

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

**Seventy-ninth Session
May 31, 2017**

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:37 p.m. on Wednesday, May 31, 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
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Michael Alonso, Renown Health; Hometown Health
Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Jeffrey Haag, Administrator, Purchasing Division, Department of Administration

CHAIR PARKS:

We will open the hearing on Assembly Bill (A.B.) 280.

ASSEMBLY BILL 280 (1st Reprint): Revises provisions relating to preferences in bidding for certain contracts for businesses based in this State. (BDR 27-1060)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):

This bill has been significantly modified from its original form. I prefer that those who contributed to its modification answer questions about that.

Originally, A.B. 280 was an effort to have a State policy that extends a 10 percent purchasing preference to Nevada businesses similar to the way preference functions with public works. After speaking with people who were more engaged with purchasing, it became apparent to me that purchasing does not operate the same as public works. If that is what we were intending to do, flexibility in how we approach this is needed. It also became apparent to me that what we were trying to accomplish needs time in order to determine if it is effective.

Before you today is a modified version of that bill that intends to take into account purchasing concerns, the differences between purchasing and public works, and the flexibility to determine if the purchasing preference is effective.

I am aware of what I consider a friendly amendment proposed by Hometown Health ([Exhibit C](#)). It is clarifying in nature. I do not want to overlook that it is my intention to add Assemblywoman Jill Tolles to the bill as a primary sponsor. Assemblywoman Tolles and I started with different bills that attempted in different ways to address the preference idea. This bill is a combination of those efforts and collaboration with the Purchasing Division to implement purchasing preference in a practical way that makes sense.

The only technical question that I can answer is that my intention is to provide a preference in bidding for certain contracts for Nevada businesses for State purchasing.

I also note that Senator Nicole Cannizzaro has a similar bill. We all started out in the same spot but have gone in different directions. Senator Cannizzaro is a cosponsor on this bill. To my knowledge, the bills do not conflict. Her bill approaches chapter 333 of the *Nevada Revised Statutes* (NRS) in a different manner.

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SENATOR GOICOECHEA:

The bill prohibits granting the preference for the award of any contract which uses federal money. How difficult would it be to separate that out?

ASSEMBLYMAN FRIERSON:

I will defer to the people who work in this area to answer your question.

MICHAEL ALONSO (Renown Health; Hometown Health):

We support the bill and we proposed the amendment. It is a clarifying amendment that Jeffrey Haag helped with, so any questions on the multistate cooperative can be sent his way.

Nevada Revised Statutes addresses commodities where bids are based on the low bid and under NRS 333.335 on the services side, bids to provide services for the State are based on a high score. Because there are different ways of measuring bids, we are trying to accommodate that in the bill.

CHAIR PARKS:

I think that we understand how you evaluate service proposals. It is simple.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce supports A.B. 280. We appreciate the work that has been done by Assemblyman Jason Frierson and Assemblywoman Jill Tolles. We are comfortable with the amendment offered by Mr. Michael Alonso on behalf of Hometown Health.

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

Section 5, subsection 2, paragraph (b) addresses the use of federal money. The majority of federal funds have restrictions regarding what the federal government calls a geolocation preference. They do not allow those in the majority of federal funds.

At the beginning of the development process for a request for proposal with a State agency, we identify what its funding source is. At any point when an agency reaches out to the Purchasing Division for procurement support, it identifies that a portion of that solicitation would be paid for by federal funds, and those funds do not allow for a local preference. This language allows us to

roll the preference off. The preference would not apply to that solicitation because federal funds are being applied.

The intent of this language was not to create an environment that could jeopardize the amount of federal funds the State receives today or should want to receive in the future.

SENATOR GOICOECHEA:

That is what concerns me. If the bidding agency were a local government, it would have federal dollars somewhere in its budget.

MR. HAAG:

We were purposeful in working with Assemblyman Frierson and Assemblywoman Tolles to take local government out of this preference bill. It will only apply to those contracts awarded because of NRS 333.

SENATOR RATTI:

I think what Senator Goicoechea was asking is when local government is actually a bidder. Did this bill originally enable local governments to apply a similar bidding preference for their purchasing programs?

MR. HAAG:

Yes, it is my recollection, but I would want to confirm with Assemblyman Frierson that they were included initially.

SENATOR RATTI:

Therefore, what I heard in Assemblyman Frierson's testimony was that we want to give this a two-year trial to see how it works. Is extending it to local governments, perhaps once the kinks are worked out, part of that conversation?

MR. HAAG:

That is a potential. I have put extensive testimony on the record on this subject.

This is a slippery slope. Many states have gone before us in these preferences. None of them have been able to prove it a benefit. This is a thoughtful approach to an important subject to me personally as the Administrator of the Purchasing Division and for many of us who want to see Nevada businesses put first. We do not have a successful track record in this.

I hope we are successful this year in adopting some procurement technology that will allow us to be more informed and be able to measure the impact of this preference bill. I hope that I have the opportunity to come back next Session and have a purposeful conversation with you about how well this did or did not do, what changes are needed and where we potentially have opportunities to extend it to local government.

CHAIR PARKS:

Do the provisions of this bill apply to procedures for the Purchasing Division?

MR. HAAG:

Yes, you are correct.

SENATOR HARDY:

Could you address the multistate cooperative? We have to write it in somehow.

MR. HAAG:

Nevada participates extensively in multistate cooperatives. That has been Nevada's historical behavior. The one that we participate in is called the National Association of State Procurement Officials ValuePoint. These multistate cooperatives represent one state, Nevada for example, that leads a solicitation on behalf of multiple other states. It could be one or it could be 50 states. In the beginning, Nevada was focused in engaging with other states to gauge their interest through an intent to participate. The other states' terms and conditions are factored into the solicitation. Vendors have the opportunity to review those on the front end. Any vendors that are awarded the contracts as a result of that solicitation have all of the states that completed their intent to participate. The states now have the option to buy from that contract with the expectation that it has met their respective state procurement codes.

SENATOR HARDY:

You gain an opportunity to buy things by the amount of stuff you contract with to buy. Is this going to be legal, or how are we going to take advantage of that in Nevada with this bidding preference? No one does this somewhere else, so Nevada may get to be the reference state more often than it has been.

MR. HAAG:

I am not sure I am following your question, but let me try to answer it. What happens when states in these multistate cooperatives have local preference

laws that conflict with either retaliatory laws in those states for local preferences or in some cases with the respective local preference law within the respective state? Our objective in having the latitude to roll back the local preference on those contracts that represent a multistate opportunity is to take advantage of economies of scale. The theory would be that if 30 states are participating in a contract for goods or services, they should be able to get better terms and pricing from the vendor. In an effort to take advantage of those economies of scale and to mitigate any red tape or inadvertently eliminate any potential vendor, this language allows the flexibility to say this solicitation is being procured for multiple states. As a result of that, we will not have the local preference.

SENATOR GOICOECHEA:

Because local jurisdictions are prohibited, how are you going to deal with a local government that piggybacks on a state purchasing contract? Will that be allowed?

MR. HAAG:

Absolutely. What we are trying to accomplish this Session is to ensure that we are addressing the needs of local governments in all of our solicitation opportunities. This will not prevent those piggybacking opportunities in any way. Local jurisdictions need to be mindful of the strings attached to federal funds should they choose to piggyback on a contract and federal funds are at play as a result of that award. They must make an informed decision. Fortunately, Purchasing Division staff will help local jurisdictions through that process to ensure that they are not walking into any pitfalls and that they are aware of the federal funding and the implications they may have as a result of the preference.

CHAIR PARKS:

The amendment includes the addition of Assemblywoman Jill Tolles as a sponsor.

We have received a letter from the Henderson Chamber of Commerce supporting A.B. 280 ([Exhibit D](#)).

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 280.

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SENATOR RATTI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR PARKS:

Having no further business to come before the Senate Committee on Government Affairs, we are adjourned at 1:56 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	1		Agenda
	B	2		Attendance Roster
A.B. 280	C	1	Hometown Health	Proposed Amendment
A.B. 280	D	1	Henderson Chamber of Commerce	Letter of Support