MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-ninth Session
May 10, 2017

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:11 p.m. on Wednesday, May 10, 2017, 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 David R. Parks, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator Joseph P. Hardy

COMMITTEE MEMBERS ABSENT:

Senator Pete Goicoechea (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Chris Brooks, Assembly District No. 10
Assemblyman Richard Carrillo, Assembly District No. 18

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

William Stanley, Southern Nevada Building Construction Trades Council

Dan Musgrove, Mechanical Contractors Association of Las Vegas; Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada
John Wiles, Director, Unified Construction Industry Council
Don Campbell, Executive Director, Southern Nevada Chapter, National Electrical Contractors Association
James Halsey, International Brotherhood of Electrical Workers Local 357
Peter Krueger, National Electrical Contractors Association
Ruben R. Murillo, Jr., Nevada State Education Association
John H. Seymour, International Brotherhood of Electrical Workers Local 401
Rob Benner, Building and Construction Trades Council of Northern Nevada
Rusty McAllister, Nevada State AFL-CIO
Priscilla Maloney, American Federation of State, County and Municipal Employees Local 4041 Retirees
Robert A. Conway, Ironworkers Local 433
Warren B. Hardy II, Associated Builders and Contractors of Nevada
Tray Abney, The Chamber
Justin Harrison, Las Vegas Metro Chamber of Commerce
Jonathan P. Leleu, NAIOP
Pat Hickey, Charter School Association of Nevada
Ron Dreher, Peace Officers Research Association of Nevada
Michael Ramirez, Southern Nevada Conference of Police and Sheriffs; Nevada Law Enforcement Coalition
Marlene Lockard, Service Employees International Union Local 1107; Las Vegas Police Protective Association for Civilian Employees
Rick McCann, Nevada Association of Public Safety Officers
Chris Daly, Nevada State Education Association
Todd Ingalsbee, Professional Fire Fighters of Nevada
Steve Grammas, Las Vegas Police Protective Association
Doug Ritchie, Chief Civil Deputy District Attorney, Douglas County
Mary Walker, Carson City; Douglas County; Lyon County; Storey County
Wendy Lang, Director, Human Resources, Douglas County
Chaunsey Chau-Duong, Southern Nevada Water Authority; Las Vegas Valley Water District
Austin Osborne, Administrative Officer, Human Resources Director, Storey County
Cameron McKay, General Manager, Kingsbury General Improvement District
Dagny Stapleton, Nevada Association of Counties
Wes Henderson, Nevada League of Cities and Municipalities

Morgan Davis, Assistant City Attorney, Office of the City Attorney, City of Las Vegas
Yolanda Givens, Chief of Litigation, Civil Division, Office of the District Attorney, Clark County

CHAIR PARKS:
We will open the hearing on A.B. 154.

ASSEMBLY BILL 154: Revises provisions relating to prevailing wages. (BDR 28-747)

ASSEMBLYMAN CHRIS BROOKS (Assembly District No. 10):
I have submitted a summary of my comments in writing (Exhibit C).

Assembly Bill 154 would revise some provisions regarding the prevailing wage in Nevada. It will decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $100,000 for construction work of the Nevada System of Higher Education (NSHE).

It will require school districts and NSHE to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay.

Section 3 of the bill would require charter schools to pay prevailing wage rates on their public works and other construction projects again. However, I am proposing a conceptual amendment (Exhibit D) that would remove that portion of the bill. Therefore, the provisions on charter schools will not be changed.

Senate Bill No. 119 of the 78th Session approved bond rollovers for new school construction in order to ensure there would be funds for new school construction. Unfortunately, changes to the prevailing wage were included in that bill. That made the bill more controversial because many people supported the bond rollover provisions but not the changes to prevailing wage.

Because of the passage of S.B. No. 119 of the 78th Session, any contract for a public work to which a school district, a charter school or NSHE is a party is excluded from the prevailing wage requirement. Instead, school districts and NSHE are required to pay on their public works and certain other construction projects 90 percent of the prevailing wage rates that are otherwise required to

be paid by other public bodies. It also increased the minimum threshold for the applicability of the prevailing wage requirement from $100,000 to $250,000 for NSHE construction projects, and it eliminated the requirement that NSHE pay prevailing wages on lease-purchase and installment-purchase agreements that involve construction, alteration, repair or remodeling.

Assembly Bill 154 returns the provision regarding the prevailing wage to what it was prior to S.B. No. 119 of the 78th Session minus the proposed conceptual amendment on the charter school portion.

It is important to pass this bill because everyone agrees that Nevada needs more schools. In fact, in my district alone, 9 schools are over 50 years old. While we all know money is needed to fund school construction, eliminating the prevailing wage for these projects is not the answer. Prevailing wage requirements benefit our communities in many different ways.

When it comes to public works construction projects, especially schools, we want buildings that are safe and that will last many years. In order to achieve that we need to hire the most qualified workers. Public works projects that pay prevailing wages attract quality local, experienced construction workers who deliver high-quality work on time and on budget.

Prevailing wage laws allow for more competition among contractors for construction projects, which ensures that these projects will attract more workers who are skilled. For example, after Maryland implemented a contractor living standard, the average number of bids for contracts in the state increased by 27 percent—from 3.7 bidders to 4.7 bidders per contract.

Research shows that prevailing wage laws lead to increased worker training, better-educated and experienced workers, safer construction and government savings because workers depend on social programs less. Prevailing wage laws are better for the economy because they support the middle-class incomes that boost consumer spending. Eliminating prevailing wage does not save money and in some cases, it can actually cost money.

Studies have shown that workers who are paid a prevailing wage are more productive. Higher productivity can lower construction costs without lowering wages. Prevailing wage does not raise overall construction costs since higher

construction wages are usually offset by greater productivity, better technologies and other employer savings.

Analysis of national data on school construction costs has revealed that prevailing wage laws do not have a statistically significant impact on cost. For example, comparing school construction costs before and after Michigan's suspension of its prevailing wage law revealed no difference in costs. In Pennsylvania, when prevailing wage laws were lowered substantially in rural areas, school construction costs increased more in areas where the prevailing wage levels decreased the most.

Additionally, average labor costs including benefits and payroll taxes are roughly one quarter of construction costs. Thus, even if a prevailing wage regulation raised wages by 10 percent, the impact on contract costs would be less than 2.5 percent. Therefore, if there is an increase in contract cost, it is likely to be small to the point of being undetectable.

Prevailing wage can actually save money. A review of state and local contracting practices by the National Employment Law Project found that the adoption of contracting standards often resulted in decreased employee turnover with corresponding savings in restaffing costs. For example, after San Francisco International Airport adopted a wage standard, annual turnover among security screeners fell from nearly 95 percent to 19 percent, saving about $4,275 per employee per year in restaffing costs. The same could be said for the construction industry.

I have submitted a section-by-section explanation of the bill (Exhibit E).

CHAIR PARKS:
I commend you for putting this together. If you would like to go over the highlights, we would appreciate hearing that.

ASSEMBLYMAN BROOKS:
Section 1 of the bill amends the provisions of *Nevada Revised Statutes* (NRS) 338.013 to 338.018 to decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $100,000 for construction work of NSHE.

Section 2 requires school districts and NSHE to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay. It eliminates the exception that exists which allows NSHE to pay 90 percent of the prevailing wage on their public works and certain other construction projects.

Section 3 amends the provisions of NRS 338.020 to 338.090 to decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $100,000, where it was for many years, for construction work of NSHE.

Section 4 is the section that I would like to delete with the proposed amendment, Exhibit D. The amendment puts this section back into NRS 338.080.

Section 5 provides that the amendatory provisions of the act do not apply to a public work or other project of construction, alteration, repair, remodeling or reconstruction of an improvement or property of a public body that is awarded before July 1.

Section 5 also provides that the terms "public body" and "public work" have the meaning ascribed in NRS 338.010.

Section 6 of the bill provides that the act becomes effective on July 1.

