

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-ninth Session
May 26, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 2:35 p.m. on Friday, May 26, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Ellen B. Spiegel, Assembly District No. 20

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Debi Szaro, Committee Secretary

OTHERS PRESENT:

Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Jeffrey Haag, Administrator, Purchasing Division, Department of Administration
Craig Stevens, Clark County School District
Marlene Lockard, Nevada Women's Lobby
Kent Ervin, Nevada Faculty Alliance
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates
Kevin Ranft, American Federation of State, County and Municipal Employees
Local 4041

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Forrest Darby
Paul Lenart
Richard Zimke

CHAIR PARKS:

We will open the hearing on Assembly Bill (A.B.) 106.

ASSEMBLY BILL 106 (1st Reprint): Revises provisions governing state governmental procurement. (BDR 27-295)

ELLEN B. SPIEGEL (Assembly District No. 20):

Assembly Bill 106 is designed to help ensure that women and men receive equal pay for equal work. Many years ago, I was working at a large company and I had a job where I was responsible for a large geographical area. The job got too big. The company cut the job in half, and they brought in a colleague to work with me. The markets that we had were cut right in half, so he had half of my original job. We had the exact same job. He had less experience than I had and did not go to as good a school as I did. We were both young and this was one of our first jobs.

We were working late and putting in many hours. One night as we were working late, he turned to me and said, "You know Ellen, I cannot believe how hard we are working and only making \$34,000 a year." I looked at him and said, how much are you making? He said, "\$34,000 a year." At the time I was in my 20s, I had been there for a year with more experience. The next morning I went to my boss and I said to her, "You know, I was talking with Paul last night and he told me he makes \$34,000 a year. What is up with that?" She said to me, "Well he is a guy." I said, "Yes, I know he is a guy, but what does that have to do with anything, we have the exact same job." She said, "Well, you know he is saving up to get an engagement ring, he wants to get married, and then he is going to have to be supporting his wife and his family. You are single, and you do not need the money as much as he does." I said, "That is ridiculous, I am single, I am a single-income household, he will be a two-person household."

The next thing I knew, I was brought in to human resources. I was told that the company was fine having these types of policies and I could leave if I wanted.

I want to make sure here in Nevada, people do not have those problems. I had a bill that dealt with wage disclosure. This bill, however, deals with how the State uses its money for its own purchases. Part of it is that as a public policy directive, we have the ability to say we want our State money to be used in accordance with our State values. This bill requires administrative purchasing to establish a vendor self-certification program. The vendors declare they will provide equal pay for equal work regardless of gender. If they do this, they will be given recognition in the State purchasing system. They will receive a logo that they can use on their own Website, for their marketing materials and advertising promotions. It would grant a limited 5 percent bidding preference which will apply if there are two or more of the lowest-responsible bidders from out of state that are self-certified and within 5 percent of each other. If that happens, then a vendor that is self-certified would be given a 5 percent bidders preference.

The final thing this bill does is administrative. It includes a disciplinary process and penalties for vendors that make material misrepresentations or commit fraud when they are self-certifying. It also requires annual reporting to the Governor and the director of the Legislative Counsel Bureau for transmittal to the Legislature. This will show the number of vendors that are certified, the number that submitted a bid or proposal to the Purchasing Division, the number of certified vendors that received an award, and the number of vendors that were disciplined.

This bill will do a few other things. The first thing is there is no fiscal impact because the implementation is only going to be done within the limits of available resources at the State. The second is there has been some confusion regarding how the bidding process and the bidding preference would work. The Henderson Chamber of Commerce submitted a position statement ([Exhibit C](#)) stating that this could create some administrative issues for businesses. I want to address those points. Participation is voluntary. If a Nevada business does not wish to participate, it does not have to. The way the bill is structured no harm could come to a Nevada business that does not self-certify. I want to be clear about this. If the two-lowest bidders are within 5 percent and one is an out-of-state vendor that self-certified and the other is a Nevada business that did not self-certify, then there is no bidding preference given to the out-of-state company. It is only if the lowest bidders are out-of-state companies that self-certified.

The only way there could be an administrative burden on a company is if it chooses to self-certify to receive the marketing, advertising and promotional benefits; then it would be going through the self-certification process, but it does not have to do that. The company does not have to pay a third party to do a self-certification, it does not have to pay the State. It is voluntary, and the company is getting a benefit from it. That is not a burden, and it is nothing that is mandatory.

