of Sparks
Bob Sack, Director, Environmental Health Services, Washoe County Health District
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities

Chair Goicoechea:
We will open the hearing on Assembly Bill (A.B.) 159.

ASSEMBLY BILL 159: Makes various changes to provisions governing public works. (BDR 28-936)

Mac Bybee (President, Nevada Chapter, Associated Builders and Contractors, Inc.):
The Associated Builders and Contractors (ABC) is a trade association made up of commercial contractors and subcontractors who support the merit shop philosophy. We believe in an environment where all qualified contractors can bid on all jobs and that contracts are based solely on merit regardless of labor affiliation.

For that reason, I am pleased to be here today supporting A.B. 159 that promotes equity in the construction industry. Nevada is a right-to-work state. Approximately 85 percent of Nevada's construction workers exercise that right and choose to work nonunion or open shop.

Assembly Bill 159 protects the rights of those employees and the companies they work for to compete for all public works construction projects funded by taxpayer dollars.

Through the years, various so-called prehire agreements have found their way into public construction. These agreements are controversial and have been the subject of legal action. Some of them have been found to be technically legal and others have not. Regardless of their legal status, open-shop contractors create most of those agreements in a way that discourages bidding. For example, some agreements require open-shop contractors to work specifically by union work rules found in collective bargaining agreements. These are rules they had no part in negotiating that force them to adhere to a contract they had no input in developing.

Some agreements prohibit open-shop contractors from using their own workers and instead require them to hire many of their workers from union halls while their own employees stay home.

Other agreements require open-shop contractors to pay into a union trust fund for benefits even though their employees are highly unlikely to vest in those programs during the course of the project. This means open-shop employers and their employees will pay into a benefit plan from which they will never benefit.

This legislation addresses inequities in our public procurement law. Assembly Bill 159 prohibits a public body from requiring a public project bidder to hire workers through a labor organization in order to win a contract. In addition, the public body is not allowed to discriminate against a bidder based on labor affiliation. It is important to note that the bill makes an exemption for special circumstances should a public body need to take emergency action to avoid an imminent threat to public health or safety.

If passed, this measure will ensure open competition in the bidding process for taxpayer-funded projects and create a more economical, nondiscriminatory, neutral and efficient process for awarding contracts. This process will increase taxpayer value, is proworker and procontractor and will ensure equality for eligible bidders.

Warren Hardy (Associated Builders and Contractors, Inc., Nevada Chapter):
I have been aware of the concept of prehire agreements since 1993. We have a problem with agreements mandated by local governments on contractors in order to bid for a public works project.

If we are going to spend public dollars on any project, we are obligated to provide an equal opportunity and a level playing field for all Nevada taxpayers who want to compete for those dollars. I want to be clear. There is no prohibition against nonunion contractors bidding for these projects. They are free to do so; however, there is a different standard for nonunion contractors.

If a contractor wins a public work project under a project labor agreement (PLA), the PLA prohibits the contractor from using all his or her own workers. We have concerns with Nevada's application of a PLA because it contains two provisions regarding equity.

The first is the provision allowing the contractor to use only seven core employees. If a nonunion contractor bids and wins the contract fair and square, that means the bidding was competitive and the contractor has the ability to do the project. The contractor is required to sign a PLA under which the contractor cannot use his or her own workers. The contractor is required to hire one worker from the union hall, then one of his or her own workers, then one worker from the union hall, then one of his or her own for a total of seven workers. The union hall workers have not and do not work for the contractor. The contractor has not vetted these workers and does not have

much control over them. After seven, the remainder must be hired from the union hall. Again, they are not the contractor's employees.

If a nonunion contractor wins a project fair and square in Nevada, the contractor should be able to decide which workers to use on the project. It is inequitable and unfair to have a provision in State law allowing a local government to dictate to a contractor who to employ on a project.

It is unfair to the workers of Nevada when their employer obtains a great contract, only seven get to work on the project. The rest of them lose their jobs to people from the union hall.

The second provision in the PLA requires nonunion contractors to pay into the benefit trust fund of the union regardless of whether they provide benefits to their employees. For example, when a nonunion contractor signs a PLA, the benefit required to be paid into the union trust fund is $10. It is generally more than that, but I will use that for analysis purposes. If the contractor is providing benefits to the employees, he or she must decide to continue to provide those benefits and pay the additional $10—or eliminate the benefits the contractor provides in order to remain competitive economically and pay into the union trust fund. The contractor's employees are not likely to vest in the union program. Those are the provisions that give us the most heartburn.

The basic philosophical concept is that all Nevadans should have an equal opportunity on a level playing field to bid for work. Employers ought to be able to provide work for those they have hired and to whom they have made a commitment.

This bill prohibits government entities from requiring nonunion contractors to become signatories to union agreements they had no role in negotiating for the duration of a project.

John Madole (Executive Director, Nevada Chapter, The Associated General Contractors of America, Inc.):

The Nevada Chapter of the Associated General Contractors of America, Inc. supports A.B. 159.

Tray Abney (The Chamber):
We support this bill. We want to put all our members on a level playing field when it comes to public works projects. Employers should be allowed to use their own workers when they bid successfully for these projects. We would be opposed to this bill if it required only nonunion contractors to bid.

Paul Moradkhan (Las Vegas Metro Chamber of Commerce):
We too support A.B. 159.

Edward Seward:
I support A.B. 159. It is unfair to workers who invest time with merit-shop companies and then not get guaranteed work when there is a PLA. I am speaking for hundreds of workers in southern Nevada who are for the PLA bill to make it reasonable, equal and level the playing field for merit-shop companies.

Scott Leedom (Southern Nevada Water Authority; Las Vegas Valley Water District):
We have several concerns with the bill as drafted. Assembly Bill 159 would have significant effects on southern Nevada's ability to access its water supply. The Southern Nevada Water Authority (SNWA) and the Las Vegas Valley Water District have used PLAs in all contracts in our capital improvement programs since 1996.

While we do not use PLAs on all of our projects, the option to use them when appropriate should be preserved. The SNWA considers several factors when deciding to use a PLA, including the size and scope of the work, the time sensitivity surrounding the project, the difficulty in securing adequate labor, and the potential effects of labor disruptions. The SNWA has been prudent in its judgment as to which contracts are appropriate to be covered under a PLA. Project labor agreements have helped SNWA ensure the completion of time sensitive projects because the agreements eliminate the risk of work stoppages through a no-strike, no lock-out commitment.

The SNWA recently approved a construction project for a low-lake level pumping station in Lake Mead. This project allows us to access Nevada's allocation of the Colorado River even when Hoover Dam has stopped generating power and California and Arizona can no longer pull their allocations out of the river.

As this bill is written, it will affect the SNWA's ability to construct the low-lake level pumping station under a PLA. We have worked with the proponents of the bill on a conceptual amendment allowing the SNWA to continue to use PLAs on large-scale construction projects. The amendment would exempt the SNWA on any contract or group of contracts under a PLA that in total contribute to an integrated project or capital improvement program that exceeds a certain threshold amount. We have not come to an agreement yet on what that threshold amount may be, but that is the crux of our conceptual amendment. We have spoken with the bill's sponsor and he supports this conceptual amendment.