It is a simple bill that turns things back to where they were before S.B. No. 119 of the 78th Session. Senate Bill No. 119 of the 78th Session resulted in some unintentional but devastating effects in the construction industry. It is necessary to reverse those.

WILLIAM STANLEY (Southern Nevada Building Construction Trades Council):
Senate Bill No. 119 of the 78th Session and its unintended consequences are evident today. My recent conversations with the Clark County School District (CCSD) revealed that it is having a hard time getting enough contractors to bid on its school projects. We are setting up workshops with different contractors' associations to introduce them to the newer construction staff at the CCSD in order to build some bridges in the hope of increasing bidding on the jobs.

I will give you one example of some work that is going on in many of the schools in the CCSD with cooling towers. Many cooling towers are being replaced under existing facility improvements within the CCSD. We have many examples from the cooling tower bid documents. I cannot make this stuff up. The bids are coming at $249,995. They were literally $5 under the $250,000 threshold. Yes, I smiled also. I thought there had to be something wrong. I reviewed the documents, called people in purchasing and found that it was the truth.

Every bid on these cooling towers, approximately 12 of them, is just under the $250,000 threshold. When the threshold is lowered, more games are played. If the threshold is raised to $500,000, more jobs fall under that threshold and more games are played. If the threshold is raised to $1 million, more games are played because more jobs fall under that threshold. It was thought that raising the threshold would save money because prevailing wage would not apply. However, this introduces gamesmanship into the bidding process. That is one of the unintended consequences.

Only one bid was submitted on many of these jobs. Some jobs only received two bids. Union contractors are not bidding them anymore. They are not going to spend their capital to bid a project where they have to pay their employees a 10 percent reduction in the wages. How do they go to their employees and tell them they have to take a 10 percent wage cut? They cannot because of their collective bargaining agreements. The real intent of that legislation was to eliminate union contractors from the process. That is what has happened.

Union contractors are not bidding the work because they cannot pay their employees less due to their collective bargaining agreements. They cannot tell their employees they are going to get paid 10 percent less on a project because it is school construction.

What really happens is that it is more than a 10 percent cut because the benefit package for these union contractors cannot be reduced. The 10 percent comes off the hourly wage rate. Therefore, it is really a 12 percent to 15 percent cut depending on what the benefit load is on the wage package. These individuals are facing a 12 percent to 15 percent cut, so contractors are not going to waste their money bidding a project that they have no chance to get. On the other hand, they have to go to their employees and the employee union

representatives and negotiate a cut in wages. They just avoid it. That is what we have seen.

If the intended consequence of S.B. No. 119 of the 78th Session was to eliminate union contractors from these jobs, mission accomplished.

We have heard a great deal about workforce development during this Session. I find it somewhat ironic that people are talking about workforce development and expanding apprenticeships. Apprenticeship is not union only. We have some very fine nonunion apprenticeship programs; however, the majority of them are union. Forty-nine out of 58 craft apprenticeship programs belong to the unions. They are doing the majority of the apprenticeship training. You have eliminated them from $6 billion worth of work in southern Nevada just on CCSD projects. If you are interested in workforce development, you have just removed the contractors who are engaged in apprenticeship training from those jobs because they are not bidding them.

Those are the unintended consequences. I do not know that everyone thought it through. Some knew exactly what they were doing. They have accomplished that mission. Those are some of the facts as they have come to me.

DAN MUSGROVE (Mechanical Contractors Association of Las Vegas; Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada):
We do what we call the wet-and-dry work on these kinds of buildings—life safety items.

It is a tough world out there when bidding these jobs. We are just recovering from the recession. For most of us, public works was our ability to stay afloat because private companies were not building big projects anymore due to the recession. However, we needed schools, and union contractors that do subcontract work cannot compete. Our profit margin to get these jobs is 2 percent to 3 percent, and that is on a level playing field. If you take 10 percent off the top, there is no way that we can compete. You are asking us to go to our employees and ask them to give up the wages they need to bring home to their families. The wages, not the benefit package, is affected. That puts us in an untenable position. You are talking about Nevada employers having no interest in being able to do work for our schools and putting the best-qualified workers on the job.

Sometimes, we are asked why are you as an employer choosing to go union. The answer is because we get the best workers and because of the apprenticeship programs that we all invest in to ensure we have the most qualified workers. That is who we want building our schools, and that is whom the legislation from last Session priced out.

JOHN WILES (Director, Unified Construction Industry Council):
The Unified Construction Industry Council is composed of the Southern Nevada Building Trades Council and some other signatory contractors.

This is an important bill, and it does some important things. The thought at the time was that S.B. No. 119 of the 78th Session would save money in school construction. If there are savings, they are minimal. If we want to save money in school construction, there are other ways to do it.

For example, some states have provided for sales tax exemptions on the construction materials. Just on my rough estimate, that would yield savings approximately double, maybe even triple what the current 2.5 percent savings are on the 10 percent reduction in wages. Therefore, you have a choice. You can look at solutions to this problem in one or two ways. You can cut the salaries of the men and women who work on these projects and therefore reduce their spending power that has an economic ripple, or you can choose to exempt these materials from sales taxes. The sales tax for the State Distributive School Account is about 2.4 percent. That is roughly equal to the 2.5 percent saved by the 10 percent wage reduction. However, the costs for materials are about double or perhaps even triple the labor costs. Therefore, you would save more money than by cutting someone's salary.

This is an important bill. It is a good bill. It will put people to work and will create an economic ripple throughout the community.

DON CAMPBELL (Executive Director, Southern Nevada Chapter, National Electrical Contractors Association):
Throughout the years, many if not most of the contractors I represent have built schools in southern Nevada. Today, solely caused by what happened in the Seventy-eighth Session, that number is reduced to virtually zero. There are many reasons for that. All of my contractors, the majority of whom are registered Republicans, understand that they cannot tell their employees that if they work in an airport or at a casino, they will be paid one wage, but if they

work on a school, their wages will be reduced. However, keep in mind that they do not get to reduce health care or what goes into a pension. The reduction is in wages only. It is not a 10 percent wage reduction; it is over a 17 percent reduction. Even if they could, even if they did not have a collective bargaining agreement, they would not do that because it is not fair to their employees.

In 2015, I had the opportunity to go to Singapore. When I was in the airport in San Francisco, I heard about S.B. No. 119 of the 78th Session. I found myself in a panic because I abhorred half of it and supported half of it. I cancelled my trip, drove to Carson City and testified at the hearing. It is a tough situation to support half a bill. You do not want to throw the baby out with the bath water. However, at the same time, things were done in that bill that harmed our community. It was not in the best interests of our community. If our contractors could somehow do that work, I would love it. If they could do it for less cost, I would love that, but it does not work that way. You cannot ask an employee to be paid a reduced wage on one job, particularly a school of all things, and another wage on a different job.

We are partnered with schools. Our contractors and union members help pay for our apprenticeship programs. The government does not pay for it—we pay for it.

This bill will undo what was done. I know it was a heavy lift, but that is what needs to be done.

JAMES HALSEY (International Brotherhood of Electrical Workers Local 357):
I am speaking today about section 2 of A.B 154. Section 2 is intended to fix the 90 percent prevailing wage requirement on school and university projects.

Senate Bill No. 119 of the 78th Session passed on the premise of saving money on school and university projects. As was mentioned in earlier testimony, the potential savings would be approximately 2.4 percent on each project. To accomplish that, this law eliminated the majority of qualified contractors and their workers from working on these projects unless they agreed to work for 10 percent less than they normally get.

There are multiple electrical systems in our schools, such as lighting, fire alarms, clocks, intercoms, security, temperature control systems, cameras, voice data and Wi-Fi. These are complex jobs and require a trained workforce.

An example of the failure of this law happened in the new Josh Stevens Elementary School in Henderson. That project was bid under the 90 percent prevailing wage law. The electrical portion of this project was awarded to a contractor named Robertson Bright Industries based out of Canada that opened an office in Las Vegas in 2010. It was unable to supply enough workers to complete the project under the timeline.

