MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Ninth Session
March 23, 2017

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:31 a.m. on Thursday, March 23, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno

COMMITTEE MEMBERS ABSENT:

Assemblywoman Melissa Woodbury (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Carol Myers, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Washoe School Principals' Association
Jeffrey F. Allen, representing North Las Vegas Police Officers Association; Las Vegas City Employees' Association; and International Association of Fire Fighters Local 1285, Local 1607, and Local 1883
Michael E. Langton, Private Citizen, Reno, Nevada
Teresa Twitchell, representing Washoe County Employees Association
Mike Ramirez, representing Combined Law Enforcement Associations of Nevada
DeAndre Caruthers Sr., Vice President, Las Vegas City Employees' Association
Cherie A. Mancini, President, Service Employees International Union Nevada
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees
Mark Ricciardi, Private Citizen, Las Vegas, Nevada
Scott R. Davis, Deputy District Attorney, Office of the District Attorney, Clark County
Morgan D. Davis, Assistant City Attorney, Office of the City Attorney, City of Las Vegas
Les Lee Shell, Director, Office of Risk Management, Department of Finance, Clark County
Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada
Jeff Fontaine, Executive Director, Nevada Association of Counties
Chaunsey Chau-Duong, Public Affairs, Las Vegas Valley Water District, Southern Nevada Water Authority, and Springs Preserve
Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry

Chairman Flores:
[Roll was called. Committee rules and protocol were explained.] We have a lot of people who are signed in to speak. For those of you who wish to speak in support of the bill, one effective method is to assign one person to present the entire argument, and the others can

state "ditto." The same is true for the opposition. Or we can have each individual provide a two-minute testimony. I will let Assemblyman Carrillo decide. I will open the hearing for Assembly Bill 271.

Assembly Bill 271: Revises provisions governing collective bargaining by local government employers. (BDR 23-290)

Assemblyman Richard Carrillo, Assembly District No. 18:
I represent District No. 18, which is Clark County and portions of the City of Henderson. I am sponsoring this legislation on behalf of the local public employees. This legislation will revise *Nevada Revised Statutes* (NRS) 288.200—which outlines the dispute resolution process for local government, regular employee associations, and local government employers—making it more expeditious, efficient, and less expensive. Assembly Bill 271 accomplishes this objective by changing fact-finding from advisory to binding. In 2001, then-Assemblywoman Debbie Smith sponsored similar legislation during her first session [Assembly Bill 365 of the 71st Session]. It did not pass.

I would like to introduce Ron Dreher, who represents the Peace Officers Research Association and Washoe School Principals' Association. He will walk the Committee through this bill, address the revisions, and answer any questions.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Washoe School Principals' Association:
This bill is long overdue, and as you heard Assemblyman Carrillo state, we have been discussing this bill for many years. Nothing had changed since 2001 when Assemblywoman Debbie Smith and later Senator Debbie Smith brought the bill forward. At that point, many things occurred. These are represented by a timeline on this page [page 3, (Exhibit C)]. In 2001 legislation was brought forward, and for 16 years it sat silent. This bill deals with advisory or binding fact-finding.

I would like to introduce two individuals who will testify at Assemblyman Carrillo's request. They are expert labor attorneys. Jeff Allen, on my left, is from southern Nevada; he has been doing this a long time and represented labor. [Michael E. Langton, Private Citizen, Reno, Nevada, is located on his right.]

Briefly, I would like to discuss the history of collective bargaining. In 1969, the Nevada Local Government Employee-Management Act (Dodge Act) was sponsored by Senator Carl F. Dodge [Senate Bill 87 of the 55th Session] and passed into what is now NRS Chapter 288. At that time, fact-finding was advisory and binding. If there was a tie, the Governor decided whether the fact-finding would be advisory or binding. In 1981, the Legislature shifted the tiebreaking burden to a panel.

Collective bargaining is an agreement between an employer and a group of employees that

determines the conditions of their employment [page 4, (Exhibit C)]. The result of a collective bargaining procedure is called a collective bargaining agreement, which is defined in NRS 288.033 [page 5, (Exhibit C)].

In a nutshell, collective bargaining is the right of the local government regular employees and management to present proposals over a period of time. There are a minimum of six meetings where proposals are presented back and forth. This must be completed before February 1 of each year. Each side must be notified and demonstrate a willingness to reach a successor agreement. The parties reach and exchange proposals, and after six sessions, if there is no agreement, the parties have reached an impasse [page 7, (Exhibit C)]. When good faith negotiation efforts fail, an impasse has been reached, meaning neither party can agree. Once an impasse is reached, the resolution process is referred to as dispute resolution.

Nevada Revised Statutes provides dispute resolution methods beginning with mediation and then fact-finding for local government regular employees. Assembly Bill 271 does not include police, fire, or any groups covered under NRS 288.215. The bill does not include teachers or education support personnel; those groups are included under NRS 288.217. I want to make that distinction clear. Those groups go from impasse to last, best offer arbitration, not mediation.

The dispute resolution for public employees—other than fire, police, or teachers—is meditation provided under NRS 288.200. The process of meditation is to bring in a third party [page 8, (Exhibit C)]. The third party can be a federal mediator from a list of mediators provided by the Federal Mediation and Conciliation Service. At that point in time, a mediation session is set up to break the tie. A mediation session is an off-the-record discussion between management and labor. There is no legally binding obligation unless the parties make a formal resolution agreement. Typically, the mediator hears both sides and his or her role is to work towards an agreement between parties. If there is no agreement, fact-finding is entered into, and that is the heart of Assembly Bill 271. "Fact-finding" is covered under NRS 288.045 [page 9, (Exhibit C)].

I have been negotiating in Nevada for 33 years, including collective bargaining for the public sector of police, fire, and local government regular employees. I am not an attorney; I rely on the attorneys during the fact-finding process. Fact-finding is a formal procedure where an investigation of a labor dispute is conducted by one person, a panel, or board, and evidence is presented. A written report is issued by the fact finder describing the issues and setting forth recommendations for settlement, which may or may not be binding as provided in NRS 288.200.

The intent of A.B. 271 is to eliminate advisory fact-finding and make the fact finder recommendations binding [page 10, (Exhibit C)]. Why are we requesting this? I think this question is important because of the length of time between bills. The objective is to make the dispute resolution process for local government regular employees expeditious, efficient, and less expensive by changing fact-finding from advisory to binding. The fiscal impact to

both local government employees and local government management is a huge cost saving because the existing process is lengthy. Assembly Bill 271 eliminates the fact-finding panel, currently existing in NRS 288.201, NRS 288.202, and NRS 288.203 [page 11, (Exhibit C)].

Per NRS 288.090(a), the fact-finding panel is assembled by the Commissioner of the Local Government Employee-Management Relations Board (EMRB) within the Department of Business and Industry. It is a laborious process. Implementing binding fact-finding will expedite the dispute resolution process for local government employees and local government employers. It will not revise the current dispute resolution process for police, fire, teachers, and educational support personnel [page 12, (Exhibit C)].