This bill, especially with the reporting element, will give us data that we need to know: how women are doing compared to men, how businesses that treat people equally and fairly compare to the ones that do not. We can then look down the road to developing additional policy enhancements that can get us to the goal of having women receive equal pay here in Nevada.

SENATOR GOICOECHEA:

I need some clarification. We have two bidders that are within 5 percent. One is certified, one is not. They are both Nevada companies. Is there a 5 percent preference for the certified company at that point?

ASSEMBLYWOMAN SPIEGEL:

In that instance, no, there is not.

CHAIR PARKS:

I am looking at the fiscal impact notes. Were these submitted prior to an amendment to the bill, and are they still relevant?

ASSEMBLYWOMAN SPIEGEL:

The fiscal notes were cleared when the bill was amended in the Assembly.

CHAIR PARKS:

I was looking at the Clark County School District and the fiscal note it submitted, stating it would have to modify the District's supplier application form and other factors.

ASSEMBLYWOMAN SPIEGEL:

I did not see that fiscal note. The entire program is voluntary.

SENATOR RATTI:

I was excited about this bill when I saw you bringing it forward, I think it is great policy. I know it has been heavily amended. What is the most important thing this is accomplishing now that it has been amended to the extent it has?

ASSEMBLYWOMAN SPIEGEL:

It is doing two things. One is letting businesses that are doing the right thing have something they can use in their marketing and advertising. Rather than coming at them with a stick, we are coming at them with carrots. We are saying we are going to reward them for good behavior, and we are going to be giving them an opportunity to show everyone in the world that they are behaving well. It is an element of the bill that is important. The other thing that the bill does is it has the reporting element; for businesses that do participate, we, the Legislature, will be able to see how they perform.

SENATOR GOICOECHEA:

As I look at the bill, I want to make sure I understand it. There is a three-year penalty if you provide false information?

ASSEMBLYWOMAN SPIEGEL:

There is the possibility of that happening; it is not guaranteed what the penalty is. If someone is misrepresenting information, there is a process where he or she would work with the administrator. There is also an appeals process.

SENATOR GOICOECHEA:

If I was a vendor or small business and was weighing this, I see no real advantage to self-certifying. The only advantage is that if I do the certification, it would be in the event I was bidding against two out-of-state bidders and was within 5 percent. What concerns me is the threat; I am going to go ahead and certify, but if I miss something or someone raises a complaint, I could in fact be prohibited from doing business with the State for three years. You would have to weigh the risk of self-certification outweighing the advantage. At this point, it does not look like there is much advantage.

ASSEMBLYWOMAN SPIEGEL:

There is a difference in an error and something that is deliberate. That is why there is a process in this bill and there is an appeals process. This is not as draconian as some of the other bidding preference bills where there are five-year debarments. The second piece is the benefit they have in their marketing. If

someone looks at the State procurement Website and sees these logos, there can be a benefit to the business from that. The third is if a Nevada business is the lowest bidder, if it is just Nevada companies or if there are out-of-state companies also, then the bidding preference does not apply.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

In the bill's original format, the Chamber did have concerns but with the amendments, the Chamber has moved from opposition to support for a couple of reasons. This becomes an incentive program for Nevada businesses. It is an optional in, and it is self-certified. Many concerns were about burden, and the cost and those were removed. It is now a centric program on business, and the Chamber is in support.

JEFFREY HAAG (Administrator, Purchasing Division, Department of Administration):

The Purchasing Division is neutral on A.B. 106. We do want to provide some additional commentary. Coincidentally, should this bill be passed, it would be facilitated through the e-procurement system that will be funded with A.B. 480, should that pass as well. That is an important note.

ASSEMBLY BILL 480: Authorizes the assessment of an administrative fee on certain public purchases. (BDR 27-899)

To Senator Goicoechea's question earlier, I want to put in the record, this is Assemblywoman Spiegel and a larger stakeholder group who participated in this measure, and it was necessary. The result was good, and much of what was talked about is we need to lead with a carrot rather than a stick. Should this pass, it has to be implemented in a thoughtful way that encourages businesses to participate. It has to be facilitated in a way that draws greater participation by industry and is not something that would deter industry from engaging with us. I think we would all agree we need more competition, not less. If we have the technology to support this, we will be able to do it in a cost-effective way, collecting the data on an important initiative and, hopefully, giving those people within industry that choose to participate within the self-certification program something they can be proud of.