The general contractor brought in one of our union contractors and paid them 100 percent wages to help finish the project. This project was overdue, and the contractors worked overtime to get it done. That is not how to build a project. This obviously drove up the cost of the project and eliminated any anticipated savings.

There are over 20 new schools in the pipeline to be built, along with many remodels. We need the law changed back to full prevailing wage to make sure these projects get the qualified workers they deserve.

PETER KRUEGER (National Electrical Contractors Association):
I say "me too" to what has been mentioned previously.

RUBEN R. MURILLO, JR. (Nevada State Education Association):
We believe that every Nevada student and teacher, educator and support person deserves a quality public school to teach and learn in. The Nevada State Education Association (NSEA) works for improved wages, improved working conditions for educators and supports the efforts of our sisters and brothers to secure the same in all economic sectors.

The NSEA sees A.B. 154 through the lens of fairness and improving wages and working conditions in and around our school communities. Requiring contractors on public works projects to pay living wages to their workers is an investment in our families and our communities. When we are able to lift the standard of living of families in our communities, everyone benefits.

Assembly Bill 154 will help ensure that school construction projects are completed on time and without defects. This will be a benefit to educators and our school communities.

JOHN H. SEYMOUR (International Brotherhood of Electrical Workers Local 401):
I, too, support this legislation. I would like to thank Assemblyman Brooks for his efforts and both the Senate and the Assembly Legislators who have taken the time to meet with me and discuss our concerns.

We have always supported public education, and we will continue to do so in the future. However, the 10 percent reduction in the wage has put us at a great disadvantage. I agree with what everyone else has said.

ROB BENNER (Building and Construction Trades Council of Northern Nevada):
I would like to echo the comments William Stanley made about the problems resulting from S.B. No. 119 of the 78th Session. We have seen the same thing happen in northern Nevada with the school districts. We support A.B. 154.

RUSTY MCALLISTER (Nevada State AFL-CIO):
We support A.B. 154 for all of the reasons previously stated. The idea of 90 percent of prevailing wage has led to a large number of these jobs being awarded to out-of-state contractors. Ninety percent of prevailing wage in Nevada is greater than 100 percent in some of our surrounding areas when comparing the Las Vegas area to southern Utah or northern Arizona.

Not only does Nevada lose out from the workers standpoint, but it also misses the sales tax because those companies get their best purchasing power by buying their materials out of state where their home base is. They purchase the materials, have them shipped into Las Vegas, and we miss the sales tax. There is no sense having Nevada lose out twice. Therefore, for those reasons we support A.B. 154.

PRISCILLA MALONEY (American Federation of State, County and Municipal Employees Local 4041 Retirees):
We have been attending meetings to discuss this issue. We remember S.B. No. 119 of the 78th Session. We are thrilled that there is an opportunity to revisit something that needs to be addressed. Therefore, for all of the reasons previously stated, we support A.B. 154.

ROBERT A. CONWAY (Ironworkers Local 433):
We also support the bill for all the reasons mentioned. However, it has not been mentioned that the 10 percent wage reduction does not come off the fees that the architects or engineers charge, or from the materials, it comes from the

workers. It is not 10 percent, it is closer to 14 percent, 15 percent, or 16 percent depending on the fringe benefit package.

WARREN B. HARDY II (Associated Builders and Contractors of Nevada):
The Associated Builders and Contractors of Nevada (ABC) position is nuanced on prevailing wage. Not only do our members not oppose prevailing wage, most of them support the concept of prevailing wage.

The intent of prevailing wage is to make sure that individuals who are working on public sector projects are not paid less than those working on private sector projects. That is an appropriate objective. However, because of the way prevailing wage is calculated in Nevada, it has gotten away from that. I object to the notion that the wages for one category of public construction should be reduced by 10 percent. My members and I believe wages should be the same.

A 10 percent decrease in wages for school construction is because the prevailing wage is artificially high due to the way it is calculated. Legislation from the Seventy-eighth Session dealt specifically with the way prevailing wage is calculated. It tried to bring some normalcy to that. For example, while private sector wages were being cut across the board during the recession, prevailing wages did not decrease; they continued to increase. The way the prevailing wage is calculated will not allow it to go down partially because it is included in the calculation.

The way the process works under the law passed last Session, if union contractors submit 50 percent or more of the annual wage surveys, then the prevailing wage automatically defaults to the collectively bargained rate. It used to be 30 percent of the surveys. It was changed to 40 percent and then to 50 percent. Therefore, in many categories the prevailing wage is the collectively bargained wage. Everything you heard earlier about labor unions being priced out of the market is accurate. However, the Legislature has the authority to set the prevailing wage. The Legislature has delegated that responsibility and authority to the Labor Commissioner.

Those who testified before are asking that State policy be adjusted to reflect a privately negotiated contract. I do not know where else we do that in public works. Those who testified before me actually illustrated my point that these rates are set in such a way that they can never go down. The private sector adjusts the rate to whatever it is.

Our members like prevailing wage. They do not have a problem with it. All it means for them is when they bid a job, they know what the labor costs are going to be. It does not make any difference to them as contractors. It matters to them as taxpayers.

The quality of work is always spoken about in discussions of prevailing wage. Prevailing wage does not affect the quality of work or safety or anything else. It is a rate that everybody pays. If you do a public works job, you pay a prevailing wage rate. Our position is simply this: the prevailing wage rate ought to be in line with what is being paid in the private sector. It currently is not.

I bring up the construction of the Knudsen Middle School, which was an anomaly, because it occurred between the time the Legislature passed the bill last Session which removed schools from paying prevailing wage and then brought them back in. That project was bid twice, one with prevailing wage and one without. It was several hundred thousand dollars higher with prevailing wage.

The 10 percent reduction from last Session was a reaction to the fact that prevailing wage is high. Was that the right way to do it? I do not think so. The right way to do it is to take a holistic look at how prevailing wage is calculated. It should be done correctly so that it is fair to the contractor, construction workers and taxpayers. We support adjusting the wage so that it is fair and equitable across the board.

We would support eliminating prevailing wage at the State level and adopting the federal prevailing wage. We would support that as an alternative to the process we have that does not allow the prevailing wage to decrease.

TRAY ABNEY (The Chamber):
We oppose this bill. We have worked hard on this issue for several years and finally got some progress in the Seventy-eighth Session. Most of you have heard me talk about the hard work the Chamber did on the Ballot Question No. WC-1 campaign in Washoe County last November. That sales tax increase originated from a bill that Senator Debbie Smith sponsored in the Seventy-eighth Session to build and repair schools. It was much needed in Washoe County just as Clark County has its own struggles. It was personal for me because my son Noah is in the first grade. He attends the most overcrowded school in the Washoe County School District.

This bill makes it more expensive to build schools. We just raised taxes on the people of Washoe County, taking more money out of their pockets to provide for this need. Now this bill will not allow those dollars to be stretched as far. We have a finite amount of resources. If projects are more expensive, there will be fewer of them. That means hiring fewer construction workers in the end. There will be fewer jobs by doing this because you have fewer projects and fewer schools to build.

This bill benefits a few of your constituents at the expense of every taxpayer and child in this State. We cannot go backwards. You were elected to move Nevada forward, not backward. We oppose this bill.

CHAIR PARKS:
We heard testimony that in some cases out-of-state contractors come in, bid on these projects, bring construction materials from out of state and do not pay the sales tax in Nevada. Could you address the overall effect this might have on the economic system?

MR. ABNEY:
I do not have specifics on any of those projects or how many out-of-state contractors come to Nevada. You are talking about paying 90 percent of an already-inflated wage rate. We heard from Mr. Hardy that prevailing wage is not prevailing.

We have talked about bidder preferences this Session and last Session. The Chamber has supported those ideas over the past years. I am not sure that 90 percent of an already-inflated wage rate is encouraging other people to come here. I do not have any specifics for you.