Chair Goicoechea:
A section in the bill allows an exemption for an eminent threat to public health or safety. I am glad to hear you are working on this bill. Maybe you can find some language that will accommodate that.

Mr. Leedom:
Our amendment is conceptual. We are still working on the exact language. We met with the Legislative Counsel Bureau (LCB) Legal Counsel to iron out the language.

Chair Goicoechea:
Keep working on it.

Jack Mallory (Southern Nevada Building and Trades Council):
I would like to dispel a few things stated by the proponents of the bill. Eighty-five percent of the workers in Nevada are not nonunion or open-shop employees. The U. S. Bureau of Labor Statistics publishes statistics on every state regarding union density in every category of employment. In the construction industry, 30 percent of all Nevada construction employees work under union agreements. The majority of them work under commercial agreements. We estimate 70 percent of commercial construction workers in Nevada are unionized. Mr. Bybee's statement that 85 percent of the construction workers in the State are nonunion or work for open-shop contractors is not true.

The PLAs in question are negotiated between building trades councils and other affiliated or nonaffiliated construction unions and a private company. That is the construction manager or general contractor for a project or a group of projects

with a public body. Those agreements are negotiated without any advanced knowledge of who are the subcontractors on those projects. Thirty to forty percent of the contractors who bid and are awarded projects or portions of projects on PLAs are nonunion or open-shop contractors. To say that this is interfering with commerce and with their ability to bid and pursue work is not a fair statement.

This has a significant amount of history. This system has worked for nearly 20 years with SNWA. While I agree that Mr. Hardy has endeavored to make this legislative change for many years, the numbers of employees he spoke of was tried in the Nevada Supreme Court, found to be fair and has survived the test of time.

I sat with Mr. Hardy, Mr. Bybee and other representatives from organized labor to negotiate a resolution with them. We were willing to address the issue of duplicate trust fund payments. I told them that if they could establish that valid benefit payments are made on behalf of those workers to offset them and that any additional amount left over goes directly on the employee's paycheck. We have no issue with that. It is not in our interest or the workers' interest to injure those workers. We were also willing to expand the number of core employees at the risk of violating preemption clauses. They were not willing to bend on those issues. We earnestly tried to negotiate changes in the Assembly in order to come to a mutual agreement to reduce any potential conflict with this bill moving forward. That was to no avail.

The bill in front of you suffers from serious preemption issues. The question of benefits could be argued whether it is safe policy for the State and whether federal law, because of the potential economic cost, preempts it. If a contractor were required to make duplicate payments, it would cost the awarding body additional money because of those duplicate payments.

The issue of requiring or not requiring a company to be bound by a PLA or any portion of a PLA is where the preemptions issues are under the National Labor Relations Act (NLRA).

Chair Goicoechea:
As I understand it, contractors can work their first seven employees. Is it one for one then for another six employees?

Mr. Mallory:
Under the established practice in the SNWA PLA and the McCarran International Airport PLA, it is one for one up to seven and then all employees after that come from the union.

Chair Goicoechea:
If I understand this, there is no requirement or prohibition on what that number should be. It is in the individual PLA.

Mr. Mallory:
Private PLA negotiations between the prime contractor and the unions determine the number.

Chair Goicoechea:
What would happen if an independent contractor negotiated and the contract says that there is no PLA? Can that be done? Can there be no PLA and allow the independent contractor to have all of his people if it is part of the contract?

Mr. Mallory:
If it is covered under the scope of the contract, that is typically negotiated as part of the PLA. If it is excluded from the contract covered by the construction manager or the prime contractor, then the awarding body can say it is not covered and allow it independent of that contract. It could do that.

Chair Goicoechea:
I guess I am still struggling to find the hammer.

Nathan Ring (Laborers International Union Local 872 AFL-CIO):
There are some preemption issues with A.B. 159. I am an attorney and I have represented labor unions exclusively for about 6 years.

Congress passed the NLRA in the 1930s. The NLRA governs an area of preemption. Anything that is legislated or set within the NLRA is preempted. The State cannot legislate when the federal government already has. There is also another side to that. Anything that could be legislated by the NLRA or the National Labor Relations Board cannot be legislated by states.

Idaho tried to pass a similar bill to ban PLAs in 2011. It was heard before a federal district court that granted an injunction against the enforcement of the

act. The State is buying itself a potential lawsuit if this bill passes. Many labor entities have already discussed their options and are looking at this as a possible legal challenge. Some of the cost savings mentioned by the proponents of this bill may not be there by the time this is litigated and plays out in the courts.

Much of the discussion in both chambers on A.B. 159 was that if there is a level playing field, this bill creates it. However, there is no level playing field when contractors work under different rules, do not pay the same amounts or have health and welfare systems that are substandard compared to the one governed by the Taft-Hartley Trust Funds. When there is no pension and all there is only a 401(k) with little or no match, that is not a level playing field. The PLAs make sure that workers on projects are being paid a set amount of wages and receiving or paying into a fund for a set amount of benefits that they will be entitled to once they vest.

Senator Lipparelli:
Has the case in Idaho been litigated, or is it just in the injunction stage?

Mr. Ring:
After Idaho passed the law, the building trades council in Idaho received an injunction that then went to the U.S. Court of Appeals for the Ninth Circuit. When the case was in the U.S. Court of Appeals for the Ninth Circuit, the legislature in Idaho amended the law so it mooted some of the arguments made in district court. The U.S. Court of Appeals for the Ninth Circuit sent it back to district court. It is now back before the U.S. Court of Appeals for the Ninth Circuit and is still pending.

Senator Lipparelli:
Is the amended Idaho language similar to what we have before us, or is this language similar to the bill that created the injunction issue?

Mr. Ring:
The language that changed in the Idaho bill mooted some of the arguments dealing with enforcement provisions given to the Idaho attorney general and the Idaho labor commissioner. None of the language in the bill changed.

The language in A.B. 159 is similar to language that has been passed out or pushed for in several states. It is a priority of the Associated Builders and Contractors, Inc., which Mr. Bybee and Mr. Hardy represent.

Yolanda King (Chief Financial Officer, Clark County):
The McCarran International Airport uses PLAs. They are not used often, but we do use them. Based on the success we have had with PLAs, we propose an exemption in the bill on projects in excess of $20 million (Exhibit C). We use PLAs only at McCarran Airport, so this would not affect any of the other public works projects in Clark County.

The intent is to provide a threshold so if we have any projects that exceed $20 million, we would like to use PLAs.

Chair Goicoechea:
The airport is the only place Clark County uses PLAs.

Ms. King:
Yes, within Clark County. We have many public works projects, but PLAs are used within McCarran International Airport. I do not know of any other departments using PLAs. Our concern is with the Department of Aviation. We used them on runway projects and when Terminal 3 was built. Project labor agreements work in our favor in instances of not stopping work or continuing work. If this bill is approved, we will not be able to finish out or start the second phase of our runway projects.

Chair Goicoechea:
From what I have heard, Clark County uses PLAs extensively.

Ms. King:
Are you speaking of the SNWA?

Chair Goicoechea:
No, I understand the SNWA position. This is public works projects, and Clark County does many of them. If that were true, most of your agreements would have been PLAs.

Senator Lipparelli:
What is magic about the $20 million level?