The goal of Assembly Bill 271 is to create an efficient and timely dispute process when an impasse is reached. Currently, unless the parties mutually agree, only advisory fact-finding is permitted, and neither the regular employee association, nor the local government employer is bound to adhere to the advisory findings of the third-party mediator [page 13, (Exhibit C)].

There is no tiebreaker in the current advisory fact-finding process. There are possible options to break the tie, such as the judicial process, which is expensive for both sides [page 14, (Exhibit C)]. Another option is to enter into another fact-finding and determine if it should be advisory or binding. That process can go on in perpetuity because there is no tiebreaker. It appears all other options delay resolution and are more expensive and laborious to the parties except binding fact-finding,

Currently, under the provisions of NRS 288.201, NRS 288.202, and NRS 288.203, a request can be made to the Commissioner of the EMRB for a panel to be formed to determine if the fact finder's recommendations are binding [page 15, (Exhibit C)]. This action can delay the dispute resolution process for several months. Assembly Bill 271 seeks to revise NRS 288.200 and remove this process. The bill will make the findings of the fact finder binding for both parties, expediting the process and eliminating delays caused by the current panel process.

Assembly Bill 271 does not change the dispute resolution for police or fire under NRS 288.215, nor does it change the process for teachers and education support personnel under the provisions of NRS 288.217 [page 16, (Exhibit C)].

Senate Bill 241 of the 78th Session revised collective bargaining in Nevada. One of the bill's objectives was to expedite the collective bargaining process. Assembly Bill 271 accomplishes this by removing the advisory fact-finding process and the laborious panel process [page 17, (Exhibit C)]. There were other objectives of S.B. 241 of the 78th Session that we are still working on to correct.

By making the fact finder's decision binding on the parties, the resolution is expedited and the process is less expensive and more efficient for both the local government employer and the employee association [page 18, (Exhibit C)].

The existing law in NRS Chapter 288 requires the local government employer to engage in collective bargaining with the recognized employee organization [page 19, (Exhibit C)]. We are going to be focusing on NRS 288.200 for local government regular employees. Section 1 of the bill clarifies the role of the fact finder. It removes the panel process and stipulates the fact finder's recommendations constitute an award.

Nevada Revised Statutes 288.150 establishes mandatory subjects of collective bargaining. The mandatory subjects are sick leave, vacation leave, holidays, and other paid or unpaid leaves of absence [page 20, (Exhibit C)].

Section 2, subsection 2, paragraph (e) of A.B. 271 clarifies employee leave provided by the local government is a mandatory subject of collective bargaining. It states, ". . . for time spent by an employee in performing duties or providing services for an employee organization." We believe NRS 288.150 already provides for that, but A.B. 271 codifies it.

If an issue between a local government employer and an employee organization representing local government employees cannot be resolved through negotiation, an impasse occurs. Then, either party may submit the dispute to an impartial fact finder [page 22, (Exhibit C)].

Before submitting the dispute to the impartial fact finder, the parties may agree to make the findings and recommendation of the fact finder final and binding [page 23, (Exhibit C)]. If the parties cannot agree, either party may request the formation of a panel to determine whether the findings and recommendations of the fact finder on certain issues are to be final and binding.

Sections 3 and 7 of A.B. 271 remove or repeal the provisions relating to such panels [page 24, (Exhibit C)]. Section 3 also provides for the fact finder's findings and award to be final and binding. Sections 1 and 6 of this bill make conforming changes.

Existing law located in NRS 288.205 and NRS 288.215 establishes certain procedures and requirements applicable to the fact-finding process between local government employers and recognized employee organizations representing firefighters and police officers. Those procedures and requirements differ in certain respects from the procedures and requirements applicable to fact-finding in labor negotiations involving other local government employees [page 25, (Exhibit C)].

Section 4 of A.B. 271 specifies and provides that unless the parties to the dispute agree to make the findings of the fact finder final, the fact finder must include recommendations for settlement of the dispute in lieu of an award, and the findings and recommendations of the fact finder are not binding on the parties [page 26, (Exhibit C)].

This page explains the existing law in NRS 288.225 [page 27, (Exhibit C)]. This existing law authorizes a local government employer ". . . to provide leave to any of its employees for time spent by the employee in performing duties or providing services for an employee

organization if the full cost of such leave is paid or reimbursed by the employee organization or is offset by the value of concessions made by the employee organization in the negotiation of an agreement with the local government employer pursuant to this chapter."

Section 5, subsection 2 of A.B. 271 provides, "Unless the terms of the agreement between a local government employer and an employee organization provide otherwise, if the local government employer agrees to provide leave to any of its employees as described in subsection 1, there is a rebuttable presumption that the full cost of such leave has been offset by the value of concessions made by the employee organization." This is one of the offshoots of S.B. 241 of the 78th Session.

Lastly, section 7 repeals the panel process I explained earlier located under NRS 288.201, NRS 288.202, and NRS 288.203. Section 8 makes the effective date of this act, July 1, 2017 [page 29, (Exhibit C)].

At this point, I will turn it over to Mr. Allen and Mr. Langton, who will add more detail from a labor attorney perspective.

Jeffrey F. Allen, representing North Las Vegas Police Officers Association; Las Vegas City Employees' Association; and International Association of Fire Fighters Local 1285, Local 1607, and Local 1883:

I am a union-side labor attorney and a member of an informal group, the Nevada Public Employees Coalition a coalition of Nevada public employees associations, along with Mr. Langton and Mr. Dreher. On behalf of the unions I represent and the coalition, I offer my testimony in support of A.B. 271.

Assembly Bill 271 proposes several changes to NRS Chapter 288. Of particular importance, it proposes to require the impasse procedure to institute binding fact-finding on regular local government employees, aside from police, fire, teachers, and teachers' support staff. The existing law allows for either a union or a local government employer to delay the creation of a successor collective bargaining agreement by refusing to engage in binding fact-finding. Assembly Bill 271 removes that possibility, reduces the incredible delay that exists under the current law, and allows for a quicker resolution of impasses. This is particularly important in light of the legislative changes that were made in 2015 through S.B. 241 of the 78th Session. Under current law, the collective bargaining agreement process can be incredibly tedious and lead to years of delay if one of the parties is so inclined.

I will provide a little more granularity into the delay based on what I have experienced and observed as a labor practitioner. As Mr. Dreher explained, the first step is a negotiation. Before declaring an impasse, the parties must have six negotiation sessions. I can tell you in practice, no party wants to declare an impasse with only six negotiation sessions. The parties really try to work out a deal and a compromise without having to resort to impasse procedures because it is costly and time-consuming. Usually, negotiations last four to eight months before the parties declare an impasse.

If an impasse is declared, the next step is mediation. Mediation will take two to three months because a mediator must be selected and the mediation must be scheduled. This is the tough part because of all the individuals involved. From the management side, there will likely be representatives from human resources, the legal department, the finance department, possibly someone from the city or county manager's office, and outside counsel. The union side will involve the union representatives and their general counsel or outside counsel. The mediator is typically a labor law attorney with a very busy schedule. Scheduling the first mediation is difficult, but there may be a follow-up session where briefs are submitted. It is a long process.