MR. HARDY:
The prevailing wage would not affect that because out-of-state hiring is dealt with through the bidder preference laws. Anyone who is awarded a project has to pay prevailing wage regardless of where he or she is from. We are all on the same page in trying to pass stronger legislation to ensure local employment. The quality and safety of work is not affected by prevailing wage.

JUSTIN HARRISON (Las Vegas Metro Chamber of Commerce):
I echo the comments of my colleague from northern Nevada and remind the Committee that we have a limited number of resources and taxpayer dollars to

pay for these schools. We have seen much growth in southern Nevada. The Chamber supported the bond rollover in the last Session. However, we see this bill as shrinking that pot of money for school construction.

JONATHAN P. LELEU (NAIOP):
When we first testified on this bill, we were in opposition. In fact, this afternoon, we signed in as opposed to the bill. However, the sponsor has been incredibly generous with his time working with us on this bill. Right before the hearing, the sponsor mentioned that there was going to be an amendment on the bill. The sponsor testified to that amendment, and we now ask that our testimony be revised from opposition to neutral.

The reason NAIOP was opposed to this bill was the charter school provision. Charter schools, as we have come to learn, do not use public dollars to finance construction. It is solely private dollars. We thought that this provision would be precedent-setting by applying prevailing wage to projects that were financed by private dollars. That provision has since been removed, and we are now neutral.

PAT HICKEY (Charter School Association of Nevada):
Like Mr. Leleu, we had signed in as opposed to the bill. However, we are grateful to the sponsor of the bill for removing charter schools in his conceptual amendment. Because of that, we will remain neutral.

We appreciate the dialogue we had with the sponsor and being able to point out that charter school construction is not defined as a public work project. It is financed by private contractual arrangements. I want to thank the Spending and Government Efficiency Commission and the Kenny Guinn Center for Policy Priorities that studied the issue about facilities funding for charter schools. They agree with our position that charter schools do not qualify as a public work project if or until we receive public dollars. At that point, we should pay prevailing wages as our traditional counterparts do.

SENATOR RATTI:
I just wanted to dig in a little deeper. I do not claim to be any expert on prevailing wage, but there was some conflicting testimony about out-of-state workers. We are all interested in that issue. My basic understanding of prevailing wage is that it came to be at first because of out-of-state contractors coming in and significantly underbidding local contractors. We created a system that would attempt to reduce that. The testimony from the supporting side was

that it does, in fact, reduce underbidding. However, I heard from the opposition that is does not target out-of-state jobs. Could you comment on that conflicting testimony?

ASSEMBLYMAN BROOKS:
By reducing that threshold on a wage-and-benefits package, it affects the cost of labor significantly more than the 10 percent. It makes it difficult, and in most cases impossible, for some of the local contractors, especially if it is a local signatory union contractor, to be able to even bid on that project.

That was my past life. That is what I did for a living. I owned a company and bid on public works projects over the years. Those companies are operating on razor-thin margins, sometimes 2 percent or 3 percent. When you take a portion of the contract that is 25 percent or 30 percent, you are already significantly out of the money on that contract. It makes it so you cannot bid the job. By doing that, a situation was created in which few local contractors could bid on those jobs. Even at the lower rate, it invited contractors from other states that have a lower cost of living and lower wages to come into Nevada. That was an unintended consequence of that 90 percent portion of the law.

I just want to point out that there are no workers here testifying against this bill. Just those who would like workers to make 90 percent instead of 100 percent of prevailing wage are here. That is a valid point to bring out.

CHAIR PARKS:
We have received a letter of opposition to A.B. 154 from the Henderson Chamber of Commerce (Exhibit F).

We will close the hearing on A.B. 154 and open the hearing on A.B. 271.

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

ASSEMBLYMAN RICHARD CARRILLO (Assembly District No. 18):
I sponsored A.B. 271 on behalf of a coalition of local government public employees. This bill is intended to make the dispute resolution process more efficient and less expensive by changing fact-finding from advisory to binding. Fact-finding is advisory and a panel must decide whether it should be binding, slowing down the resolution process.

RON DREHER (Peace Officers Research Association of Nevada):
I am here today to ask for your support of A.B. 271. I have provided you with a position paper (Exhibit G).

I would like to thank Assemblyman Carrillo for sponsoring this legislation on behalf of many employees in this State who do not have a binding resolution to collective bargaining.

I have submitted a presentation on the history of collective bargaining in Nevada (Exhibit H).

Collective Bargaining was created in 1969 with Senator Carl F. Dodge's bill, the Nevada Local Government Employee-Management Relations Act. After that, fact-finding came to be. There were two types of fact-finding, advisory and binding. The Governor made the decision as to whether an impasse resolution would be binding.

In 1981, the Governor no longer made an advisory or binding decision. The panel that we are going to talk about now makes that decision. The Local Government Employee-Management Relations Board (EMRB) puts together a process to determine whether collective bargaining for regular employees in the State is advisory or binding.

In 2001, Assemblywoman Debbie Smith brought forward A.B. No. 365 of the 71st Session that would have provided binding arbitration to all regular employees. We have an inequity to a degree in Nevada. About 50 percent of employees in local government have what is called "last, best offer arbitration." That includes police, firefighters, teachers and support personnel. The rest of the local government employees have what is called fact-finding. That is what Assemblywoman Smith, later on Senator Debbie Smith, attempted to resolve.

Over the years, between 2001 and her passing, I had conversations with her about bringing this forward. It was an uphill battle. Nevertheless, binding fact-finding is a cost-saving resolution process that works.

Collective bargaining is defined in NRS 288.033 as a method by which labor and management get together in local government settings and resolve issues dealing with wages, conditions of employment and the like. Agreements are negotiated; questions arising under a negotiated agreement are resolved; and a

written contract incorporating any agreement reached is executed if requested by either party. It removes inequities.

There are stages to collective bargaining. Several of them are relevant. I already told you about one in which we sit at a table with management and both parties make proposals. Regular employees have at least six formal negotiation sessions before moving on to the next stage. If no agreement is reached during that time, the next phase is called impasse.

The declaration of an impasse starts the process of getting a neutral third party to break the tie. Police, firefighters, teachers and education support personnel have a tiebreaker. They have last, best offer arbitration.

Last, best offer arbitration differs from fact-finding. Under the *Nevada Administrative Code*, the fact finder does not have the right to put his or her position in the fact-finding resolution; an arbitrator does. Arbitrators do something called dicta. They can present their opinions and try to resolve issues that way.

A few things occur in an impasse. It does not mean you stop talking, it just means there are no more formal discussions. You have off-the-record discussions. At that point, you determine whether the parties agree to have binding fact-finding or advisory fact-finding. According to NRS 288.200, the parties have to agree mutually to have binding fact-finding. If they do not mutually agree, it is advisory only.

If it is advisory only and you still want to have binding fact-finding, you go to what is called a panel. *Nevada Revised Statutes* 288.201, NRS 288.202 and NRS 288.203 determine the makeup of the panel. A list of accountants and attorneys is submitted to the EMRB Commissioner and to each party in the dispute. The parties strike names from the list until there is one attorney and one accountant left. The attorney and the accountant choose a third person to be a member of the three-person panel. Their role is to determine whether the issues in front of them are going to be binding.

Simultaneously during that process, mediation occurs. You can get a federal mediator at no cost. It only costs you the ability to appear and present your case. If mediation fails and the panel has made a decision, or not, the next step

is fact-finding. If there is no resolution or if the panel decides it is not going to be binding and it is advisory only, then we go back to impasse.

In mediation, there is a third party similar to fact-finding. An impartial third party helps to reconcile the differences between a local government employer and a bargaining unit through interpretation, suggestion and advice. The hearing is confidential and off the record. It does not have any teeth unless the parties agree.

Fact-finding is described in law as a formal procedure by which an investigation of a labor dispute is conducted by one person, a panel or a board at which evidence is presented. The fact finder prepares a report describing the issues involved and setting forth recommendations for settlement that may or may not be binding.