Ms. King:
I reviewed projects done in the past and came up with $20 million. I am open to negotiation if you want to lower or increase the number. After speaking with McCarran International Airport, that is a good minimum threshold to start with.

Senator Lipparelli:
I did not know if there was something more to it than that.

Ms. King:
We also looked at costs of projects done in the past under PLAs at McCarran International Airport and wanted to make sure that if this threshold is in place, it would have covered and allowed us to do those projects, and it would have. We have had a range of projects anywhere from $10 million up to billions of dollars on Terminal 3. We are comfortable with that number in terms of moving forward and doing projects that are in the hopper.

Senator Parks:
Was the Clark County Regional Justice Center constructed under a PLA?

Ms. King:
I do not know.

Lee Thomson (Department of Aviation, Clark County):
The Clark County Regional Justice Center was not done under a PLA. The only PLA projects done by Clark County are at McCarran International Airport.

Richard Daly (Laborers' International Union of North America Local 169):
We are opposed to A.B. 159. Project labor agreements and these types of negotiations and contracts are decided based on the owner's preference for a variety of reasons. They are used more widely in the private sector on many different projects for many different reasons so that owners can address their concerns.

The original use of this or the first challenge to this was in the Boston Harbor decision where the Massachusetts Port Authority (MASSPORT) was charged with cleaning up the harbor. The Environmental Protection Agency said MASSPORT had to do it and get it done in a certain amount of time. When MASSPORT put out requests for proposal (RFP) to get contractors, it included a

provision that said the successful bidder must address concerns such as hiring the right people and getting the job done in a certain amount of time.

The challenge is can public agencies enter into these agreements or require them in a bid specification for the contractor as the private sector does? A U.S. Supreme Court decision was 9 to 0 that yes, they can. The government can act the same way as a private entity when it is the consumer of construction services.

This bill removes the right that local government has, which is to do what is in its best interests when it is going to build a construction project. The PLA is not used on every single job nor should it be, but it should be the local government's choice. This bill limits local government's ability to act the same as the private sector, which some believe is a better way to do business.

Senator Atkinson:
I had those same concerns, and I would like you to expound on them. Do you have an estimate of how many PLAs have been used over the last 2 or 3 years? When bills come from the Assembly, we see what the votes were. This bill is obviously another one of those partisan bills that were not worked out. Can you explain to me why we are taking something away that is working and why we are going this route?

Mr. Daly:
Are you talking about public or private projects? Most of them have been in the south. Perhaps someone from southern Nevada could give you a better answer. On the private side, PLAs are used in 80 percent of the projects on The Strip. In the public sector, it is limited to the McCarran International Airport and SNWA, but there are other examples, such as the Las Vegas Convention and Visitors Authority. In the north, PLAs were used on the Reno Aces Ballpark, the Nugget Casino Resort in Sparks and several power projects with NV Energy. There has not been much work in the north.

I cannot answer your question why. I do not understand why we would want to do that.

Senator Atkinson:
I assume there were conversations. Were you or labor people invited to the table to provide input? Amendments were proposed by Clark County for its

projects, and someone is working with staff on amendments. Were you given the opportunity to do that in the Assembly?

Mr. Daly:
My understanding is that there were attempts and discussions. I was not involved directly in most of those. You heard the testimony from Mr. Mallory about the discussions and from Mr. Hardy that his No. 1 concerns were about the number of workers and the benefits. There were discussions, but it takes two sides to negotiate, and they could not get it done. There was not enough agreement to come forward on that. Either one side wanted too much or wanted to make it so lopsided it could not be done.

Mr. Mallory spoke about the 20-year history that the PLAs have been in place. They work well and the successes outweigh Mr. Hardy's concerns. There were discussions, but there were no agreements, and attempts were made, but we could not get to it.

Senator Atkinson:
It appears to me this is another attempt to fix a problem that does not exist. I hope we spend some time to get this right because this one is headed down a slippery slope.

William H. Stanley (Southern Nevada Building and Construction Trades Council):
I am here to testify against A.B. 159. The Committee has heard testimony indicating there are problems with a public PLA. A PLA is a collectively bargained agreement—nothing more, nothing less.

For the discussions heard previously, all of the terms and conditions of the PLA are negotiable, including the number of core employees that are allowed to work on a project. In this case, as brought forward by Mr. Hardy, seven is a set number of core employees. That number is not statutorily or legislatively required. It is simply a number that the general contractor, hired by the public agency to construct the project, determines is in his best interest and his company's best interest. The terms and conditions of that collectively bargained agreement were negotiated freely and fairly with the labor organizations on the other side of the bargaining table.

If you are philosophically opposed to collectively bargained agreements, you are most likely opposed to PLAs. On the other hand, if you are inclined to favor

collectively bargained agreements and the many benefits they provide for both the employer and the employees who are covered by such an agreement, you are most likely in favor of the use of PLAs. If you were neutral, I would guess that you might remain ambivalent here also.

For various reasons, many public and private entities have determined the use of PLAs is in their best interest. For many, it is not a philosophical question. Do I like or dislike collectively bargained agreements? It is a financial decision. It is a tool used to manage financial risks—risk management. This is not a union or nonunion issue.

The SNWA, McCarran International Airport, The Palazzo and Venetian Hotels in Las Vegas have all agreed that it is in their best financial interests to engage in PLAs. It settles the financial markets. In fact, I was engaged in conversations with the newest resort to be built on Las Vegas Boulevard. We are in negotiations for a PLA to cover that project because it settles the financial markets. It allows people to lend the money that is required to build these types of projects. There are reasons other than this union/nonunion issue that seems to be open-shop versus closed-shop philosophy. This is more about what is in the best interest of this community and what is in the best interest of Nevada. Why are we taking a tool away from government agencies that is predominantly used in the private sector when we are trying to protect our investment?

I have submitted my written testimony opposing A.B. 159 (Exhibit D).

Senator Lipparelli:
Given your statement that PLAs are generally freely negotiated, are you persuaded by the language in section 3, subsection 3, paragraph (c) that the parties are not prohibited from entering into these? It is not a mandate. Does that not reconcile with what you started with that these are freely negotiated and the terms of the PLAs are freely negotiated?

Mr. Stanley:
A public agency may determine that it is in its best interest to require a PLA in the bid documents. The prehire agreement is only legally negotiated between a contractor and a labor organization. The person has to be in the construction business and hire construction workers in order to engage in what is known as a prehire section 8(f) of the NLRA that describes what a prehire agreement is. Only construction companies are allowed to engage in prehire negotiations. The

public agency may require it in its bid documents, but the labor organization and the contractor determine the terms and conditions of that agreement.

Senator Lipparelli:
This is what is at the heart of this. If it is mandated, then it is not necessarily a freely negotiated document. The contractor has to have this agreement because it is a mandate. Unlike what you described in the private sector, if it is in the business's self-interest to say it must have access to employees, to talent and to skilled labor, it elects to do that. That truly is the free choice of that entity. Maybe I do not completely understand. If I am reading the bill right, it says we should not put the public agency in the same position.

Mr. Stanley:
The taxpayer in this case is on the hook for the money, so the public agency, in order to protect its investment, requires its contractor to engage in a PLA. You are right in the private sector. If I am building a casino, I make those choices on my own because it is my money. The public agency, in my opinion, has a right to demand that its taxpayer dollars be protected, extended and used in the most efficient manner to deliver the best product possible.