If the meditation process fails, the next step is fact-finding. Under existing law, there is no binding fact-finding. If one of the parties wants to continue to delay the resolution of the impasse, they only have to say they do not want to engage in binding fact-finding. It is incumbent upon the party trying to obtain finality to resolve the impasse quickly. They must contact the EMRB and file a petition to convene a panel.

This quirky panel consists of an attorney, an accountant, and a third person selected by the attorney and accountant. The panel is authorized to make a decision to make the fact-finding binding. Convening this panel, conducting the hearing, and delivering a decision will take several months.

I can tell you that convening this panel, conducting the hearing through this panel, and receiving a decision from this panel will take several months. The State Bar of Nevada must be contacted to find an attorney, and the Nevada State Board of Accountancy must be contacted to find an accountant. The individuals must be vetted to ensure neither is affiliated with the parties or the issues at hand. The attorney and accountant must find a third person. Scheduling is a huge problem. The EMRB's docket is backed up because they are underfunded and overburdened. Getting a panel together to decide whether fact-finding will be binding is a nightmare and leads to several more months of delay.

After the panel has engaged in advisory fact-finding and reached a decision, the bargaining negotiation has probably been in process for 14 to 18 months. The prior collective bargaining agreement between the union and the local government employers has probably long since expired, there is no resolution in sight for the impasse, and the fact-finding is nonbinding. It does not force the parties to act; it is only an advisory opinion.

At this point, in my experience, the parties are so entrenched in their positions that a third person's opinion is not going to move the needle. The positive side to binding fact-finding is it forces the parties to get reasonable. The parties know the way to prevail in binding fact-finding is to submit a proposal to the fact finder which is more reasonable than their opponent. The decision will be based on market data and what is par for the course according to similarly situated employees from other jurisdictions. It forces the parties to abandon their extreme positions and move toward middle ground. Just the threat of binding fact-finding can actually achieve compromise.

Nonbinding fact-finding will not get the job done. If the impasse is not resolved by nonbinding fact-finding—I am telling you it probably will not be—the question is, what happens next? This is the real problem with the existing law. No one knows what really happens next. Some management-side attorneys believe once parties have engaged in nonbinding fact-finding there is no further impasse procedure. If the party that is seeking finality does not want the status quo from the prior collective bargaining agreement, they have to relent and accept the other party's last, best or do nothing and wait until the next fiscal year to start the negotiation process anew.

I do not agree with that opinion. The current state of the law is unclear. But if I am wrong and it is the only process available once nonbinding fact-finding is over, it does not achieve the objectives of NRS Chapter 288. *Nevada Revised Statutes* Chapter 288 is supposed to promote labor harmony and provide for a meaningful resolution of impasses between the parties. Nonbinding fact-finding does not achieve the statutes' objective. Contrary to management-side attorneys' opinions, what I believe is the case is really not much better. I believe once nonbinding fact-finding is complete, the parties can request another round of fact-finding. Unfortunately, there is nothing in the law stating this second round of fact-finding is binding. If one of the parties is comfortable with the status quo and wants to delay, another panel must be convened. The delays begin again, and there is nothing in existing law that states this second panel will decide the second round of fact-finding must be binding. I think this is the current state of the law, and it leads to so much delay that parties could be in legal limbo for years and years without a resolution to the impasse in sight.

I say this is unclear because the current state of the law has never litigated the issue of when nonbinding fact-finding is over and the impasse is not resolved. There is no published precedent from the EMRB; United States District Court, District of Nevada; or the Nevada Supreme Court. Assembly Bill 271 would do away with that uncertainty.

Also, there is uncertainty with how the panel makes their decision on binding fact-finding. *Nevada Revised Statutes* 288.200 has a list of factors the panel is supposed to review before making their decision, but these factors are completely subjective and do not provide any guidance. I could bore you to tears discussing it, but I will spare you. I can meet with the Committee after if any members are interested or feel free to ask me for the record. It is another level of uncertainty existing in our current system.

A current example is *International Union of Elevator Constructors, Local 18 v. Clark County* brought before the EMRB [FFP2015-A] to decide on binding fact-finding. The union and Clark County had a collective bargaining agreement set to expire June 20, 2014. The union requested to enter negotiations in March 2014. Negotiations went nowhere, and the parties went to mediation. The mediation did not solve the impasse, and in the early part of 2016, the union requested binding fact-finding. Clark County refused, and the union requested the formation of the panel. The panel ruled not to go to binding fact-finding on April 29, 2016. Because of this EMRB case, we have a published decision.

I recently spoke with the attorney representing the union. He told me that even today, three years after they commenced negotiations and two and a half years after the collective bargaining agreement expired, there is no successor collective bargaining agreement. Unfortunately, with two years of litigation, attorneys are the only ones who come out ahead. The parties will encumber six figures worth of costs in attorneys' fees and years of delay. The existing impasse process failed. It would be unthinkable if binding fact-finding were on the table. Assembly Bill 271 will solve this challenge.

Assembly Bill 271 will provide binding fact-finding as a matter of right, streamline the process, save all parties a great deal of money, and provide certainty. I do not know how anyone could be against this bill. On behalf of the unions I represent and the informal group, the Nevada Coalition of American Public Employees, I urge you to support A.B. 271.

Michael E. Langton, Private Citizen, Reno, Nevada:
My colleagues have laid out the challenges that A.B. 271 will solve. Here is a little background on me. Before I became an attorney, I was an electrician working in the private sector. As a union member, I participated in numerous negotiation sessions resulting in collective bargaining agreements. A big difference between the public and private sector is the private sector's ability to strike. That is an economic action that causes problems for everyone. In the public sector, and rightly so, public servants should not strike. Years ago, this legislative body decided the quid pro quo for not striking is to have collective bargaining for public employees.

I get along with almost all the management attorneys I negotiate with. When I go to a collective bargaining session, I understand each party has issues to solve. The employees need benefits, and they need to be able to support their families. The employer is restricted by a budget and must provide services to the public sector. I view this as problem-solving. Generally, in my first negotiating session, we do not present proposals. I try to avoid the adversarial process. I try to make it about problem-solving, where we set forth our positions. We state the problems of the employees, and management states their problems. Generally, management problems are budget restricted.

As Mr. Dreher mentioned, NRS 288.150, subsection 2 defines mandatory subjects of bargaining, meaning each party must in good faith negotiate those subjects if the other side presents or demands it. What A.B. 271 does is expedite and move the process along. I have not had the experience where negotiations go on for years and years. I have had negotiations settled in one session and within a half hour. I have had negotiations continue for months in other sessions. These short time frames are because we solve problems.

An advisory panel—no disrespect to sisters—is kind of like kissing your sister. It is something you do, but it does not really get you anywhere. In a panel situation, it is a "take it or leave it situation." I have worked with these panels, and they work to do their best to come up with a solution. A fact finder does exactly that, finds facts. Facts are typically undisputed.

In this particular process, if it were to be binding, each side would present evidence of testimony, the fact finder would review the facts and then make a decision. Maybe there were 15 items, and only 4 are issues which were submitted to the fact finder for resolution. In this scenario, the fact finder might award two to the labor side and two to the management side. In the end, an agreement has been reached.