The intent of A.B. 271 is to make a fact-finding decision binding. In the cases in which I have been involved, going to arbitration or a fact-finding process is expensive. A few years ago in the City of Reno, an advisory fact-finding cost the Reno Police Protective Association $80,000. The Las Vegas Metropolitan Police Association has gone through this process a number of times.

It would be great if fact-finding were binding because the money we spend will result in a resolution. We are requesting A.B. 271 because it will make the dispute resolution process for local government employers expeditious, efficient and less expensive. It has a fiscal cost savings unless it is kept advisory; then there will be a cost because the tiebreaker we are asking for is in binding fact-finding. There is no tiebreaker if fact-finding is advisory. Neither party has to agree to advisory fact-finding.

In our last hearing in front of the Assembly Committee on Government Affairs, two attorneys testified that negotiating could be perpetual. If management and labor do not agree, the process is repeated. You go back to the negotiating table or back to another fact-finding. This could be a continual process. If the parties continue to talk off the record and never agree, there has to be a tiebreaker in order to reach an agreement. There is no tiebreaker in law unless it is binding. That is what we are hoping for. This does not change the resolution process for police, firefighters, teachers and education support personnel. They are covered under NRS 288.215 and NRS 288.217.

The intent of S.B. No. 241 of the 78th Session was to expedite the collective bargaining process. As you see in my position paper, Exhibit G, that did not happen. There were unintended consequences. Some people made a lot of money on the management side by saying that we can go through this advisory process and if there is no resolution, let us keep going and going and going. Our attempt here is to get to an agreement and get the benefits back to the people who deserve them. We want to reach a binding resolution that does not happen now.

Nevada Revised Statutes 288 requires a local government employer to engage in collective bargaining with the recognized employee organization. Section 1 of the bill clarifies the role of a fact finder and removes the panel process. The EMRB could concentrate on hearings, unfair labor practices and other concerns it has and not worry about putting a panel together. Section 1 also clarifies that the recommendations of the fact finder constitute an award and not a resolution. *Nevada Revised Statutes* 288.150 establishes certain mandatory subjects of bargaining in the negotiation of such collective bargaining agreements. Among those mandatory subjects are sick leave, vacation leave, holidays and other paid or unpaid leaves of absence.

Section 2 of the bill clarifies that leave provided by a government employer to an employee for time spent by the employee in performing duties or providing services for an employee organization is a mandatory subject of collective bargaining. That is already there, but this codifies it so it makes it good for both sides to know that it is mandatory and you have to negotiate that.

Under NRS 288.200, if a local government employer and an employee organization that represents local government employees, other than teacher and educational support personnel, fail to resolve a disputed issue in negotiating a collective bargaining agreement—an impasse, either party may submit the dispute to an impartial fact finder. Before submitting the dispute to the fact finder, the parties may agree to make the findings and recommendation of the fact finder final and binding. 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. This is the process where you have to make that determination. We are trying to change that.

Sections 3 and 7 of the bill remove or repeal the provisions relating to such panels. *Nevada Revised Statutes* 288.201, 288.202 and 288.203 are repealed in section 7 of the bill. Section 3 also provides that the findings and award of the fact finder are final and binding on the parties. Sections 1 and 6 of this bill make conforming changes.

I want to reiterate that we are not amending or attempting to amend NRS 288.215, which covers police and firefighters. They would still maintain advisory or binding fact-finding on their own.

Under NRS 288.217, teachers and education support personnel do not have fact-finding. They go directly from impasse to mediation or last, best offer arbitration if they so desire. They do not have a fact-finding process.

Section 4 of the bill provides that unless the parties to the dispute agree to make the findings of the fact finder final and binding, the report of 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. That is going back and clarifying the fact that NRS 288.215 for police and firefighters and NRS 288.215 for teachers and education support personnel are not being changed.

Nevada Revised Statutes 288.225, authorizes a local government employer to provide leave to an employee 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.

Section 5 of the bill provides that 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 such leave, 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.

Assembly Bill 271, section 7 repeals the panel process, and section 8 makes the effective date of the act July 1.

This is an equity bill. It eliminates disparity in our collective bargaining situations where police, firefighters, teachers and education support personnel have fact-finding, but the rest of the State employees do not.

It is a money saver. You are going to hear the opposition say that impasse means you stop talking. However, nothing is further from the truth. I am going through the panel process with the City of Reno now and as fate would have it, it came about as this bill was going forward. The EMRB will not have a panel put together for another month probably. It takes time. Everyone has schedules. We have struck the names this past week of the five accountants and the five attorneys. The EMRB Commissioners are in hearings in Fallon. Meanwhile, we have struck names for a fact finder so all of this is ongoing. The City of Reno declined to go through binding fact-finding. Therefore, we are following the provisions of NRS 288.201, 288.202 and 288.203. We probably will not get to fact-finding until October. We started these negotiations in April 2016. You can see the process takes a while. If we are going to have to spend money to bring in the attorneys, the fact finder and do all this, why not make it binding.

Other opposing testimony you will hear—I have heard it from both sides over the years—is that all of the arbitrators or fact finders come from California. That is not true. In order to obtain a list of fact finders, I have to submit a letter or an online application to the Federal Mediation and Conciliation Service (FMCS). Within 30 minutes, I will have received a list of regional, subregional or national fact finders.

The EMRB has a list of about 20 fact finders/mediators/arbitrators for the Western states. They are not from California. Their mission is not to come here and give us one thing or give management one thing. These trained neutrals have gone to school and have much experience. They cannot get on the American Arbitration Association panel or the FMCS panel until they have experience. It is a process to go through and to watch these people do their jobs. It is like a court case but not as rigid. However, it does not have a binding resolution.

We want to thank Assemblyman Carrillo for coming forward with this bill. I would not mind doing it on behalf of Assemblywoman/Senator Debbie Smith because this was a wish of hers years ago for all employees. She saw the disparity and inequity in our collective bargaining. Some of us have binding

resolution and some do not. This bill would do that. We respectfully request that you support A.B. 271.

MICHAEL RAMIREZ (Southern Nevada Conference of Police and Sheriffs; Nevada Law Enforcement Coalition):
We thank Assemblyman Carrillo for bringing this forward and we urge you to support it.

MARLENE LOCKARD (Service Employees International Union Local 1107; Las Vegas Police Protective Association for Civilian Employees):
We support A.B. 271.

MS. MALONEY:
The American Federation of State, County and Municipal Employees Retirees support A.B. 271.

RICK MCCANN (Nevada Association of Public Safety Officers):
We support A.B. 271.

CHRIS DALY (Nevada State Education Association):
We are part of the public employee coalition and we, too, support A.B. 271.

TODD INGALSBEE (Professional Fire Fighters of Nevada):
We support A.B. 271.

STEVE GRAMMAS (Las Vegas Police Protective Association):
We thank Assemblyman Carrillo for bringing this bill forward. We support it, and we ask you to support it as well.

MR. ABNEY:
The Chamber is opposed to A.B. 271. We are always concerned about public employees being paid by taxpayers to conduct union business. The unions should pay those people to conduct union business, not the taxpayers. That is why unions collect dues.

Second, we never said that every binding arbitrator comes from California. We are concerned that any out-of-state arbitrator can come to Nevada and impose a budget on a local government when the voters, through the people they elect,

have no say. The arbitrators can leave town without having to live with the consequences of the budget and the costs that they imposed.

For those reasons, we oppose this bill.

DOUG RITCHIE (Chief Civil Deputy District Attorney, Douglas County):
I am the chief labor negotiator for Douglas County. I have some experience in this. Before entering public service, I represented both private and public sector unions in Clark County, including the Service Employees International Union Local 1107, Operating Engineers and the North Las Vegas Police Officers Association. I understand the process, and I see both sides.

At the end of the day, collective bargaining is intended to build and maintain relations between labor and management and to reach consensus on a labor package that is sustainable for the employer and benefits the employee.

Assembly Bill 271 will not make the negotiating process less expensive or more efficient. If that were the case, then they would eliminate fact-finding and go straight to binding arbitration. The fact-finder role would be eliminated. The arbitrator would make both the findings of fact and enter a final determination and award.