Senator Lipparelli:
I will accept that is your point of view. I do not understand why the public agency does not have the same set of tools at its disposal to say the only way forward is to have a PLA if it so chooses and to do that with a contractor who is a responsible bidder. A private company can elect to do so or not. They both have the same end goal in mind.

Mr. Stanley:
This is a public interest issue. For example, a SNWA project was critical to the water delivery system in southern Nevada. A Ready Mix Concrete strike in Las Vegas would have had a tremendous effect on that project. The delivery of concrete to the site would have affected the completion schedule of that project. The PLA protected the public agency, the taxpayers and the water users from a work stoppage that occurred away from the job site. In this case, the work continued on the job site. We would not have had the same results if there were no PLA on that project.

Public interests play into the decision-making by the public agency. We are seeing it play out on the low-water level pumping station that recently bid from

the SNWA. That is a $300 million project awarded to an open-shop contractor who did not see any of this as an obstacle to bidding and being awarded the project. The pumping station is critical to southern Nevada. If Lake Mead drops another few feet, we are at dead pull, which means the intake does not work and we do not turn on our faucets to get water anymore in southern Nevada.

A situation happening away from the site, such as the delivery of Ready Mix, could affect the project in a way that would negatively affect all of southern Nevada. The public agency has an interest in protecting the project, and one of the ways to do that is through a PLA because the work on the site does not stop. That is an example of why the public agency may insist that its general contractor use a PLA.

Chair Goicoechea:
Assembly Bill 159 has a number of loose ends. I am more confused now than when we started. Apparently, you do not have to have a PLA because Clark County is not using them other than at the McCarran International Airport. What is happening here? The private sector does not have to and the public sector apparently does not have to. Am I missing something?

Mr. Hardy:
A couple of things need to be clarified. Much of the testimony missed the point. We talked about the negotiations and what we were going to do in the Assembly. Speaker Marilyn Kirkpatrick helped to get us together to work out a compromise. I want to be clear to the Committee about what we offered in terms of a compromise. I have been offering the same thing for 25 years. I have been involved in every PLA in southern Nevada since 1993.

Let the contractors use their own workers and do not make them pay double benefits, and they will sign PLAs all day long. We do not have an issue with that. We were able come to an agreement on the double benefit issue, but they offered to let us use ten of our own workers.

Much of this misses the point. We talk about 30 percent or 40 percent of the contractors who bid on these projects are open-shop, nonunion contractors. That is fantastic news for the person whose name is on the building or on the company, but what about his employees who do not get to work? That is what this is about. This is a public policy question. Should we allow a policy in

Nevada to mandate that a private sector company enter into a contract that it had no role in negotiating? That agreement puts their employees out of work.

It is not accurate to say these things. There is only one PLA in southern Nevada, and that is on the McCarran International Airport. Project labor agreements are pending for the Las Vegas Convention and Visitors Authority and the detention center. Four years ago, an ordinance went before the Clark County Commission to require PLAs on all county projects. The case cannot be made that this is limited to very few projects. Project labor agreements are proposed for many projects. We oppose this and in many cases, the public body sees the wisdom of saying there does not need to be a PLA.

We have always been willing to accept a fair PLA. Our quarrel is not with PLAs, it is with the fact that Nevada's application of PLAs puts our employees out of work. Let us use our own workers; do not require us to pay double benefits and we will sign PLA's all day long. That has been rejected.

I understand Clark County, McCarran International Airport and others want PLAs. They guarantee labor peace. We have entered into an agreement with the SNWA on an amendment because we understand that its projects are significant. Work stoppages on those projects will cause substantial difficulties. But guess what, labor is in complete control of work stoppages. That is a disingenuous argument in my opinion.

Regarding the argument made that this is preempted federally. If you read the bill, this is in the procurement statutes. This has been upheld in district courts in other jurisdictions. It is legal. That is the reason we use this language.

Let us keep our eye on the ball. This is about whether Nevada should have a public policy that allows workers to be displaced by their employers because of a government mandate.

Chair Goicoechea:
I suggest you continue to work with the various groups. We do not want this to be partisan if we can help it. I am unclear on why it is not working better than it is. I understand your sentiments. It is reasonable that you want to be able to work your own people.

Mr. Hardy:
We are ready to negotiate with the other side. We are very close to an agreement. We have an agreement in principle with the SNWA that we are working on with LCB Legal Counsel.

Chair Goicoechea:
I hope that you continue to work and negotiate your way through this and get to some middle ground.

We will close the hearing on A.B. 159 and open the hearing on A.B. 59.

ASSEMBLY BILL 59 (1st Reprint): Revises the authority of the Administrator of the State Public Works Division of the Department of Administration regarding leases for certain office rooms for state agencies, boards and commissions. (BDR 27-299)

Gus Nuñez (Administrator, State Public Works Division, Department of Administration):
Assembly Bill 59 is a cleanup bill that is intended to clarify the authority of the Building and Grounds Section leasing services. The bill clarifies the Administrator's authority to oversee leases, including leases for boards and commissions and to implement regulations for the Buildings and Grounds Section, including leases. The bill eliminates other inconsistencies within *Nevada Revised Statutes* (NRS) 331.

Assembly Bill No. 404 of the 76th Session amended NRS 331.110, centralized the administration of all leases within the Buildings and Grounds Section leasing services, and excluded boards and commissions. However, at the first hearing on A.B. No. 404 of the 76th Session, former Assemblyman John Oceguera introduced an amendment that brought boards and commissions within the purview of NRS 331.110. The amendment deleted language that excluded boards and commissions noting, "this deletion is at the request of the sponsor and the effect is to bring boards and commissions within the scope of the bill." The bill passed as amended.

Section 1 of the bill was deleted by amendment. In section 2 the word "may" was stricken. Section 2, subsection 1, paragraph (a) now states "shall lease," and it exempts from the oversight of Building and Grounds leasing services those boards and commissions that are exempt from the provisions of NRS 353.

Chair Goicoechea:
First, this bill says that you have a lease from the State if property is available. Is that correct?

Mr. Nuñez:
That is right.

Chair Goicoechea:
It allows the Administrator to have oversight and the ability to adopt any regulations in accordance with NRS 341.110. The Administrator has to create an inventory of the properties that are available and must submit the list to the various agencies. That is the long and short of the bill.

The Administrator has authority to create an inventory of the spaces and properties available in the State and that the State agencies have to go through the Administrator first.

Mr. Nuñez:
That is correct.

Senator Parks:
Several leases have occurred in recent years that bothered me. One was the Taxicab Authority and the other was the Nevada Equal Rights Commission. My hope is that better oversight will take place to find these boards and agencies suitable space. This is like a double negative. It eliminates the exception for State established boards and commissions to do their own thing.

Chair Goicoechea:
This provides oversight from Public Works. It will have inventoried all of the buildings and properties available. The State agencies must contact the Administrator to make sure nothing is available before they can seek an outside private lease.

Mr. Nuñez:
There are certain boards and commissions that are exempt under NRS 353 and will not be under the oversight of Public Works.