The police, fire, and school employees have a process that results in a final and binding agreement. It has always been anomalous that the general employees, the clerks, electricians, and plumbers working for the county are in the same pot of money as the firefighters and police officers. In the general employee session, I call it "collective begging." By "collective begging" I mean, without the ability to strike—I am not in favor of that—or the ability to have finality from a neutral party, we sit there and say, please, please, please. The employer can simply say no.

Many of my clients wait for the police officers, firefighters, and the school employees to negotiate first, and then we come in with "me, too" bargaining. It was done for them. What are we, second-class citizens? The answer should be no, and typically it is no.

The objective of A.B. 271 is to provide a final process for the employees and employers. I have been successful at avoiding impasses. I use mediators. The federal mediators use what I refer to as shuttle diplomacy. They ask the employees what their must-haves are, which we tell them. They will not reveal them unless we tell them to. They go back to the employers and ask them what their must-haves are. Then they come back and say, Suppose the employer does this, will you agree to a lower demand? I have had great success with mediation and federal and private mediators.

The collective bargaining agreement is a mutable document that is amended as we go along, as is the *U.S. Constitution*. I have dedicated most of my life to representing employees in negotiations. In the public sector, we do not want the public harmed. We try to resolve the issues and get on with life. There is always the possibility of coming back to the bargaining table one, two, or three years later.

I have had collective bargaining agreements signed for as short as two months so we can work out our issues. I have had contracts signed for as long as seven years. Sometimes there are openers, and by that I mean we recognize the employer's current budget, and because we do not know what it will be in two or three years, we agree to reevaluate later. I have clients that have negotiated raises for two, three, and four years, recognizing later that the current economic situation may harm the public. The employees give up their right to their negotiated raises. Problem-solving is what negotiation is all about.

I do not want to be redundant. I think A.B. 271 accomplishes the objectives of expediting and resolving the impasse process.

Assemblywoman Neal:
The minutes of the Assembly Committee on Government Affairs dated April 12, 2005, discussed expediting the impasse process. At that time, the timelines were not meeting the goals, and there was a need to flex the timelines. You were actually there and provided a document that laid this out. I can provide it for you if need be. The strikeout language in A.B. 271, section 3, subsection 6, is actually amended language that was added in 2005.

I am not clear on how the panel and the final recommendations of the fact finder failed. Was there more than one case that has occurred since the expedited process was passed in 2005?

Mike Langton:
If I recall, our objective was to improve the process. I have worked with management on how to expedite this process. We tried the panel formation, and it is quite cumbersome. We have to find qualified people, an accountant, an attorney, and a third person. For example, you would not want me on a panel concerning real estate issues. We have to find someone who has a working knowledge of labor in both the public accounting field and the private sector labor negotiations. I am not sure if I understand the question, but our objective each time we have come before this Committee with an amendment is to improve our existing process.

Assemblywoman Neal:
That is what I am trying to understand. I am confused about why what we thought would work in 2005 is actually cumbersome, but it took 12 years to figure that out. I want to understand the cumbersome moments in the panel creation because in 2009, this issue was untouched. There has been an absence of legislation from 2005 to 2012, and the document I mentioned was presented as an exhibit in 2005. It showed analysis of timelines and how to expedite the collective bargaining process.

Mike Langton:
I do not think we should be chastised for not attempting to improve it immediately. Pragmatically we have to pick our battles, and I am sorry, but I do not recall why. I know from my personal experience I had problems with the panel process from the beginning. I will defer to Mr. Dreher, who was present as well.

Assemblywoman Neal:
Let me be clear: I am not trying to chastise you because you are still here to be the problem solver. I am happy that I get to ask the actual individual who was there in 2005 and not a third party. I was trying to put you on the spot in a good way, for my own benefit, so I can get an understanding around the public policy need. Why the absence of movement for 12 years? What is the procedural history?

Ron Dreher:
Through the years, I reached out to Assemblywoman Smith, later Senator Smith, and requested her to bring this back forward because of the panel issues. As all of you are aware, we had an economic downturn in the years you mentioned, and there were different battles to

fight during that time. Senator Smith was very interested in bringing this back forward. Months before she passed away, we had a discussion in Reno about bringing this bill forward to solve the tiebreaker and fact-finding issues. We were not neglecting the issues; we just had other things going on. That was why I put the history in the presentation [page 3, (Exhibit C)]. It sat silently not because we neglected it but because there were more important issues for this Committee at that time.

Assemblyman Daly:
As a follow-up on what Assemblywoman Neal mentioned, things have evolved. Tip O'Neill and Ronald Reagan talked to each other and made deals, but in national politics today things are more polarized. I view this as some of the attitudes of local governments have changed. They are receiving more pressure from the other side, and public employees cannot go on strike. When negotiating, both parties must be on equal footing. Today, we are here to try to balance out the process so that one side does not have all the power.

Ron Dreher:
You are absolutely right. This is what we are trying to accomplish. Unless there is a tiebreaker, negotiations will continue to go on and on and never get resolved. There are contracts that go against the grain of S.B. 241 of the 78th Session, which is to create an expeditious process. Getting people to the table to reach an agreement and getting employees back to work is the goal.

I retired 18 years ago from the City of Reno as a homicide detective, and my other role was as president of the Reno Police Protective Association. As a negotiator, we try to reach agreements as fast as possible. I will put some dollar figures on this. What does an advisory fact-finding cost? A couple of years ago, the Reno Police Protective Association went to fact-finding. Mr. Ricciardi was the attorney and testified on the other side of the table. That fact-finding cost the Reno Police Protective Association over $80,000. Washoe County Sheriff Deputies Association has been to fact-finding twice and to last, best offer a couple of times. Their costs have been well over $100,000. I just found out about a situation in Clark County that recently concluded in which over $100,000 was spent. That money was for the final offer, not fact-finding, but it is an example of the expense of the process. That is the labor side.

Let us look at it from the management side. The taxpayers are funding those same kinds of attorneys' fees when the employer hires outside the process. Are we really saving money? That is why I mentioned in the presentation that binding fact-finding is a huge cost saving. Local government regular employees do not have that option, but A.B. 271 addresses that.

The current panel process is cumbersome. The Local Government Employee-Management Relations Board's Commissioner Bruce Snyder must be contacted to put a panel together. A letter to the Nevada State Board of Accountancy has to be written; a letter to the State Bar of Nevada has to be written, the attorney and accountant must pick a third party. All of these people must be unbiased and able to render an unbiased opinion. This is a time-consuming process that can take three or four months because of conflicting schedules.

As Assemblyman Daly mentioned, the goal is to reach an agreement and make that agreement binding. That is what we are asking for with A.B. 271. It is long overdue to remove the panel process and proceed with something that works. Assembly Bill 271 is legislation that does that.

Chairman Flores:
Assemblyman Carrillo, I will leave it to your discretion on how you prefer those in support to testify. Do you prefer to follow the traditional route and give everyone two minutes?

Assemblyman Carrillo:
Yes, let us give each individual two minutes.

Chairman Flores:
Is there anyone in Carson City or Las Vegas wishing to testify in support of A.B. 271?