Nevada Revised Statutes 288.200 would grant a fact finder the power of an arbitrator by making his or her findings binding with the authority to issue an award. That is what an arbitrator does. For some reason, this convoluted process is being entered into whereby fact finders would be able to make final determinations.

Under NRS 288.215, subsection 10, among public sector employees, only represented police officers and firefighters have binding awards through an arbitrator. The proposed language vastly expands the number of public sector employees who could force binding decisions on the public. That is the truth of what is happening.

The public employees' coalition is trying to impose a binding decision upon public sector employers. The reason you heard from police officers and firefighters is that it is not going to affect them so much as it is solidarity between the brotherhood and sisterhood. However, this will grant binding decisions upon other public employees. If that is the intent of this legislation, it

is not a good idea. However, if you do this, let us be up front about it and streamline the language of the statute because it is convoluted and does not make much sense. It will certainly complicate the process.

An arbitrator must accept one of the written statements submitted by the union employer and then issue a final and binding decision. Fact finders will listen to evidence from both sides. They tend to split the baby. They will reach a compromise on what they think the public sector employer is able to pay. Many times that is what it comes down to—the ability to pay. Therefore, a fact finder's findings will be a compromise.

Arbitrators are different. A previous testifier talked about the last, best final proposal. Both sides have to make their best, last proposals to try to make a deal with an arbitrator. The arbitrator cannot pick and choose. The arbitrator must choose one or the other. The benefit of this is that it moderates both parties' positions. Both the union and the employer have to moderate their positions so their proposals are the most reasonable that they think the arbitrator will choose. One side needs to be more reasonable than the other side in order to have a hope of having their proposal accepted by the arbitrator. This bill will eliminate that. I cannot emphasize enough that the arbitration process helps incentivize both parties to moderate their positions, so there is the hope that the arbitrator will pick their position.

The proposed changes to NRS 288 would sabotage this arbitration process by making fact-finding binding. We have existing caselaw and decisions by the EMRB on binding arbitration and awards. However, the proposed new statutory language will create uncertainty. This new process will create many disputes over what the process means and how it works. Not only is there binding fact-finding, for some reason they have retained language regarding binding arbitration.

So, what is going to happen? There will be disputes over the process, not the substance of labor agreements. That is great for attorneys. It is full employment for us, but it will not help improve labor relations, and it will not streamline the process or save anyone money.

For example, section 4, subsection 1, paragraph (c), subparagraph (3) which deals with firefighters and police, states that the findings and recommendations of the fact finder are not binding on the parties unless the parties agree to it or

a panel is formed. However, the proposed language in the bill in section 4, subsection 1, paragraph (c), subparagraph (2) states that the provisions of NRS 288.200 will apply. So you look back at NRS 288.200 under the proposed language in section 3, subsection 5 which states that the fact finder's award is final and binding on the parties. So which is it? Is the fact finder's decision binding or is it not binding.

It is great for attorneys because we get paid by the hour to argue over this. The point is that we are going to be arguing over process versus the substance instead of trying to reach an agreement between labor and management.

It is true that because fact finder's decisions will be binding, we do not need a panel. I have been doing this for a while, and I looked up EMRB decisions. It has formed only one of these panels. The reason why is because the employer and the labor association can usually agree about whether the fact finder's determinations are going to be binding or nonbinding. Labor relations have fallen pretty far if you cannot at least agree on that.

I would also like to point to one provision in section 5 of the bill which deals with performing duties for an employee organization. The parties can negotiate over employee organization time. What is unclear is that the language states there is a rebuttable presumption that concessions were made, and you have to present by clear and convincing evidence otherwise. That is a stiff standard of proof. As a practical matter, that means that unions are going to be able to do union business on employer time. That is fine. That is why we negotiate. However, it would be unusual for taxpayers to pay for certain employees to be able to engage in private activities for a private association. That is what this is. A union is a private association of like-minded people who are collectively bargaining. If I am a member of the ACLU, the Boy Scouts or any other private association, I cannot do their business on employer or taxpayer time even though it is a worthy cause. I am not saying that association business is not a worthy cause.

At the end of the day, the key thing is that labor and management have to work together to provide compensation packages that allow employees to raise their families.

Assembly Bill 271 will not make this simpler, more streamlined or save money. If the intent is to expand the number of public sector employees who have

binding decisions, then let us be up front about it. Get rid of all the weird, strange things they have tried to gerrymander into this language to get their goal. It creates confusion; and it will create much billable time for attorneys.

MARY WALKER (Carson City; Douglas County; Lyon County; Storey County):
The proponents of A.B. 271 have stated one of the primary reasons for the bill is for cost savings and time savings. I asked our four county governments what the cost is for mediation, fact-finding or the panel and whether the local governments would save money or time if A.B. 271 were enacted.

Carson City and the Carson City Employees Association entered into a six-year contract agreement from July 1, 2015, to June 30, 2021. It did not use mediation, fact-finding or a panel during these negotiations. As Mr. Ritchie stated, the EMRB testified that these panels are rare. Therefore, for Carson City there was no cost associated with the negotiations. Federal mediators also provide free mediation services.

In addition, Carson City believes that if A.B. 271 were enacted it would not enter into multiyear contracts any longer due to the risk of a fact finder from another state directing the City what it will pay for salary and benefits to its employees. Therefore, the City would only negotiate one-year contracts if A.B. 271 were enacted. This will significantly increase the cost to the City and its employees since they would have to negotiate each year rather than have multiyear contracts.

For Douglas, Lyon and Storey Counties it was the same. Douglas County went through negotiations with its general employees in 2012, 2015, 2016 and 2017. They did not use a panel, mediation or fact-finding. They also believe that if A.B. 271 were enacted, they would only negotiate one-year contracts in the future. Lyon County was similar. The only difference for Storey County is that it used mediation only one time in the past and that was a free federal mediator.

As a former local government finance director for Carson City, when you go into these negotiations and into fact-finding, you are talking about the ability to pay. That is the primary issue. I have always appreciated having a fact finder come in. It is more of a peer review or an independent third party coming in and determining if the funding is available or not. I was able then to review those reports, do some calculations, work with management and then make an offer. Most of the time, that is when we were able to resolve all of the issues.

Assembly Bill 271 takes away the ability to resolve issues with employees. Instead, we would have binding fact-finding. A fact finder will decide what we must do.

WENDY LANG (Director, Human Resources, Douglas County):
Fact-finding is an opportunity to determine the facts being disputed in collective bargaining. This allows the parties to engage in productive discussion using the facts. As facts are being assessed, it is premature to bind parties to rulings.

The collective bargaining process includes a final step of arbitration. If the desire is to provide binding decisions for general employees, arbitration is the appropriate place to do so. Arbitration is appropriate because arbitrators are trained in and must abide by regulations appropriate to the scope of their role, which is different from the role of a fact finder.

Each step of the collective bargaining process adds value. Altering fact-finding will not save money. However, it will remove a vital, value-added step of the process.

MR. HARRISON:
The Las Vegas Metro Chamber of Commerce opposes A.B. 271. It has concerns with numerous things in the bill, but most specifically in section 2 regarding union business being done on employer time. The language includes the rebuttable presumption. Taxpayer dollars are being entrusted to work for a private entity.

Additionally, by going straight to binding fact-finding, the bill dissuades parties from coming to the table to negotiate.

CHAUNSEY CHAU-DUONG (Southern Nevada Water Authority; Las Vegas Valley Water District):
We too, have concerns about the bill. We share and echo the same concerns and sentiments previously mentioned. We have reached out to the sponsor and the various stakeholders on this bill, and we look forward to working with them to come to an amenable resolution.

AUSTIN OSBORNE (Administrative Officer, Human Resources Director, Storey County):
I am the chief negotiator for all of our collective bargaining agreements. Storey County opposes all of the components of A.B. 271 with emphasis on binding fact-finding. It increases costs and eliminates the last-chance opportunity for both of the parties to come to an agreement.