CRAIG STEVENS (Clark County School District):

Clark County School District is in support of A.B. 106. We appreciate the bill sponsor for working with us on this bill. I know that we do have a fiscal note;

however, the amendment did remove the fiscal note. This is one of the most collaborative bills I have seen this Session. I appreciate the large group that came together to figure out the differences.

MARLENE LOCKARD (Nevada Women's Lobby):

The Nevada Women's Lobby supports A.B. 106. We are excited to begin to publish on our different networks the lists of businesses in Nevada that are certified.

KENT ERVIN (Nevada Faculty Alliance):

The Nevada Faculty Alliance is pleased to support A.B. 106.

ELISA CAFFERATA (Nevada Advocates for Planned Parenthood Affiliates):

The Nevada Advocates for Planned Parenthood Affiliates are here in support of A.B. 106.

SENATOR MANENDO MOVED TO DO PASS A.B. 106.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

We will now begin the work session. The first bill for the work session is A.B. 141.

ASSEMBLY BILL 141: Revises the organizational structure and purposes of the Office of Minority Health. (BDR 18-214)

JENNIFER RUEDY (Policy Analyst):

Assembly Bill 141 was heard last Wednesday. The work session document ([Exhibit D](#)) gives an overview. It changes the name of the Office of Minority Health in the Office for Consumer Health Assistance in the Department of Health and Human Services (DHHS) to the Office of Minority Health and Equity and converts it to an office within DHHS. The bill clarifies the Manager of the Office serves at the pleasure of the Director of DHHS in the unclassified service

of the State and will provide administrative support to the Advisory Committee on Minority Health.

The bill also expands the definition of “minority group” to include persons with disabilities, persons who share the same sexual orientation, and transgender persons. The measure gives the Office of Minority Health and Equity authority to make policy recommendations and to engage in advocacy on behalf of minority groups with respect to certain health issues.

The Director of DHHS and the State Board of Health is required to appoint nine voting members to a restructured Advisory Committee on Minority Health with staggered two-year terms. The terms of the current Advisory Committee members are set by the bill to expire on July 1. Finally, the Legislative Commission must appoint a Legislator to serve as an ex officio, nonvoting member on the Advisory Committee.

SENATOR MANENDO MOVED TO DO PASS A.B. 141.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

The next bill in the work session is A.B. 480.

MS. RUEDY:

Jeff Haag gave a shout-out for A.B. 480 in the previous bill’s presentation. It is the e-procurement bill addressed in the work session document ([Exhibit E](#)). This authorized the Administrator of the Purchasing Division of the Department of Administration to assess an administrative fee, not to exceed 4 percent of the total cost, to be paid by vendors from whom the Administrator has obtained supplies, materials, equipment and services.

The bill also authorizes the Purchasing Division to use this fee to offset operating expenses, including the cost of establishing and maintaining an online bidding system or a computer system to assist with the procurement process. There were no amendments presented on this bill.

SENATOR HARDY MOVED TO DO PASS A.B. 480.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR PARKS:

We will now go to the work session on S.B. 486.

SENATE BILL 486: Provides for collective bargaining by state employees.
(BDR 23-1040)

Ms. RUEDY:

Senate Bill 486 was heard by the Committee on April 7. The work session document ([Exhibit F](#)) includes Proposed Amendment 4948. The bill authorizes collective bargaining between the State and certain State employees and makes conforming changes to the statutes.

The name of the Local Government Employee-Management Relations Board is changed to the Government Employee-Management Relations Board, and its duties are expanded to include hearing and deciding disputes between the State and certain State employees.

In Proposed Amendment 4948 section 21.5, on or before July 1 of each year, the Government Employee-Management Relations Board shall charge and collect a fee from the Executive Department in an amount that is equal to not more than \$10 for each employee of the Executive Department who was employed by the Executive Department during the first pay period of the immediately preceding fiscal year. The Executive Department must pay the assessed fee on or before July 31 of each year. The fee may not be assessed against its employees. If the fee is not paid by the due date, the Board shall impose a civil penalty of not more than \$10 for each employee for whom the fee was not paid. No reduction or refund in the amount of the fee assessed is allowed if an employee is not employed for a full calendar year. The fee must be assessed whether or not the employee is a member of an employee organization.