Teresa Twitchell, representing Washoe County Employees Association:
I have been on the board of the Washoe County Employees Association for the last 6 years and a member for 15 years. I am here today to speak in support of A.B. 271. Our members pay $7 per pay period, which is about $182 a year for membership. We have approximately 1,100 members. One of our challenges is spreading our costs for meditation services needed because it is expensive. Our goal is always to come to an agreement when negotiating contracts before the end of the prior contract. As an example, in the 2016 negotiating period, the Washoe County Board of Commissioners stopped the negotiating process for a couple of months in order to get insurance information. Not only is the Washoe County Board of Commissioners educated on how to come to an agreement, but our membership is as well. We do not want it to go to impasse or mediation because of the cost.

Mike Ramirez, representing Combined Law Enforcement Associations of Nevada:
We support A.B. 271, and I am happy to answer any questions.

DeAndre Caruthers Sr., Vice President, Las Vegas City Employees' Association:
We have approximately 900 members, and we are in support of A.B. 271.

Cherie A. Mancini, President, Service Employees International Union Nevada:
The Service Employees International Union Nevada represents Clark County public employees. Everything discussed here today we have experienced. The only people who benefit from the current process are attorneys, whether it is the labor attorney or management's attorney. The Clark County taxpayers paid an exorbitant amount of money to the attorney, Mr. Ricciardi, for employer representation. There were many steps and delays within the process, and it made everyone unhappy. The management side was not happy, the labor side was not happy, and we are still in bargaining with Clark County. I believe binding fact-finding will help bring people to the table and expedite the process. No one wants to drag out bargaining. It is lengthy and costly; it makes everyone unhappy. If taxpayers really knew how much was paid by the county to go through this process, I think they would

be appalled. I myself as a taxpayer am appalled. I support this 100 percent. Assembly Bill 271 is something that is very beneficial to our membership and will help bring parties to the table.

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:
We are in support of A.B. 271. We believe it will help expedite and move the negotiation process forward in a more timely fashion and save money for everyone. I was asked by the representative of Retirees, Local 4041 of the American Federation of State, County and Municipal Employees to express their support for A.B. 271.

Stephen Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees:
We are not impacted by this bill but are in complete support and I agree with Mr. McAllister's testimony.

Chairman Flores:
For our Committee members to have a visual, all of you who are here in support, please stand. [They stood.] Is there anyone in Carson City or Las Vegas wishing to testify in opposition to A.B. 271?

Mark Ricciardi, Private Citizen, Las Vegas, Nevada:
I am here today speaking as a practitioner and citizen. I have been representing local governments in fact-finding, arbitration, and collective bargaining for about 25 years. I sent an exhibit up (Exhibit D), and it supports what I am testifying to today. First, the purpose of collective bargaining is for parties to reach agreements. The purpose is not to have an agreement imposed upon you. The employee associations and local governments should be motivated to sit down and work out their differences and not have a third party come in. Included in the exhibit (Exhibit D) I provided are some of the legislative histories from when the Dodge Act was passed in 1969 [pages 2-6, (Exhibit D)]. In that exhibit, even the union representatives testified that binding arbitration would probably prohibit all parties from negotiating in good faith from the start [page 4, (Exhibit D)]. On the page marked 168 [page 17, (Exhibit D)], an attorney representing most of the unions said the key to the real functioning of the statute is the area of advisory arbitration, also known as nonbinding fact-finding.

The bottom line is when an agreement is imposed by a third party, the decisions on wages, benefits, and other working conditions are taken away from the elected officials. The elected officials in the local government are still saddled with the obligation to do the financing and provide the services to the public. It really needs to be a last resort.

Chairman Flores:
I apologize for interrupting. I would like to give you an opportunity to wrap up. Members, on the Nevada Electronic Legislative Information System, there is an exhibit titled the "Testimony of Mark Ricciardi" (Exhibit D). It is about 50 pages.

Mark Ricciardi:
My final point is that the current process of nonbinding fact-finding really works. I have included a nonbinding fact-finding report received from an arbitrator, Mr. Ross Runkel [page 29, (Exhibit D)]. In this case, the City of Reno was asking for some concessions from one of the group employee associations in Reno. The union and the employer could not come to an agreement. It went to fact-finding and after that, nonbinding fact-finding.

Chairman Flores:
I am sorry, sir. At this point, I am going to have to cut you off for the sake of fairness. I appreciate your comments, and we do have the exhibit you provided (Exhibit D). Will the next individual in Las Vegas please come to the table.

Scott R. Davis, Deputy District Attorney, Office of the District Attorney, Clark County:
Clark County is in opposition to this bill based on the principle of the Dodge Act. The Dodge Act states the best way to foster harmony in labor relations is for the employer and the union to come together and have a meeting of the minds. It is not throughout the Dodge Act, but it is inherent in good-faith bargaining obligations, which are imposed by the Dodge Act. It is evident in the provision that allows bargaining sessions to be closed to the public so that these tenuous negotiations can take place.

Since that is the basic thrust of the Dodge Act, this Committee should be very circumspect to take any approach in advancing legislation that encroaches on that ideal. Assembly Bill 271 encroaches on that ideal. Think about it conceptually; how does this bill impact the incentives of the parties that negotiate in good faith negotiations? It creates more of an immediate out to the process, and it makes a fact finder with binding authority have that much more of an impact on the process. It is like gravity. The closer a fact finder is to the negotiation, the more of an impact he or she is going to have.

Assembly Bill 271 is a way to obtain what you want to achieve by bypassing negotiations and going to an outside third party—usually outside of Nevada. It creates an easy out and a disincentive to engage from what may be difficult negotiations but negotiations that still might lead to those meeting of the minds, which is the objective of the Dodge Act. There is not much of an upside to it because the legislative mechanism is already provided within the Dodge Act. The big concern of the parties supporting binding fact-finding is the perception of delaying negotiations just for the sake of delay. There are already provisions addressing that, such as requiring good faith negotiations. The EMRB is in place and is capable of handling the concerns about a party delaying just for the sake of delay.

Assemblyman Ellison:
This is a question for Mr. Ricciardi. It looks like the system has worked well up to this point. What I am hearing is that most cities do not want to move away from NRS Chapter 288. Can you provide a quick summary for the Committee?

Mark Ricciardi:
Yes, cities do not want to move away because the system works. Nonbinding fact-finding presents both the employee association and the local government elected officials a view of the true facts, and that motivates both parties to come back to the bargaining table. If you look at the PowerPoint in my documents [page 47, (Exhibit D)] it outlines how after nonbinding fact-finding, the City of Reno received everything that was asked for, but the parties still went back to the table and crafted their own agreement. In other words, there was more give and take, and they reached their own agreement without a third party.

If binding fact-finding occurs right out of the box, we will see decisions made by an arbitrator, probably from another state, and not by a taxpayer who would impose a resolution on employees and local governments. The panel system under NRS Chapter 288 works very well, and the EMRB will tell you it is not a long and laborious process. Under the statute, those three panel members are selected very quickly, the hearing is held very quickly, and the decision is made quickly. It is rarely used because there is no legal limbo. In my 30 years of working in Las Vegas, there has never been a contract in limbo. Both parties had always come together and made a deal.

Assemblywoman Neal:
The EMRB case of *International Union of Elevator Constructors, Local 18* was cited as a good example of a delay in negotiation. Can you explain your interpretation of that particular case and why you believe it is not a good example of a delay?