Storey County prides itself on bargaining in good faith with its employees and doing what is right. However, disagreement happens sometimes and sometimes late in the bargaining process. Fortunately, we have always been able to reach agreement.

As stated in earlier testimony, we used FMCS in one bargaining agreement. In that case, the employer and employee arrived at a consensus. There were no costs to anyone including the union. Both parties were happy at the end of bargaining; and to this day, they are happy with the bargaining agreement that came out of that process.

If a matter goes to fact-finding under NRS, the parties can still attempt one last chance to come to an agreement. In this process, they can come to an environment of new facts. They can trade and bargain on other items that were previously negotiated. They can still use FMCS at no cost to both of the parties and work out other means that might be created during the process. All of this occurs before binding arbitration, a process that is very rare in this area.

Assembly Bill 271 eliminates these opportunities. There is no chance to even look at them and discuss them. All parties lose, the employer, the employees and the union. When all is said and done, morale declines, which lasts for a long time. Please do not approve A.B. 271. It is poor legislation that does not help anyone.

CAMERON MCKAY (General Manager, Kingsbury General Improvement District):
We have 13 employees, 8 of whom are union members. This bill would have an impact on us in a rural area that is hard to put a price on.

We all work together as one group from the board of trustees down to the employees for the health and safety of the community. This would drive a wedge between management and the workers because we would not have a

chance to meet, discuss and come to a conclusion that is satisfying to both parties.

Going forward, I would have to go to one-year contracts only because I cannot foresee what a fact finder might impose upon us. This would increase our costs significantly.

Many of the other points I share have been brought up already. I urge you to oppose this bill. I have also submitted written testimony opposing A.B. 271 (Exhibit I).

DAGNY STAPLETON (Nevada Association of Counties):
We oppose this bill on behalf of all of Nevada's counties. We share the concerns as expressed by Douglas and Storey Counties. We direct your attention to the letter of opposition submitted by Washoe County (Exhibit J).

In general, we agree that making fact-finding binding will compromise and make the negotiation process less effective.

WES HENDERSON (Nevada League of Cities and Municipalities):
We also oppose A.B. 271 for all of the reasons that have been stated previously.

MORGAN DAVIS (Assistant City Attorney, Office of the City Attorney, City of Las Vegas):
The City of Las Vegas opposes A.B. 271. The collective bargaining system is not perfect, but it is not broken to the point suggested. The process should be collaborative. We attempt to resolve as many issues as we can. The process works when the parties are in control of as many features as possible. This bill would derail that.

One of the primary purposes being offered as the need for this bill is that the lack of finality and the panel system is expensive. In the 28 years that I have practiced, I have only heard stories of the panel used on one occasion. I have never been involved in it and none of the associations that I have worked against have ever been involved in it. I have negotiated many agreements. We have resolved conflicts among ourselves at every step, mediation, fact-finding and arbitration. We have never had to resort to the fact-finding panel to decide if something should be binding.

I have never heard of a case where any labor-management impasse procedure has been left without finality. It is a hypothetical that has never happened in my experience of almost 30 years.

Even if you were to attempt to streamline this bill to create parity between nonpublic and public safety organizations, when they go to arbitration, they have a last, best offer. Under this bill, you would have a binding decision, but it would not be on the last best offer. It would be the so-called split the baby. It is dangerous to empower a final decision by someone, whether it is a well-versed arbitrator from California or elsewhere who could possibly select a binding decision that was neither of the proposals made by either entity.

I share many of the comments made previously. The City of Las Vegas also opposes section 5, subsection 2. Making concessions subject to a rebuttable presumption is an almost impossible burden.

YOLANDA GIVENS (Chief of Litigation, Civil Division, Office of the District Attorney, Clark County):
Clark County is opposed to A.B. 271. We share the concerns articulated by Ms. Walker, Mr. Ritchie, Mr. Morgan and the representative from Storey County.

I will add some additional points for your consideration. There is no reason to think that this bill is a remedy to a problem. There is already an obligation to bargain in good faith. There is already an agency, the EMRB, that can enforce good-faith bargaining. There is already a process to expedite bad-faith bargaining cases. In fact, bad-faith cases are rare before the EMRB. There is already an option to ask for binding fact-finding. If there were really a problem, binding fact-finding would be constantly requested. It is not happening. Hence, there is no demonstrated need to tinker with the current system.

Section 5 of the bill regarding the rebuttable presumption noted by previous testifiers is no small matter for Clark County. For example, for just 1 of our bargaining units, and we have approximately 13, the union leave time for 1 fiscal year, 2017-2018, was projected to be 6,482 hours. That cost is over $500,000. There is no reason that should be singled out as a mandatory subject of bargaining to have the rebuttable presumption attached to it.

For those reasons we ask that you not accept this bill.

MR. DREHER:
In my experience from 33 years of doing this, the opponents of this bill do not understand collective bargaining in Nevada. When you talk about NRS 288.215 and 288.217, it is binding fact-finding versus last, best offer. The Committee has to know some things. Under NRS 288.215 and 288.217, when the parties reach an impasse, they move to last, best offer arbitration. The arbitrator hears a case, the positions of the parties are given to the arbitrator, and the arbitrator then has the ability to say the parties have three weeks to reach a binding decision. That is not a last, best offer but a binding decision. The parties sit down and try to reach an agreement. They have seven days to make a decision. If they do not make a decision in seven days, each side gives the arbitrator a piece of paper containing their positions. That arbitrator chooses one or the other. That is how that works.

If the parties decide to go through the binding fact-finding process, that means a third party will review the issues and come up with a compromised resolution. It is not last, best offer arbitration. The binding fact-finding that we are asking for in A.B. 271 is not a binding decision on one position or the other. The fact finder looks at both sides, determines what has merit and then gives labor something and management something or gives 100 percent to either party. That system works that way. I do not want that confused with what we are trying to do with A.B. 271.

I have been doing this for the City of Reno for a long time on behalf of the Reno Police Protective Association and many other groups. We have asked them to negotiate on weekends and after hours. Nobody wants to do that. We do not have a problem doing that. I go back to the language that was just talked about on the release time provision. Senate Bill No. 241 of the 78th Session has the same language as this bill. We did not change anything. We are not taking away Senate Bill No. 241 of the 78th Session. The concession language is located in A.B. 271.

We come back down to how the budget is done by arbitrators. The arbitrators look at budgets. We try to resolve that. Fact-finding has to prove ability to pay. Either they have it or they do not. We are not going there.

I put on the record earlier that an advisory decision cost $80,000. In Washoe County, the associations paid $120,000 for an advisory decision. That is a lot

of money; telling this Committee or me that binding fact-finding does not save money is a fallacy. A binding resolution will save money.

Do we complicate the process? Absolutely not. Only one-year agreements do not happen. You can negotiate five- or ten-year agreements. Carson City Fire Department had a ten-year agreement. Even if they had binding fact-finding, they could still negotiate a ten-year agreement. No one puts any limits on how far out you can go. We are not asking for last, best offer arbitration. We are asking for binding fact-finding—a tiebreaker. A tiebreaker does not exist.

The Nevada Association of Counties and the Nevada League of Cities and Municipalities said there is a problem with this bill. It is going to change everything. No, it happens today the same way it would happen once this bill is passed. The only difference is that instead of being advisory fact-finding, it would be binding fact-finding. Binding fact-finding can split the pie.

If you do not do this for a living all the time, you can get lost in all of this language. That complicates the issue. It is a simple thing—getting to yes.

Harvard University Business School offers good experience classes for management and labor. The American Arbitration Association does also.

We are not asking for arbitration; we are asking for binding fact-finding. I told the Committee the difference between the two.

They spoke about outside arbitrators. The EMRB has a list of arbitrators. It is all there.

If the opposition wants to meet with us, I have no problem sitting down and explaining to people who do this for a living. If you do not do this for a living, it becomes confusing.

ASSEMBLYMAN CARRILLO:
I appreciate your indulgence for A.B. 271. It bothers me that individuals could not meet with me regarding A.B. 271 in the Assembly. Therefore, we have many new faces; however, this has been out there for a while. I am dismayed that none of them came to speak with us before, instead of having to work this out in your Committee. I apologize for that.

CHAIR PARKS:
We will close the hearing on A.B. 271. We will move on to the work session on A.B. 8.

ASSEMBLY BILL 8 (1st Reprint): Revises provisions governing the collection of delinquent municipal utility charges. (BDR 21-323)

JENNIFER RUEDY (Policy Analyst):
I will present A.B. 8 from the work session document (Exhibit K). There were no amendments presented on A.B. 8.

CHAIR PARKS:
Was the question we had for counsel in the hearing on A.B. 8 answered?

SENATOR RATTI:
Yes, I did get my questions answered.

SENATOR MANENDO MOVED TO DO PASS A.B. 8.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:
The next bill in the work session is A.B. 22.

ASSEMBLY BILL 22 (1st Reprint): Revises certain provisions relating to veterans. (BDR 37-123)

MS. RUEDY:
A summary of A.B. 22 is contained in the work session document (Exhibit L). No amendments were presented on this bill.

SENATOR MANENDO MOVED TO DO PASS A.B. 22.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
Our next bill is A.B. 57.

ASSEMBLY BILL 57 (1st Reprint): Revises provisions relating to coroners. (BDR 20-375)

MS. RUEDY:
Assembly Bill 57 is summarized in the work session document (Exhibit M).

SENATOR RATTI:
I did some additional research with the hospital association and one of the northern Nevada hospitals to determine if we need to do something to make sure that hospitals have the ability to make next-of-kin notifications. It appears that we are okay. I will spend more time during the Interim to make sure we are okay. However, my research led me to believe that a hospital would be able to notify a family member if there is sufficient time, even as the law stands today.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED A.B. 57.

SENATOR HARDY SECONDED THE MOTION.

SENATOR HARDY:
I do not know that we resolved the problem about the living person and notifying them of the next of kin. Maybe that is a discussion for another day. That was one of the challenges.

HEIDI CHLARSON (Counsel):
I looked into whether there were problems with either HIPAA or provisions of State law that would somehow limit or prohibit a hospital or a medical provider from notifying the next of kin or the family in this type of situation.

Although HIPAA has an exception for emergency notification when a patient is unable to communicate, nothing in State law prohibits making that type of notification. I cannot state to the particular situation that the Committee heard

about to know why the hospital did not provide notification to the family. However, I did see that nothing in statute prevented it; therefore, amending the statute is not needed.

SENATOR HARDY:
So we will not get into trouble if we notify the rest of the family who may not be the next of kin if we suspect the perpetrator of the trauma to be the one who would be otherwise known as the next of kin.

MS. CHLARSON:
I did not see anything in statute to prohibit that. I do not know how hospitals and medical providers determine whom to notify in these types of situations. I did not see anything in statute that prohibited the type of notification that the Committee discussed earlier.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
The next bill is A.B. 79.

ASSEMBLY BILL 79 (1st Reprint): Revises provisions relating to economic development. (BDR S-404)

MS. RUEDY:
Assembly Bill 79 is summarized in the work session document (Exhibit N). There are no amendments to A.B. 79.

SENATOR MANENDO MOVED TO DO PASS A.B. 79.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
Our next bill is A.B. 98.

ASSEMBLY BILL 98 (1st Reprint): Revises provisions governing the Office of Grant Procurement, Coordination and Management of the Department of Administration. (BDR 18-580)

MS. RUEDY:
Assembly Bill 98 is summarized in the work session document (Exhibit O). There are no amendments to A.B. 98.

SENATOR MANENDO MOVED TO DO PASS A.B. 98.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
The next bill is A.B. 134.

ASSEMBLY BILL 134 (1st Reprint): Revises provisions governing exemptions of certain special districts from certain requirements of the Local Government Budget and Finance Act. (BDR 31-562)

MS. RUEDY:
Assembly Bill 134 is summarized in the work session document (Exhibit P). There are no amendments.

SENATOR MANENDO MOVED TO DO PASS A.B.134.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
The next bill is A.B. 151.

ASSEMBLY BILL 151 (1st Reprint): Provides for the voluntary training of law enforcement dispatchers. (BDR 23-767)

MS. RUEDY:
Assembly Bill 151 is summarized in the work session document (Exhibit Q). There are no amendments.

SENATOR HARDY MOVED TO DO PASS A.B. 151.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
Assembly Bill 258 is the next bill in the work session.

ASSEMBLY BILL 258: Revises provisions governing the Nevada Commission for Women. (BDR 18-852)

MS. RUEDY:
Assembly Bill 258 is summarized in the work session document (Exhibit R). There are no amendments.

SENATOR RATTI MOVED TO DO PASS A.B. 258.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY VOTED NO.)

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CHAIR PARKS:
The next bill is A.B. 324.

ASSEMBLY BILL 324 (1st Reprint): Revises provisions relating to document preparation services. (BDR 19-1091)

MS. RUEDY:
Assembly Bill 324 amends the provisions governing document preparation services by clarifying the definition of such a service, requiring registration with the Secretary of State, exempting certain persons from registering and prohibiting certain acts. The bill requires a person who registers as a document preparation service to pay a nonrefundable application fee of $50 and a renewal fee of $25 every year upon the expiration of the registration. The provision for those fees is what triggered the two-thirds majority vote requirement on the Floor. The fees must be accounted for separately and used to pay for administering the document preparation services program. An application for registration for a document preparation service that is not completed within 120 days must be denied and a new application submitted. Finally, a person who provides document preparation services is prohibited from advertising or representing himself or herself as a paralegal or legal assistant, which implies that the person is operating under the direction and supervision of an attorney.

Assembly Bill 324 is summarized in the work session document (Exhibit S). There are no amendments.

SENATOR MANENDO MOVED TO DO PASS A.B. 324.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
Our final bill for work session is A.B. 337.

ASSEMBLY BILL 337: Revises provisions governing termination of the employment of members of the National Guard. (BDR 36-1134)

MS. RUEDY:
Assembly Bill 337 is summarized in the work session document (Exhibit T). There are no amendments.

SENATOR HARDY MOVED TO DO PASS A.B. 337.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:
That concludes our work session. Having no further business to come before the Senate Committee on Government Affairs, we are adjourned at 3:32 p.m.

RESPECTFULLY SUBMITTED:

_____
Suzanne Efford,
Committee Secretary

APPROVED BY:

_____
Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	2		Agenda
	B	6		Attendance Roster
A.B. 154	C	1	Assemblyman Chris Brooks	Summary of Comments
A.B. 154	D	1	Assemblyman Chris Brooks	Proposed Conceptual Amendment
A.B. 154	E	2	Assemblyman Chris Brooks	Section-by-Section Bill Explanation
A.B. 154	F	1	Henderson Chamber of Commerce	Letter of Opposition
A.B. 271	G	2	Ron Dreher / Peace Officers Research Association of Nevada	Letter Regarding Dispute Resolution
A.B. 271	H	31	Ron Dreher / Peace Officers Research Association of Nevada	Presentation
A.B. 271	I	1	Cameron McKay	Written Testimony
A.B. 271	J	2	Washoe County	Letter of Opposition
A.B. 8	K	1	Jennifer Ruedy	Work Session Document
A.B. 22	L	1	Jennifer Ruedy	Work Session Document
A.B. 57	M	1	Jennifer Ruedy	Work Session Document
A.B. 79	N	1	Jennifer Ruedy	Work Session Document
A.B. 98	O	1	Jennifer Ruedy	Work Session Document
A.B. 134	P	1	Jennifer Ruedy	Work Session Document
A.B. 151	Q	1	Jennifer Ruedy	Work Session Document
A.B. 258	R	1	Jennifer Ruedy	Work Session Document
A.B. 324	S	1	Jennifer Ruedy	Work Session Document
A.B. 337	T	1	Jennifer Ruedy	Work Session Document