Section 25, subsection 3 is amended so that the Board is not required to conduct a certain preliminary investigation of a complaint.

Section 27 subsection 1 is clarified to require the Board to establish one bargaining unit for each of the occupational groups of employees of the Executive Department as specified. Subsection 3 is amended to delete the definition of a supervisory employee as that is already defined in paragraph (a) of subsection 1, of *Nevada Revised Statutes* 288.075. Instead, it refers to that definition.

In section 44, the membership of the Board is changed from three members appointed by the Governor who are broadly representative of the public and not closely allied with any employee organization, Executive Department or local government employer, not more than two of whom may be members of the same political party. Now the amendment provides one member appointed by the Governor who is broadly representative of the public and not closely allied with any employee organization or the Executive Department or local government employer; one member appointed by the Governor from a list of recommendations submitted to the Governor by the American Federation of Labor and Congress of Industrial Organizations or its successor organization; and one member appointed by agreement of the other two members.

Section 47.5 states the terms of all members serving on the Local Government Employee-Management Relations Board on October 1 shall expire as of that date. The two members to be appointed by the Governor to terms starting on October 1 will expire on October 1, 2021. Four years later, the term of the member appointed by the other two members shall expire on October 1, 2019, or two years later.

In section 50, the provisions related to the appointment and terms of members of the Board are effective upon passage and approval, while the remaining provisions are effective on October 1.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 486.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS GOICOECHEA AND HARDY VOTED NO.)

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CHAIR PARKS:

This will conclude our work session.

MR. ERVIN:

Nevada Faculty Alliance supports S.B. 486 and hopes it goes forward. We believe that 2,600 classified staff at the Nevada System of Higher Education should be included in the process ([Exhibit G](#)).

SENATOR RATTI:

I did not understand that the State employees from the University System were not included in this until I had the opportunity to meet with Mr. Ervin. I philosophically believe they should be included as well. We do want to make sure that this bill moves forward.

KEVIN RANFT (American Federation of State, County and Municipal Employees Local 4041):

Representing State employees, Senator Ratti, we have identified that as well and will be looking at striking section 18, subsection 2, paragraph (f) on the Assembly side and removing that portion altogether.

CHAIR PARKS:

What section are you referring to? Was it section 18, subsection what?

MR. RANFT:

Section 18, subsection 2, paragraph (f) will be stricken with a possible amendment on the Assembly side.

FORREST DARBY:

I would like to say that I am strongly in favor of S.B. 486, and I hope it passes and becomes law.

PAUL LENART:

I am not a member of the American Federation of State, County and Municipal Employees: however I am here to speak in favor of S.B. 486. I think I have

some standing on this matter. I have been in the work force for 48 years. I have worked with contracts, I have worked without contracts, I have worked for public employers, and I have worked private employers. Having a contract gives you some rights which can then be enforced.

RICHARD ZIMKE:

I have been before the Public Employees' Benefits Program Board as well for the record. We need to be at the table. Collective bargaining was part of the deal for us to survive the Great Recession. I want us to be prepared for the next recession that comes along, but I also want everyone to be aware of how important collective bargaining is. It is yet another voice for you, the Legislators, to understand that many of us work for you. My name has been mentioned in some Committees, and I am very proud of that. I work very hard for the people of the State, often beyond the scope of my job duties, and will continue to do so. Please realize that many of us are on public assistance, and we do not want that. My wife does not have health insurance because the cost is too expensive. We made that choice. Things will get better, things will get brighter, and I always instill in the people I talk to that each one of us has a gift. State employees each have a gift. Please let us be at the table, so each one of us can demonstrate that gift.

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CHAIR PARKS:

There being no further business to come before the Committee, the meeting is adjourned at 3:12 p.m.

RESPECTFULLY SUBMITTED:

Debbie Shope,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	5		Attendance Roster
A.B. 106	C	1	Henderson Chamber of Commerce	Position Statement
A.B. 141	D	1	Jennifer Ruedy	Work Session Document
A.B. 480	E	1	Jennifer Ruedy	Work Session Document
S.B. 486	F	22	Jennifer Ruedy	Work Session Document
S.B. 486	G	1	Nevada Faculty Alliance	Testimony