Mark Ricciardi:
I was involved with that case from day one. I was a negotiator for the county. We had well over six meetings but ended up at an impasse. I urged the union to file for the nonbinding fact-finding, and they refused because they wanted binding fact-finding. This was only the county's second contract with the union, and we needed to sit down and work it out. Mr. Langton said that facts are undisputed. I have to respectfully disagree. Facts are freely disputed, and the disputes, in this case, were holding up the agreement. The case needed a review from a third party with nonbinding fact-finding. For reasons I cannot explain, the union insisted on binding fact-finding but did not file papers with the EMRB for several months.

Finally, when the union did request a panel, the EMRB promptly appointed three panel members, promptly scheduled a hearing, and those three panel members thought about it very hard. They made their decision the same day or next day after the hearing ended. That got the parties to where we are now, a nonbinding fact-finding. The union finally filed the papers. Sometimes the unions drag their feet, too. I do not know why, but that is the reason there was a delay there. It had nothing to do with the county.

Assemblywoman Neal:
There was also testimony about the high cost of the panel process. Can you tell the Committee how much this cost for this particular EMRB case? I am looking for the cost from impasse to advisory fact-finding with a panel and a final decision.

Mark Ricciardi:
I do not know the cost for the panel proceeding to decide whether the fact-finding will be binding. I can tell you, employers and local employee associations here in Nevada have been successful going to nonbinding fact-finding and then making a deal. It happens every single time. The elevator constructors panel situation is extremely rare. The process happened in 2010 and again in 2016. Before that, you have to go back many, many years before it happened again. The panel process itself cost the State of Nevada nothing because there are no payments or filing fees. There is a per diem for the panel members, but there are no filing fees that the union has to pay or the employer.

Morgan D. Davis, Assistant City Attorney, Office of the City Attorney, City of Las Vegas:
I concur and will give you a ditto to the comments that have been made on behalf of Clark County and Mr. Ricciardi. I would like to add that I have practiced in this area since 1989. I have had the pleasure of dealing with Mr. Langton and Mr. Allen. In my experience when we are negotiating, the potential of a panel process has never happened. We use this panel process very, very, very infrequently. I have never heard of a case where the panel did not offer a determination that was final and the negotiating process was in limbo. I have litigated cases with Mr. Allen and Mr. Langton, and we have gone through mediation and reached a resolution. Their union predecessors have moved through fact-finding and resolved cases after the fact. The City of Las Vegas's position is we should be in control as best we can. If the fact finder comes back with a decision and we do not agree, we go back to the table and make it work. We have always been successful doing that. One item I do not think has been mentioned—I apologize if it is not an issue—is reversing the presumption created in A.B. 271. The City of Las Vegas wants to go on record that we are in opposition to that section of the bill as well.

Chairman Flores:
Is there anyone in Carson City wishing to speak in opposition to A.B. 271?

Les Lee Shell, Director, Office of Risk Management, Department of Finance, Clark County:
Mr. Davis put on the record our concerns about this bill. Clark County is opposed to A.B. 271.

Assemblywoman Neal:
What is the City of Las Vegas and Clark County's opposition to the language in section 5, subsection 2? I need more clarity because we have not fully discussed that language. Can you provide a clear example of a "rebuttable presumption" situation to help the Committee understand how that would work? Also, please provide the full cost of the leave in section 2, subsection 2, paragraph (e).

Scott Davis:
We are opposed to the language in section 5, subsection 2 of A.B. 271. The language calls for the presumption to be rebutted only by clear and convincing evidence. This is a departure from the Nevada Supreme Court's decision in *Nassiri v. Chiropractic Physicians' Board of Nevada,* 130 Nev. Adv. Op. No. 27 (2014), which states the standard of administrative proceedings is a preponderance of evidence. It is a little bizarre from the outset to have that heightened standard.

When will there be a situation where presumption might be applied? The situation will be brought forth in prohibited labor practice cases before the EMRB. The EMRB issued a decision dealing with a prohibited labor practice earlier this month. That case dealt with if bargaining is required over union leave or not. That is when it will come up.

Typically, what happens in a prohibited labor practice case—it has been this way since the very first EMRB decision back in 1970—is a party believes another party is doing something wrong. It is up to the filing party to come forward and prove it. This presumption requirement could affect that. If the county is on the receiving end of a prohibited labor practice complaint and there are presumptions stacked against us from the beginning—as opposed to making the filing party come forward with evidence to prove it—it could be unfair. The better way to treat this situation is like any other mandatory subject of bargaining.

Union leave time is a mandatory subject of bargaining regardless of this bill. We do not need A.B. 271 to tell us that. The EMRB has repeatedly stated it is a mandatory subject of bargaining, along with all the other mandatory subjects of bargaining. There is a system in place that works without any presumption attached to it. There is no need to call out union leave time for specific and special presumptions. It is better to treat it the same as any other mandatory subject required for bargaining.

Chairman Flores:
We are coming back to Carson City to hear those in opposition to A.B. 271.

Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:
We are opposed to A.B. 271. We believe this bill eliminates the parties' ability to work toward a mutually agreed compromise when an impasse is reached in collective bargaining. I have been involved with collective bargaining for 30 years. As a management representative, I have never gone through the panel process and believe it is very rare. Police officers and firefighters do not have automatic binding fact-finding. If the parties agree or if there is an agreement, the fact-finding is binding. Ultimately what is binding is arbitration, which is the next step after fact-finding. Police and fire do not have automatic binding fact-finding.

The local governments, after going through the recession, have worked with their employees through negotiations, discussion, and open communication. We were able to save a lot of

jobs because our unions stepped up to the plate. I believe by automatically shutting down negotiations and shutting down communications with an automatic binding fact-finding, relationships between employee and employer will be harmed. If anything should happen in NRS Chapter 288, we should be encouraging communications between the employee and the employer and not shutting down the communications.

Assemblywoman Neal:
I am interested in the cost to the government entities. This question is for Mary Walker and Les Lee Shell. What is the actual cost to the taxpayer for the panel process?

Les Lee Shell:
I do not have that information today, but I can research it and get back to the Committee. Are you asking for the actual cost of the panel and other costs associated with that?

Assemblywoman Neal:
At this point, it would be good to understand the total cost of the process and then segment those costs out to the various steps in the process, such as the cost of putting the panel together. There are definite steps, and there may be different cost allocations associated with them. I think it would be good to know because of the arguments that have been presented for streamlining. The process has become elongated and burdensome for 12 years. The Committee needs to hear the employer's perspective to make it fair.

Assemblyman Ellison:
Ms. Walker, you mentioned you have been in a lot of these negotiations. I always thought the city and the unions came together as one to resolve an issue. Will this take away the right of the cities and the taxpayers to negotiate further?