Chair Goicoechea:
Section 2, subsection 1, paragraph (b) says " ... may lease and equip office rooms outside of state buildings for the use of state officers and employees of boards that are exempt from the provisions of chapter 353 of NRS ... ."

Mr. Nuñez:
All of the others are "shall lease" except for this, which is "may," which is permissive. If they come to us, we will provide the services, but they do not have to come to us.

Chair Goicoechea:
Who maintains the list of the exempt boards and commissions?

Mr. Nuñez:
The boards and commissions are exempt under NRS 353.005.

Chair Goicoechea:
Who are they?

Mr. Nuñez:
There are about eight of them. I do not have the full list.

Chair Goicoechea:
Maybe you could supply that because we may not want that exemption language in there.

Mr. Nuñez:
They are the Dental Board, the Medical Examiners Board and those boards that do not come through the budget process. They fund themselves. They are the ones that are exempt, and they want to do their own leases.

Keith Lee (Board of Medical Examiners):
I will clarify why certain boards and commissions are exempt. Under NRS 353.05, the boards created by NRS 590, NRS 623 to NRS 625A, NRS 628, NRS 630 to NRS 644, NRS 648, NRS 654 and NRS 656 are all Title 54 self-funded boards and commissions. Their licensees fund them.

In discussions on this bill with Mr. Nuñez, the larger boards and commissions chose to negotiate their own leases. The reason for that is that they can move

quickly on the leases. Sometimes when leases are negotiated through Public Works there is a slowdown from the bureaucracy. Another reason is that they can enter into leases for a period greater than 1 year.

The Board of Medical Examiners has a 5-year lease with three 5-year options. Longer leases mean better terms. We have full accountability to our Board. The Board approves the leases in advance so the licensees' fees are protected.

Certain boards and commissions that I designated wish to have Public Works enter into the leases. We want to make sure they can still do so. Many of the smaller boards do not have the staff or the expertise necessary to enter into leases on their own. It is important to allow them to go to Public Works.

Chair Goicoechea:
A group of boards does not have to comply with this. How do you go from one of those little boards that have been in compliance to a board that does not have to comply? Who gives it the blessing?

Mr. Lee:
Those boards are designated in NRS 353.005. That is a particular board provision. However, understand we give this information to Mr. Nuñez and that is part of his inventory.

Chair Goicoechea:
Yes, he would have that list. He knows who is under NRS 353.005 and who is not. If a board or commission wanted to change, would that be a statutory change?

Mr. Lee:
Absolutely. If a board or commission not exempted under NRS 353.005 wished to become exempt, it would have to come to the Legislature and have that included in the NRS 353.005 exemption.

Chair Goicoechea:
I will close the hearing on A.B. 59 and open the hearing on A.B. 88.

ASSEMBLY BILL 88 (1st Reprint): Makes various changes to the Charter of the City of Reno. (BDR S-478)

Scott Gilles (City of Reno):
Assembly Bill 88 came about because of a charter committee that worked over a 2-year span to put recommendations together. The Reno City Charter Committee was established by A.B. No. 9 of the 77th Session that amended the City of Reno Charter. The Charter Committee met approximately 20 times since the 77th Session, including joint meetings with the Reno City Council. There are seven council and six legislative appointees on the Charter Committee.

The Charter Committee started by creating a work plan to follow throughout its process. It reviewed provisions in the Reno Charter identified by the Reno City Council, by the Committee members and by members of the City of Reno Civil Service Commission. They were assisted by the City Manager's and the City Attorney's office staff. The City Clerk served as clerk for all of the public meetings. Many department heads attended and provided feedback.

Over the course of these meetings, recommendations were approved by the Charter Committee based only on a majority vote. Those recommendations were submitted to the Reno City Council and were accepted, with a few exceptions, and put into one of the City's two bill draft requests.

The Reno City Council has also approved this iteration of A.B. 88. Both councils have approved and blessed this legislation and support it.

Sections 1 and 4 of the bill revise definitions and create new definitions in the Charter to clarify the distinction between appointive officers and appointive employees.

Section 6 of the bill addresses prospective vacancies on the Reno City Council, in the Office of City Attorney or municipal judges. It permits the Council to fill the prospective vacancy by a special election. A prospective vacancy can already be filled by an appointment. For example, when Mayor Hillary Schieve was elected, she was a sitting at-large Council member. The City knew there would be a prospective vacancy in that at-large seat before she took her seat as Mayor. The Council went through the appointment process for that soon-to-be-open Reno City Council seat.

Section 6 also clarifies that if the Reno City Council wants to fill a prospective vacancy by special election, it must declare the special election by resolution

within 30 days of the vacancy. The resolution must contain the date for the election.

Section 7 of the bill is the most impactful section. It intends to create a comprehensive reference and clarification for appointed staff within the City. Again, here is this distinction between an appointive officer and an appointive employee. It provides limits on the types and numbers of appointive staff at the City.

Section 7, subsection 3, contains a prescribed list of appointive officers. This finite list of titles and positions will always exist in the Charter and may always be filled by the City Manager and in some cases the Council.

Section 7, subsection 5 creates the second category, appointive employees. This is appointive staff defined by this section. It is a definitional category of employees that reads as follows, these appointive employees "are not appointive officers but regularly assist an appointive officer; have duties that consist of administrative work directly related to management policies; and have positions that require them customarily to exercise discretion and independent judgement."

The difference between the two types of appointments is that the appointive officers would fall into the category that has to file the NRS 281 financial disclosure statement for appointive public officers under the definition in NRS 281; whereas, the appointive employees likely would not.

Once the two categories are established in the bill, section 7, subsection 4 places a limit on the number of appointive employees the City Manager can hire through an appointive process. The cap is described as the greater of 40 or 4 percent of the appointive officers plus the full-time equivalent positions in the Civil Service. Essentially, that cap is 40 appointive employees. When you add up the totals of appointive officers and the full-time positions, it comes to 39.8, which is 4 percent of the total. That cap grows with additional full-time service employees hired by the City.

Senator Lipparelli:
Is that arbitrary? You pick a line and say everybody above this line is appointive and everyone below the line is not appointive.

Mr. Gilles:
The cap that the Charter Committee came to was not arbitrary. The Committee looked at other cities in the State and cities the same size as the City of Reno in other jurisdictions. They looked at the rules and statutes related to counties which have a 3 percent cap. The Committee gave the City Manager enough flexibility to appoint the people who execute the City Manager's direction and at the same time provide a limit.

Once that cap is hit with the appointive employees, the City Manager is not restricted from hiring additional staff. It means he or she hires them through the Civil Service merit-based system for employment and potential termination.

Senator Lipparelli:
Under that rubric, you have two employees with the same title and same responsibilities, one appointive and one not appointive. It is odd that you would have that outcome.

Mr. Gilles:
That is a possibility. If the cap is hit, no appointive staff can move into Civil Service appropriately and two identical positions are appointive employees. Theoretically, at that point a decision is made to put one of those appointive positions into Civil Service.

The cap is on appointive staff. It does not tie the City Manager's hands from hiring additional staff through the Civil Service System.

By ordinance, the City of Reno has 38 or 39 appointive positions. A few of those positions are vacant so the City can hire in the future until it meets the cap.

Section 7, subsection 6 clarifies that all employees of the Police and Fire Departments, with the exception of the chiefs and assistant chiefs, are Civil Service System employees.

Section 7, subsection 7 requires the City Manager to prepare and file, as a public document, an annual report describing the organization of every department of the City, including job titles of the appointive officers and employees. This transparency piece was recommended by the Charter Committee.

Section 10 of the bill fixes a hole in the rules for the legislative appointments. Legislators representing City of Reno residents make appointments to the Charter Committee. Two appointments each come from the Senate and Assembly majority and one appointment each comes from the Senate and Assembly minority. This has not happened yet and is not happening right now but, theoretically, there could be no City of Reno representative in either the majority or minority of one of the Houses. In that case, the bill vests that authority to the majority and minority leaders of both Houses. This fills a hole that might exist someday.

Section 12 revises the residency requirements for the City Manager. The City Manager must reside in the State. If the hired City Manager does not reside in the State at the time of appointment, he or she has 6 months to obtain residency. The idea behind this change is to make sure the person is living in the State if he or she is going to be the City Manager.

Chair Goicoechea:
Are you saying the majority leader of the Senate makes the appointment to the Charter Committee if no Senator in the majority party represents the City of Reno? Would a Senator in the majority party make the appointment to the Charter Committee?

Mr. Gilles:
Correct. That is how the legislative appointive process works.

Chair Goicoechea:
Nevertheless, in that absence it would revert to the majority leader.

Mr. Gilles:
Correct. Hypothetically, if all of the Reno Senate members are in the minority party, the majority leader of the Senate makes the appointment to the Charter Committee.

Section 17 clarifies who is and is not covered by the Civil Service System. It adds who is not a Civil Service employee to that list: appointments to vacant elected positions, appointive officers and employees, a temporary employee who works less than 234 hours in a fiscal quarter, the City Manager, the City Attorney, and the City Clerk. We want to make this clear in the Charter.

It removes from that list a person who is employed as a trainee for a period of time that is not longer than the period described for a probationary employee. The reason for that change is that the trainee refers to an outdated reference in the Charter.

Section 19 prohibits the Civil Service Commission from obtaining employee medical examination records or results. This was done to address City Manager staff concerns regarding compliance with other State and federal health information privacy regulations.

Section 21 of the bill is another transparency piece that affects the City Manager's office. It requires the City Manager to prepare and maintain a classification plan for all Civil Service positions in the City and to allocate to each position a class. The bill outlines the details of what is required in the classification plan.

Section 21 goes on to extend to Civil Service employees the right to have the allocation or reallocation reviewed by the Civil Service Commission that then makes its findings. The Commission's findings are given to the City Manager and, upon City Council approval, the City Manager revises the allocation or reallocation according to the Commission's findings.

Section 18 sets forth that the Civil Service Commission needs to adopt the procedures for this review process.

Much of the bill contains corresponding changes and cleanup based on some of the categories we created and the definitions we changed.

Karl Hall (City Attorney, City of Reno):
I support A.B. 88.

Andrew Diss:
I am a member of the Charter Committee appointed by the Assembly. The Charter Committee has spent much time over the past 1 1/2 years. The members have been very engaged. This bill has passed muster in two City Councils, prior to the November election and after the election. Two very ideologically different bodies have vetted it, and they both signed off on it.

Josh Hicks:
I was on the Charter Committee also. I was one of the Senate appointees. We all put much time into this. What you have before you today is a product of many meetings. The Committee talked about many things, some of which made it into this bill, some of which did not and some of which made it in but was taken out by one council or another. This bill is a compromise.

Chair Goicoechea:
Since this has gone through your Charter Committee and was well vetted, we are not going to second-guess you.

I will close the hearing on A.B. 88 and open the hearing on A.B. 172.

ASSEMBLY BILL 172 (1st Reprint): Revises provisions relating to public works. (BDR 28-565)

Assemblyman P.K. O'Neill (Assembly District No. 40):
Assembly Bill 172 deals with prevailing wage threshold and bidder preference. Many of our various bills change over time, and A.B. 172 is one of those bills.

Assembly Bill 172 has three parts. The first one is the prevailing wage threshold. It is a level applied to public works projects. The bill proposes to increase the threshold from $100,000 to $350,000.

Second, the bill requires an adjustment by the Labor Commissioner every 5 years to reflect inflation or deflation in the consumer price index (CPI).

The threshold amount of $350,000 was chosen because research shows that in the past several years, half of the State public work projects have been at or under that amount. This will increase the efficiency of tax funding and stretch tax dollars.

The third part of this bill, in section 3.5, raises the bidder preference from 5 percent to 7.5 percent.

Chair Goicoechea:
You are changing 5 percent to 7.5 percent higher than the bid submitted.

We had a similar bill in this Committee with a threshold of $500,000. That bill does not contain the language that every 5 years the Labor Commissioner must "adjust the amounts set forth in paragraph (c) of subsection 1 to reflect ... ." The Labor Commissioner would adjust the $350,000 every 5 years for inflation. This is in section 3, subsection 2 of A.B. 172.

Assemblyman O'Neill:
It could be for inflation or deflation.

Senator Lipparelli:
Why did you pick a 5-year interval for the CPI?

Assemblyman O'Neill:
It was in agreement with some other bills.

Dagny Stapleton (Nevada Association of Counties):
We support A.B. 172, specifically section 3.1, subsection 2, paragraph (c) that increases the threshold for the requirement for prevailing wage. This will help smaller counties with tight budgets on small public works projects.

Todd Koch (Building and Construction Trades Council of Northern Nevada):
Although we appreciate the amendment made by the sponsor of the bill, it does not go far enough. We would prefer to work on this as an issue rather than on a bill-by-bill basis. As you alluded to, there was another bill heard in this Committee, S.B. 108.

SENATE BILL 108 (1st Reprint): Revises provisions relating to public works projects. (BDR 28-598)

Regarding NRS 338, it would be much better for all of the stakeholders to continue working on this together. That is our preference.

On the threshold of $350,000, if we assume that 50 percent of those jobs are not prevailing wage anymore, and that is the number we all agree on, in light of the West Wendover Elementary School and all of the tax money and the jobs that went out of state ...

Senator Goicoechea:
Before we go any farther there, I represent West Wendover. What do you really expect? It is 120 miles from Salt Lake City. Let us not diffuse this. It is 400-plus miles from Reno and farther yet to Las Vegas. Let us keep it on record.

Mr. Koch:
Okay, let us not use that as an example, although I am going to differ with you on your opinion as to whether we should use it as an example.

Why do we want to take a chance on giving all of those jobs between $100,000 and $350,000 away to those out-of-state companies? Nevada should continue to spend its tax dollars in State when possible.

Janice Flanagan:
I am a taxpayer, and I am opposed to the prevailing wage section of A.B. 172. If we do not support good-paying jobs, our tax revenue decreases. We all want a thriving economy. We need to consider spending in order to get there. We cannot lower the wages of our hardworking construction workers when that will decrease consumer spending. For example, one does not buy a recreational vehicle if one does not have enough money for the basics.

I ask you to preserve the prevailing wage and not attack one of the last remnants of our middle class in Nevada. The rise of inequality and the declining unions statistically mirror each other.

I would appreciate if there were some way that there could be a compromise and the two sides could get together for the benefit all Nevadans.

Mr. Madole:
I disagree with the $350,000 threshold. If you run these numbers with three or four different ways of estimating the cost of living, it comes up a little less than $250,000. The number is still off.

On the 7.5 percent, I have a long history on the subject of bidder preference. This is complicated, and we are having a hard enough time dealing with 5 percent. Let us not make it even more complicated.

Those are our concerns and we are opposed to the bill.

Mr. Ring:
Laborers International Union Local 872 is opposed to this bill. It is concerned with raising the threshold to $350,000 for prevailing wage projects. That concern is echoed when Assemblyman O'Neill stated that 50 percent of projects might be taken out of the prevailing wage. When you remove that many projects from prevailing wage coverage, you are forcing down wages. The purpose of a prevailing wage law is to make sure when people come in and do work that the area standard wage is protected.

When the Davis-Bacon Act was first enacted at the federal level, its purpose was to prevent cheap labor from coming from other states to take projects. What we are looking at now with prevailing laws in this State is that craftsmen go through a 5-year apprenticeship process and have upwards of 20,000 or 30,000 hours in their trade when they are journeymen depending on how many years of experience they have. When prevailing wage is taken out of projects, public dollars go into a process in which the payment of that area wage is not guaranteed. Workers on projects will be paid $10 or $12 an hour. Hand them hammers and call them carpenters; hand them shovels and call them laborers when they have not gone through the proper processes. This also lends to poor workmanship and safety issues. Many studies show that when fewer projects are covered by prevailing wage, there is less safety on job sites and less productivity because you do not have qualified workers.

There has been much discussion on prevailing wage this Session. Some of that discussion has been about saving money on wages. What has not been discussed is that productivity on some prevailing wage projects can be upwards of 25 percent or more.

A study was done in Utah when it withdrew its prevailing wage requirements in the 1980s. If 5 percent or 10 percent is saved on labor but 25 percent is lost in productivity, you are not gaining anything. Utah had some issues where cost overruns were three times as high and change orders were high on projects. It may look like the bid is low, but in the end, because of less productivity in the workforce and less safety, it costs the government because of no prevailing wage coverage on projects.

Mr. Daly:
We are also opposed to A.B. 172. We have all lived with the 5 percent bidder preference for a while, and I am concerned that if it is raised, we will put the whole process at risk of legal challenge.

When you start to build fences, other states may retaliate and raise "only Utah contractors" or "only Idaho contractors" language. The détente benefits us and I am concerned about putting that in jeopardy.

I understand that Utah contractors work in Elko County from time to time. I also know that Reno contractors were going to bid on a project in West Wendover, but because of no prevailing wage protections and the costs to send people out to those areas, they decided not to bid it. It was practically guaranteed that it would be a Utah contractor. Those same Utah contractors did public works projects before and they had to pay a wage rate determined to prevail in that County. Now they do not have to. Therefore, if the agency cannot get local workers or maybe is able to get local workers at the Nevada rate, it guarantees more workers from out of state coming in on those projects. Utah's rate is lower than Nevada's rate as evidenced by the difference in the union rate for laborers.

I do not understand the reason or the need to raise the threshold in section 4. It is an inverse deal. You are thinking you are raising the threshold when prevailing wage would apply. You are; but you are also raising the amount of the tax incentives and tax abatements that are given away before you have any protection for workers in this State. You are saying you are going to kick in and have protections for Nevada workers at $100,000 of tax giveaways. Now you want to have that at $350,000 and then index and have that continue to go up. Having that in there does not make sense. It is a counterintuitive way to look at it. All you are going to do is make the tax incentive you can give away higher before you can have protections. It is wrongheaded.

Modesto Gaxiolo (United Union of Roofers, Water Proofers and Allied Workers Local 162):
I am here in two capacities, one is as a representative of our organizations and the other as an advocate for workers without a voice.

We are here to speak in opposition of A.B. 172. This bill seeks to raise the $100,000 prevailing wage threshold to $350,000 on all public works projects.

We are opposed to this bill because it will reduce the amount of good-paying jobs in southern Nevada. Testimony showed that it will affect at least 50 percent of the projects and we, as an organization, oppose this.

Some unrepresented construction workers rely on prevailing wage jobs to subsidize their income because their wages are not collectively bargained. These workers rely on what their employers are willing to pay, not their actual worth. By raising the prevailing wage threshold, you are hurting all Nevada workers, not just union members. Rather than enacting legislation to hurt workers, you, as our elected public servants, should be advocating for good-paying jobs that will stimulate our economy.

As stated, we are opposed to A.B. 172 and urge you to vote against it.

Joanna Jacob (Las Vegas Chapter, The Associated General Contractors of America, Inc.):
We are neutral on this bill. I testified in this position in the Assembly. The reason why we do not support this measure is that it layers additional prevailing wage reforms on top of other legislation passed this Session that affects prevailing wage and exempts school projects.

The Associated General Contractors of America, Inc., Las Vegas did not support that legislation. That faced strict opposition from both the workers and employers whom I represent, and because this poses additional changes, we cannot support this.

Assemblyman O'Neill:
I am confused on some of these positions. I have enjoyed working with the various entities involved and I would like to continue working with them. This is not an attack on the middle class. If a worker has a choice between no job and a job, that individual is going to take the job. Labor force is a commodity. There are many jobs. Employers will hunt for qualified employees. You can find a good laborer, electrician or plumber. They do not all have to be union wages or union members.

This bill is for the middle class to put people back to work so they can spend money and be active, productive members of our community.

About bidder preference going up, this was set there as a protection for other contractors from out of state coming in; that surprises me. One of the things I have learned is how many times our contractors and workforce go out of state to take work in Wyoming, Idaho, Utah and Arizona. We are a transient Nation. I am not sure I understand some of the arguments that we want protection, but we do not need protection because we want to go and raid their jobs. So I am confused.

In conclusion, because I like the bill I am willing to continue to work with them. This is a good bill, and I would like to hear more.

Senator Atkinson:
You say you are confused by the arguments from the people who are against the bill. The people who are against the bill are confused by your testimony. When you talk about jobs and going out of state, that is exactly what will happen if we continue to attack prevailing wage. This is a referendum on the middle class. We can agree to disagree on that, but you are going to see an exodus of people leaving our State to go to other states where prevailing wage exists in order to get quality paying jobs for their families.

We can have this argument all day. You can be confused. I will be confused. I hope you are willing to continue to work with those parties so the vote on this bill is not as partisan as it was in the Assembly. We try to do things in the Senate in a nonpartisan manner on some bills, and with any luck, this is one of them.

Chair Goicoechea:
I will close the hearing on A.B. 172 and open the hearing on A.B. 364.

ASSEMBLY BILL 364 (1st Reprint): Revises provisions relating to the state business portal. (BDR 7-696)

Assemblyman Tyrone Thompson (Assembly District No. 17):
Assembly Bill 364 revises provisions relating to the Nevada Business Portal. It is a collaborative effort of the Governance Reform Committee from the Southern Nevada Forum; we had three community forums with the last two yielding at least 300 attendees comprised of elected officials, business leaders, community members and local government. I chaired this committee with Senator Roberson. We worked on this bill for over 1 1/2 years.

Karen Duddlesten (Deputy Director, Licensing and Enforcement, Department of Planning, City of Las Vegas):
We support A.B. 364. I have submitted my written testimony (Exhibit E).

Jacqueline Holloway (Director, Department of Business License, Clark County):
We support A.B. 364, and any time we have to work to make it better, we will do that.

Michael Harwell (Assistant Manager, Department of Business License, Clark County):
I support A.B. 364.

Mike Cathcart (City of Henderson):
Section 3 of the bill deals with the confidentiality provisions of the data that goes into the Nevada Business Portal, SilverFlume. We want to clarify that the records given to the Secretary of State (SOS) are confidential through the originating agency. The SOS will not share information belonging to another organization. The public records the City of Henderson put through SilverFlume are still public records with the City of Henderson. It is not the responsibility of the SOS to release those records. It is still the responsibility of the City of Henderson. The bill leaves the public records piece with the originating agency on the data that may be shared through SilverFlume.

Chair Goicoechea:
How does that work? If the SOS had a request, would it have to forward that to whatever local jurisdiction incorporated the data?

Mr. Cathcart:
Yes. Perhaps the representative from the SOS could better answer that question.

Chair Goicoechea:
Some amendment language has been offered also.

Scott Anderson (Chief Deputy, Secretary of State):
The portal is simply a portal. It is a way to exchange information from the customer to the participating agencies. The information coming through is funneled to the agencies and the record retains its public nature with the agency to which it belongs.

Most likely, we would not get a request for information. If we did and it is information belonging to a participating agency, we would pass it on or let the requestor know he or she has to go to the participating agency.

Chair Goicoechea:
Are you comfortable with that information?

Mr. Cathcart:
Yes.

Section 3 applies to confidentiality. The exceptions to this would be if the information were subpoenaed by a court order or the SOS.

The main thing for local governments is in section 4 of the bill. Section 4, subsection 2, paragraph (a) talks about the cooperative effort we have moving forward. The SOS, in consultation with representatives from local governments, health districts and State agencies, will work together to streamline processes, make the Nevada Business Portal better than it is and have us all cooperate together to make things easier for the business community.

Section 4, subsection 2, paragraph (b) talks about the portal agreements. Many local governments have already signed these. This clarifies the portal agreement signed between the State agency or a local government and the SOS to give us access to SilverFlume.

Section 4, subsection 2, paragraph (f) establishes the common business registration information. This is one of the most important parts of this process because it starts to develop the common business data that we all will collect. We collect the same common business registration data to share between local governments and State agencies.

Section 4, subsection 3, paragraphs (a) through (f) talk about the levels of participation in SilverFlume between the SOS and a local government. A local government can participate in several different levels. It can sign the portal agreement to access SilverFlume and get information to use in its processes.

That is where the City of Henderson is today. It has access to SilverFlume and uses the data in its licensing processes. We do not send information back to the SOS.

A local government can have integration in which it downloads information from SilverFlume into its business license systems. The third option is two-way communication between a local government and the SOS.

This section of the bill enables local governments to participate at whatever level they are comfortable or where their local boards want them to participate. It is an enabling piece of legislation. A local government may participate in SilverFlume and with the SOS. It is not mandatory for any local government, health district or State agency.

Also section 4, subsection 4 states that a local government does not have to upgrade its information technology system or incur costs to participate in SilverFlume. If it does not wish to participate or it would be expensive to do so, it does not have to.

Chair Goicoechea:
Mr. Anderson, do you have any issues with the bill in sections 1 through 5?

Mr. Anderson:
We are okay with sections 1 through 4 of the bill. This language is similar, if not identical to S.B. 59, the SOS portal bill that passed out of the Senate.

SENATE BILL 59: Revises provisions relating to the state business portal. (BDR 7-448)

It is our understanding that section 5.3 was to be removed because of the determination that child support affidavits and related requirements would not apply to a general business license at the State or local level. Section 5.3 applies this to the SOS. This was to be deleted by amendment.

We are okay with the provisions of section 5.7 as long as section 5.3 is stricken.

Mr. Cathcart:
We have been working with the LCB staff in the Assembly. We should have a conceptual amendment soon that will delete section 5.3 and restore part of the local government-deleted sections so we do not collect affidavits for general business licenses. This is the child support affidavit. We collect thousands of them for many businesses and they just sit in a filing cabinet. Many times

businesses have to complete them at different levels of the licensing process. The businesses complete them at the boards and commissions level and with several different local governments. We are working with LCB staff to ensure we remain compliant with federal law and to prepare the appropriate amendment for this bill.

Chair Goicoechea:
The Committee is aware of that.

Heidi Chlarson (Counsel):
The Legal Division needs to look at the proposed amendment removing section 5.3 to ensure there is not an unintended consequence of the State being in violation of federal law that requires the State to have procedures to withhold or suspend professional or occupational licenses for failure to comply with child support orders. We understand that the requested amendment deletes section 5.3. I am not prepared to say if we can do that; however, we will work to ensure that if we need to make further changes, we will continue to do so and we will let the Committee know when we have an answer from the LCB.

Mr. Cathcart:
Section 9.5 deals with the electronic transfer of information about workers' compensation so we would not to have to have a signed affidavit regarding workers' compensation. If a business applies for its State business license through SilverFlume, it does that there; and then at the local level, we access this signoff through SilverFlume. It reduces paper and streamlines our process. It is one less piece of paper to be completed if the business is using SilverFlume to obtain its State business license.

Section 4 contains the business identification number piece. It requires all businesses to have an identification number. If we share information between entities, it helps to have a number associated with a business rather than a business name. It assists us in transferring electronic information.

Mr. Moradkhan:
The Las Vegas Metro Chamber of Commerce supports the conceptual amendment to A.B. 364. We understand the importance of complying with federal law.

The Reno-Sparks Chamber also supports this bill that has statewide impact.

Bob Webb, AICP (Planning Manager, Planning and Development, Community Services Department, Washoe County):
Washoe County supports A.B. 364 as submitted today including the conceptual amendment as presented by the SOS.

Adam Mayberry (City of Sparks):
We support A.B. 364 in its amended form and with the conceptual amendment brought forward by the SOS.

Bob Sack (Director, Environmental Health Services, Washoe County Health District):
We support the bill with or without the conceptual amendment.

Wes Henderson (Executive Director, Nevada League of Cities and Municipalities):
We too support A.B. 364.

Assemblyman Thompson:
What is important about this bill is that it is looking at efficiencies for our State. It is business-friendly and it helps the business customer by not having to go to many different agencies when it can be done through the Business Portal.

Remainder of page intentionally left blank; signature page to follow.

Chair Goicoechea:
The conceptual amendment on A.B. 364 will become a hard copy when we get the determination from LCB.

I will close the hearing on A.B. 364 and adjourn the Senate Committee on Government Affairs at 3:40 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator Pete Goicoechea, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	6		Attendance Roster
A.B. 159	C	4	Yolanda King / Clark County	Proposed Amendment
A.B. 159	D	6	William H. Stanley / Southern Nevada Building and Construction Trades Council	Written Testimony
A.B. 364	E	2	Karen Duddlesten / Department of Planning, City of Las Vegas	Written Testimony