Mary Walker:
I believe that is right. I think what will happen is the employers and employees will stop working towards a resolution because of the third party. The third party is often from out of state and does not know the organization but will tell them how it is going to be. I feel it takes away my ability to present the facts. I am a certified public accountant and into the facts. If a third-party professional has different facts and has a different perspective, I want to know that because I will sit down with the employee side to reach a resolution quickly. I want to know those facts, and then I want to be able to act on those facts. By having someone come in and say this is it, I do not have the ability to finalize the process with the employees. It leaves it hanging. I think it is bad for relationships between the employee and employer because we could not resolve it together. That is my problem with A.B. 271.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:
The Chamber appreciates the opportunity this morning to express our concerns and why we are in opposition to A.B. 271. The Chamber's government affairs committee has taken the position to engage on these issues on behalf of its members and Nevada taxpayers. We do

agree with the main concerns that have been heard from some of the earlier testifiers opposing this bill. The Chamber is concerned that these changes may not result in the best outcomes for the taxpayers, local governments, and public employees. That is why we are in opposition to A.B. 271.

Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:
I ditto everything that was said before me. We have concerns in two specific areas. First, we are concerned about the potential for public employees being paid by taxpayers to conduct union business. We have always had issues with that potential, and we are concerned about that part of A.B. 271. The second is the binding arbitration piece. As Mary Walker stated, an out-of-state arbitrator can come in and impose a budget on a local government, and there is no recourse. There is no control of who that arbitrator is. They can impose a decision and go back to wherever they came from and not have to live with the consequences of that decision. That is why we have concerns about A.B. 271.

Assemblywoman Neal:
I did not hear the first part of your statement, Mr. Abney. What did you say?

Tray Abney:
We are always concerned about public employees being paid by taxpayers to conduct union business. If it becomes part of the bargaining process and the agreement comes out that they are provided paid leave time—paid for by you and me—to conduct union business, it will cause concerns among taxpayers. We think the union should pay for that and not taxpayers.

Assemblywoman Neal:
I am not attacking you, but it is going to sound like it. Unions are taxpayers, right?

Tray Abney:
Yes, union members are taxpayers, but the taxpayers are paying for people to negotiate against the rest of us; that is the process. Ninety-five percent of us are paying for people to negotiate against us for tax dollars. That is the issue.

Assemblywoman Neal:
It sounded like there was an alien group out there that did not function within the rest of our universe. I needed clarification.

Assemblyman Daly:
I take offense to your statement that employees are negotiating against us. They are public employees who are providing a service to all of us, and they deserve to be compensated for it. I think what is being said is when they negotiate and the issue is a mandatory subject, that A.B. 271 will clarify that in the law. The gentleman in Las Vegas mentioned binding fact-finding, and that indicates to me that at some point it is necessary.

I am having trouble balancing the argument from the labor side. I have heard from people who have gone through this process that it is a one-sided issue depending on the attitudes of a particular government agency because public employees cannot strike. If you tell me you are in favor of them going on strike, that is a different scenario. But until then, there has to be some balance to one side of the negotiation because it takes two. If only one has control, there is no deal. I take offense when you say that public employees are working against the rest of the public they are serving.

Jeff Fontaine, Executive Director, Nevada Association of Counties:
We are here to go on record as opposing A.B. 271. We agree with Mr. Davis of Clark County and the other county representatives who spoke in opposition to this bill.

Chaunsey Chau-Duong, Public Affairs, Las Vegas Valley Water District, Southern Nevada Water Authority, and Springs Preserve:
We are opposed to this bill. Most of our concerns have already been expressed so for the sake of time, I will not rehash them. I want the Committee to know we did reach out to the sponsor and the various stakeholders of A.B. 271. We look forward to working with them towards a meaningful resolution.

Chairman Flores:
I see that there are some people in opposition that did not come up to testify. Since we did this for those in support, if you are in opposition, would you please stand? [They stood.] Is there anyone in Las Vegas wishing to speak in the neutral position for A.B. 271?

Bruce K. Snyder, Commissioner, Local Government Employee-Management Relations Board, Department of Business and Industry:
I have been the Commissioner of EMRB since 2013. In the spring of 2016, we had a fact-finding panel convene for the elevator constructors. My research shows a prior panel convened in 2010 and that it is somewhat of a rare occurrence.

There were a few issues getting the panel convened. One was due to the person selected as the attorney. Later, he recused himself because of a conflict, and we had to start the process anew. There were other issues in terms of the panel being convened, but they were administrative in nature. As the Commissioner, when I contact the State Bar of Nevada or the Nevada State Board of Accountancy for a list of five members willing to volunteer, the first reaction is, Who are you and why are you calling me? That is because it is such a rare occurrence. There was a lot of educating involved, not just with those organizations but also with the State Board of Examiners (BOE). According to NRS Chapter 288, the funds must come from BOE. They had the same kinds of questions because it is such a rare occurrence.

I have a proposal that was initially accepted but did not make the cut in terms of how many bills the Department of Business and Industry could include in the current session.

The proposal eliminates some of the administrative items. It was not to make the fact-finding binding. It would substitute EMRB's current board as the fact-finding panel. This would eliminate the interaction with the other agencies and the BOE to streamline the process.

Assemblywoman Neal:
I know people are saying the panel process is a rare occurrence. Is it possible, because it is such a rare occurrence, that when the process was phased out it became apparent that it may not be the best or most efficient process to use? I am curious because you mentioned your effort to streamline the process. I want to hear from you. What were the changes you thought would make the process faster or more efficient that you were unable to present in a bill form?

Bruce Snyder:
The only change I proposed was to make the fact-finding panel process faster. Instead of selecting three individuals unrelated to the EMRB process, use the three board members of the EMRB appointed by the Governor. They could convene a special meeting and sit as the fact-finding panel. This could be done right away, and it would not be necessary to educate the other agencies as to why they are involved in the process of selecting third parties. That was the proposal.

In terms of whether or not the cumbersome nature scared away people, I have been the Commissioner for about three and a half years and have had one phone call asking about the process. That phone call never ended up in fact-finding, but I do not know if it was because of the process or if the parties resolved the situation.

Assemblywoman Neal:
Concerning the *International Union of Elevator Constructors, Local 18*, what occurred to prompt the discussion around the panel process being complex or cumbersome?

Bruce Snyder:
I do not have the documents in front of me, but I believe we received a request between Christmas and New Year's Day in 2015. According to NRS Chapter 288, there are a certain number of days to respond, and if everything had gone perfectly, we would have had the panel in place in about a month. The panel did not meet until late March or early April. There were several factors. The main one was once we received the names of the attorneys and the parties narrowed it down to one, the attorney recused himself. That led to a dispute as to whether or not we had to eliminate the accountant and start that process over or if we should keep the accountant and pick a new attorney. That process took a few weeks. After that had been resolved, the parties agreed to pick a new attorney. The new attorney and the accountant then had to pick a third person. That was the primary driver as to why the process took a little bit longer. Additionally, we had to wait for the funds from the BOE. There were documents to fill out that needed approval from the Department of Business and Industry. Once the documents were complete, they went to the BOE to initiate funding.

Each individual on the panel gets paid $150 a day, plus travel expenses. We set them up as vendors and had to wait for the funds before starting the process, and that delayed things a few weeks. My proposal is unlike what is being proposed in A.B. 271, which is to make the fact-finding binding. My proposal was to leave the nonbinding process in place but eliminate the need for special funds, eliminate the need to select outside individuals, and immediately call a special board meeting of the existing EMRB.

Chairman Flores:
For the point of clarity, I allowed him to go a bit longer than two minutes because I called him up to testify as opposed to him coming up on his own. Is there anyone else wishing to speak in the neutral position? [There was no one.] Bill sponsors, please come back up.

Jeff Allen:
A parade of horribles was presented by the opposition, and I would like to respond to a few of the points that were made. First, I heard that if binding fact-finding was instituted, it would create a disincentive to negotiate and reach a resolution to an impasse. I think common sense and experience would disprove that. If parties know binding fact-finding is down the road, and there is the possibility of losing the ability to reach a compromise and instead having terms imposed, it is going to force parties to be reasonable really quickly. I would submit to you that binding fact-finding would achieve a compromise where it is not possible with only an advisory opinion.

I also heard this bill would remove the decision-making authority from our elected officials and give it to a third party from outside of Nevada. That individual does not care about our communities, the citizens, or taxpayers. I think that is flatly wrong. The fact is under current law, the parties have the right to binding fact-finding. It is a question of "if" not "when." Under existing law, it will take a long time to get there. Assembly Bill 271 will streamline the process by eliminating the panel, eliminating the multiple rounds of fact-finding, and making fact-finding binding in the first place. There is an automatic binding process for police, fire, and teachers, and it works fine.

I heard someone argue that union leave time should not be funded by taxpayers; it is unfair because union representatives are negotiating against the taxpayers. Assemblyman Daly pointed out the fallacy of that. I will state that it is just not true. Union leave time is not something that is gifted to unions. It is something that unions negotiated long ago through concessions, through payment, through some mechanism. What this bill does is recognize that through the history of collective bargaining, union leave time was added to collective bargaining agreements.

This presumption would recognize that fact because it is difficult to go back 10 or 15 years and figure out how the union leave time provisions entered into the contract. I do not think union leave time is taxpayer funded, and this bill recognizes this. This bill streamlines the process, saves taxpayers' dollars, and saves management time. Earlier I outlined all the people involved in negotiating collective bargaining agreements and participating in the

impasse process. Oftentimes, when we negotiate, there are ten people from different departments on the management side. The faster we come to an agreement, the faster we will reestablish labor harmony, and everyone is better off.

Mike Langton:
I support what Jeff said. In one of my first negotiations in the 1970s the employer said, "Mike, we have a pot of money, and this is how big it is. It is not going to get any bigger. The union can divide it as they want." I agree, support, and believe in my heart that union leave does not come at the largess of the employer. It comes because employees decide to take X number of dollars and put those toward union leave.

To move on quickly, I am shocked that Carson City is opposed to this bill. I have known Ms. Walker since she was the finance manager for Carson City when John Berkich was the city manager. John introduced the entire negotiating committee and me to what I call "warm and fuzzy negotiations." In the first meeting, you sit down and discuss the problems. Earlier in my testimony, I mentioned I had negotiated a contract term for seven years. That was Carson City. That is how well they get along. I have worked with Carson City for years, and we have always solved problems. For them to be opposed strikes me as odd.

One of the anomalies I heard from many of the people testifying in opposition is the concern of the third-party person coming from out of state who has no interest. I have not heard that argument of infringing on management rights when the police, fire, and school hire an arbitrator to make a final decision. What we are asking in A.B. 271 is no different than what occurs with fire, police, and teachers, in which they have final and binding arbitration. But it is an arbitrator that makes the decision. It removes management from making the ultimate decision, so I do not see any difference.

With regard to section 5, concerning employees being paid for attending negotiations, I cannot tell you how many times I have said we should solve that problem by negotiating on Saturday or negotiating after work. Without exception, there is an objection from management. They are being paid to negotiate with the employees but do not want employees receiving the same treatment. We generally work those problems out. The point is employees want equal footing and want to be able to participate fully in the negotiations.

Ron Dreher:
In closing remarks, I would like to say thank you to Assemblyman Carrillo for bringing this bill forward. I have a couple of small points. The case that Mr. Ricciardi spoke about was a police-fire last, best offer arbitration. They had finality after the fact-finding session where the association did not prevail. They went back to the table, but the ultimate binding mission at that point was to have last, best offer. Regular employees in Nevada do not have that, which is why we want A.B. 271.

I would like to address Assemblywoman Neal's question to Mr. Ricciardi concerning Clark County's cost for the fact-finding panel. The other side of that issue is advisory

fact-finding is costly to the unions. I mentioned earlier the Reno Police Protective Association paid over $80,000 to go to fact-finding with the City of Reno. Advisory fact-finding is expensive for the associations and the local governments. I think that is important to note, and I hope the Committee is provided with those government costs.

Lastly, it is not a question of wanting to reach an agreement because that is what all parties want. The issue is when everything falls apart; the mediation does not work; the impasse process is lengthy; and if we prevail, management does not have to accept the terms or vice versa. The reason for A.B. 271 is it creates a decision at the end. It creates a tiebreaker, and we get back to labor peace.

Most importantly, the fact finder can split the pie. Last, best offer is winner take all. That is the difference between last, best offer arbitration and fact-finding. A final binding fact-finding award allows the third party to split the pie and give X to employees and X to management, and that is often done. I think that is important to note. I strongly urge you on behalf of the informal group, the Nevada Public Employees Coalition to please pass A.B. 271.

Assemblywoman Monroe-Moreno:
There was a comment from the EMRB Commissioner that he would like to use the EMRB panel. Who appoints the people to the EMRB panel?

Ron Dreher:
Currently, the existing EMRB panel is appointed by the Governor.

Assemblywoman Monroe-Moreno:
It was implied that the governmental entities would not be able to work with their unions and would go right to the out-of-state third party. Is there anything in this bill preventing governmental entities from working with their unions in good faith to reach a resolution?

Ron Dreher:
No, there is nothing in A.B. 271 stating that. Agreements can be reached during arbitration and fact-finding; nothing ever stops that. I am going through that right now with several associations. We are at an impasse, and even though we are moving toward the panel process, the potential for agreement never stops us. This afternoon, I am meeting in Reno with management over an issue in an attempt to reach a resolution before taking it to the next level.

Chairman Flores:
I am closing the hearing on A.B. 271. Is there anyone here for public comment in Las Vegas or Carson City?

Mark Ricciardi:
I would like to correct one thing Mr. Dreher said. If you look at my exhibit [page 29, (Exhibit D)], the Reno case I cited was administrators, these were professional people working in Reno. It was not a police case.

[(Exhibit E) was submitted but not discussed and will become part of the record.]

Chairman Flores:
I will close out public comment. This meeting is adjourned [at 10:33 a.m.].

RESPECTFULLY SUBMITTED:

_____
Carol Myers
Committee Secretary

APPROVED BY:

_____
Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a copy of a PowerPoint presentation titled "AB271," presented by Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Washoe School Principals' Association.

Exhibit D is a packet of documents dated March 23, 2017, submitted by Mark Ricciardi, Private Citizen, Las Vegas, Nevada, regarding Assembly Bill 271.

Exhibit E is a letter dated March 23, 2017, in support of Assembly Bill 271 to Chairman Flores and members of the Assembly Committee on Government Affairs, authored by Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada.