

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eightieth Session
May 13, 2019**

The Committee on Government Affairs was called to order by Vice Chair William McCurdy II at 10:05 a.m. on Monday, May 13, 2019, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk
Assemblyman Greg Smith

COMMITTEE MEMBERS ABSENT:

Assemblyman Edgar Flores, Chair (excused)

GUEST LEGISLATORS PRESENT:

Senator Joseph (Joe) P. Hardy, Senate District No. 12

Minutes ID: 1177



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Asher Killian, Committee Counsel
Connie Jo Smith, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Warren B. Hardy II, representing Associated Builders and Contractors of Nevada;
and Nevada League of Cities and Municipalities
William Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades
Union
Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades
Council of Northern Nevada
Vinson Guthreau, Deputy Director, Nevada Association of Counties

Vice Chair McCurdy:

[Roll was taken. Committee rules and protocol were explained.] We will begin the hearing on Senate Bill 243 (2nd Reprint).

**Senate Bill 243 (2nd Reprint): Revises provisions relating to prevailing wages.
(BDR 28-768)**

Senator Joseph (Joe) P. Hardy, Senate District No. 12:

Senate Bill 243 (2nd Reprint) revises the procedure for determining the prevailing wages by changing the geographical area for which the prevailing rate of wages is determined for a county to a region. The bill establishes four such regions:

1. The Washoe Prevailing Wage Region.
2. The Northern Rural Prevailing Wage Region.
3. The Clark Prevailing Wage Region.
4. The Southern Rural Prevailing Wage Region.

The Labor Commissioner is required to survey contractors only in even-numbered years instead of annually to establish the rates for prevailing wage. The Labor Commissioner is required to adjust the prevailing rate on October 1 of each odd-numbered year and reissue the rate only if first, the collective bargaining agreement provides for such an adjustment or, second, any change in a certain Consumer Price Index has occurred since October 1 of the previous year.

Having said all that, the Labor Commissioner, I have heard, would be more interested in changing the even-numbered years to the odd-numbered years, which I would consider a friendly amendment that goes along with changing the odd-numbered years to even-numbered years. That would be the change you would see in the bill if that amendment

is proposed and considered a friendly amendment. I will turn this over to whomever would like to say something positive about the bill.

Warren B. Hardy II, representing the Associated Builders and Contractors; and Nevada League of Cities and Municipalities:

This is a fairly historic day that Mr. Stanley and Mr. McKenzie and I are here in support of the same bill. Through the years, we have been able to compromise on a lot of different issues but never prevailing wage. I appreciate, as I sat down with these gentlemen and I met with Senator Hardy, trying to find a way that would help clarify in reality the rural prevailing wage dollars which are different from the urban dollars that are paid for prevailing wage. I came up with an initial draft. Mr. Stanley and Mr. McKenzie were kind enough to look at it. Senator Hardy, as a person who represents much of rural Clark County, also got involved and was able to broker the agreement that is before you today. This is just a way to make the prevailing wage surveys more accurate in terms of the wage that is actually paid in a rural district.

To describe how it works at a 30,000-foot level, we currently survey by county. There are counties for several trades that do not have, or do not survey, for a particular craft. When that happens, the Labor Commissioner goes to the next nearest population No?

William Stanley, Executive Secretary-Treasurer, Southern Nevada Building Trades Union:

The Labor Commissioner goes to the next most similar job site.

Warren Hardy:

Yes, for the next most similar job site. So there is an attempt to do it but, oftentimes, rural counties in Nevada are so small, these crafts that do not have surveys are just voluminous. So by combining all of the rural areas in the north and all of the rural areas in the south, it dramatically increases the opportunity to have a survey done in that rural area.

In addition, the concept of doing the surveys every two years is also very advantageous to the rurals because they are able to have more time and not have the urgency of doing it. So, this is a unicorn. We appreciate my friends in labor for working with us on this, and we certainly appreciate Senator Hardy's willingness to help with this. I did not draft an amendment. Over the weekend, I understood that the Labor Commissioner wanted to switch the years in which a survey is conducted. The reason for that is it currently says she does not survey in the odd year. She is already in the process of surveying for 2019, so that makes very little sense, so we are recommending we switch the years. She will survey in the odd years; she will not survey in the even years. That also, going forward, fixes the potential problem in that if the Legislature decides to make changes when it meets in the odd years, she has the time to implement it. We are wholeheartedly in favor of that. I am a little embarrassed I did not think of that when we were drafting the bill, but we also consider that a friendly amendment.

William Stanley:

I, too, want to thank Senator Hardy for giving us an opportunity to address this issue. We believe that this issue can bring some clarity to both rural areas and the metropolitan areas so that folks in the rural areas will know that those crafts that perform work in the rural areas, giving it that broader width and breadth, will have a better opportunity of collecting wages that will represent wages that were actually paid in the rural area and wages that were paid in the metropolitan area. We believe that is good public policy, and we want to thank Senator Hardy for working with us to get to this resolution. We are very supportive of this bill, and we think it helps in a lot of ways.

Vice Chair McCurdy:

We have a few questions from the Committee, beginning with Assemblyman Carrillo.

Assemblyman Carrillo:

Anytime it says Hardy and prevailing wage, there is always cause for concern for me. I just want some clarification to put something on the record in regard to the amendment prior to coming to this Committee. In the first reprint, section 3, subsection 2(d) was deleted. It appears that in the second reprint, section 3, subsection 2(d) was put back in as section 3, subsection 3. I just need some clarification that it was never the bill sponsor's intent or the intent of the bill to change section 3, subsection 2(d) of the original bill, and that it will not have any effect on legislation being passed this session—specifically, Assembly Bill 136.

Senator Hardy:

Not that somebody just whispered in my ear, but that 90 percent thing we wanted, it is a drafting error that was involved with that. I will defer to the people who were in my room all at once when we worked that out.

Warren Hardy:

That provision was something that Senator Hardy worked hard with us last session to accomplish. I understand that is going to be repealed in Assembly Bill 136, but we did not want that portion of it repealed on a bill that was sponsored by Senator Hardy. We recognize that is part of at least one other piece of legislation and is going to prevail, but we did not want that particular item being repealed in this legislation with Senator Hardy's name on it.

William Stanley:

My understanding is that the second reprint is the bill that we are actually discussing here today, and that the language that is in the bill today is what is being processed. Then when it goes back to the Senate, this is the language that would be concurred, and that drafting error before will be just that—a drafting error with no influence on the bill at all at this point.

Assemblywoman Bilbray-Axelrod:

I am curious as to who came up with the regions. Obviously, we get Washoe and Clark, but I am looking at populations of, say, Esmeralda County compared to Nye County where you have almost 50,000 people. In Esmeralda, there are about 1,000 people. Just wondering with those discrepancies how that will come out in the wash.

William Stanley:

Traditionally and historically, within the building trades—not the other trades—but within the building trades, the demarcation between the northern building trades and the southern building trades is U.S. Route 6. The counties that are traditionally part of the southern Nevada building trades jurisdiction are Clark, Nye, Esmeralda, and Lincoln, and the rest are in the north. We just thought it would be best to divide those same lines that we have historically and traditionally divided in the north and south.

Warren Hardy:

Just so the record reflects, we understood that. We had no concern or no problem with that, and we supported that being the demarcation line.

Assemblywoman Bilbray-Axelrod:

I appreciate what got you there. I guess my concern is that we will be back in a couple of years carving out other parts because Esmeralda is very different from Nye, and I want to make sure that the best policy is made when we have had these discussions before and we get intent on the record. So if you could address that specifically.

William Stanley:

We think that, for the exact reason you have pointed out, Esmeralda does not have a lot of activity. Esmeralda has a hard time collecting enough data to have a survey when we do it by the county. By including Esmeralda County in with two other rural counties, those being Nye and Lincoln, we have a better chance of having a rural rate actually prevail in Esmeralda County than we would have otherwise.

Assemblyman Leavitt:

Now that it is broken out into regions, the survey process will remain the same, is that correct?

Warren Hardy:

That is correct. It will include multiple counties. In the cases of the two rural counties, it will include multiple counties instead of a single county. It should be a process that is a lot more efficient for the Labor Commissioner.

Assemblyman Leavitt:

One of the issues that has come up in the past is this "zone adder" for rural areas to where the rate is higher due to the zone adders. So if they are surveying a rural area, is the zone adder still included in the rate that they provide, or is that eliminated? How is that going to work?

William Stanley:

The zone pay occurs because it is part of the finances of your collective bargaining agreement, the economics of your collective bargaining agreement. If zone pay prevails in a county, whether it be rural or metro, it is going to prevail if the collective bargaining agreement rate prevails. If the collective bargaining agreement does not prevail, then there will not be zone pay because it will be whatever the prevailing wage rate is. If a prevailing

wage rate does not prevail, then it would be the CPI (Consumer Price Index). There is not a clear answer yet—it depends on what the survey shows. I am not trying to elude the answer. It depends on how the survey happens and whether or not the economic package that prevails when it is surveyed, what prevails is what will be paid even in the rurals, as it is now—that is not going to change.

Assemblyman Leavitt:

I get the bill, and I think it is a good thing. I think part of the purpose of it was to provide a wage rate that is realistic. When you are setting a wage rate determined in Nye County by a collective bargaining agreement or a wage rate that is set in downtown Las Vegas, Clark County, and that adder is put on simply because of the geographical location of the job to central Clark County, it skews the rate. I thought this would maybe clean a little bit of that up. From what I am hearing, it does not, is that correct?

William Stanley:

It may. It could, because you are going to have a larger geographical area in which to survey, and the hope is you are going to have more jobs throughout that larger geographical area with more crafts participating across a larger geographical area. You should get enough participation that the rural areas will prevail. That is not to say that you are not going to get contractors who are traveling from Clark County, who are paying wage rates in Clark County, to Nye County to do work who are taking their wage rates and their packages with them. This should alleviate some of that because we are serving a larger geographical area where we hope there is more construction activity.

Vice Chair McCurdy:

Are there any additional questions from the Committee?

Assemblyman Assefa:

Section 3 of the bill reduces the frequency of the surveys from annually to biennially. Two questions on that: Is it your observance now that the annual surveys are not reflecting changes year to year? Is that why we are pushing it to biennially? And two, how much time and effort does it take on the part of the respondents of the survey and the Labor Commissioner to actually complete these surveys?

William Stanley:

These surveys are onerous on contractors and the Labor Commissioner. We believe that pushing it out to two years is going to alleviate some of that duplicate work. By doing it annually, we believe we are surveying the same work over and over again. Pushing it out will give you a better understanding of what actually happened, and you are not surveying in some instances the same job year after year because the same job can transition a calendar year and be counted in two calendar years. We believe that pushing it out two years is going to alleviate some of the work that the Labor Commissioner is having to do. Obviously, some of the work the contractors are having to do by actually doing this survey every year will also be alleviated.

Warren Hardy:

That is a big deal for the nonunion small contractors, because a lot of the larger companies have entire staffs that deal with these types of things—it is a real burden on smaller companies. In surveying every two years, we do not believe the rate changes enough during those two years to justify doing the survey every year. The CPI increase in the case of the noncollectively bargained rate, and then the new collectively bargained rate, in reality, will likely be the collectively bargained rate in the second year anyway—those are generally locked in. So, it is going to be exactly the same rate whether you are doing the survey or not.

On the nonunion side, it will be the CPI, which is probably about what it is going to be. We think this is a much better process, and it will save the Labor Commissioner time and resources.

Assemblyman Leavitt:

This looks like a pretty straightforward bill, and it looks good. When we are looking at the prevailing wage and the CPI—and this is just you answering in your expert opinion—will this bring the CPI and the prevailing wage closer together, or will it harmonize those two rates?

Warren Hardy:

You have asked a good question. The reality of it is if it is truly the rate that is being paid by the nonunion companies, it is going to be pretty close to the CPI anyway. We think that will bring them closer together.

To your earlier question, I would just add this: We obviously still feel like there are a lot of problems with how the prevailing wage is calculated in Nevada. This does not get to the core of any of those issues, but what it does is take the current process we have and makes it potentially a lot more accurate. Now that is going to depend on the nonunion contractors stepping forward and filling out the surveys and doing the things they need to do. I would guess initially that this is not going to change much in terms of what the prevailing wage rate is, but over time, as contractors familiarize themselves with this new process, we think it is going to make a significant difference to the rural areas.

Assemblyman Smith:

I am curious about the survey in one year and work happening in the year you are not surveying and it is complete. Does it somehow get recorded for the following year, or does it not? If it is a short project of short duration, how does it get captured? Or does it get captured for the survey?

William Stanley:

My understanding of what is proposed here is that in that two-year-period, any work that would have occurred in that two-year period will be surveyed and will be submitted. Any work that occurs in that window will be surveyed and you can submit it. If it is a nonunion rate that prevailed in a craft, the following year you will increase that rate by the CPI, and in

the following year that rate, if it was a union rate, will increase by whatever is in the collective bargaining agreement—that is where the deductions will come from.

Assemblywoman Gorelow:

Could you explain a bit more about how the process is now with the surveys and some of the challenges you are facing going through the process and how long it takes?

William Stanley:

The process today is by county. We have 17 counties, and we survey all 17 counties independently. Only work that occurs within each of those 17 counties is recorded and is forwarded to the Labor Commissioner through the survey process. As you can imagine, that is onerous—you are trying to track every job. You are trying to figure out what hours were worked by each craft, because it has to be broken down by each craft, and it has to be submitted by each craft. It is intensive and it takes a long time. In my previous life I had to do those things; it takes months, and you have staff who are designated to do it because it is important to you, and it is cumbersome and takes a lot of time.

The Labor Commissioner has made this current survey year somewhat easier because now the surveys are submitted electronically. We do not have to fill out paperwork anymore, which we appreciate. It makes it a little less onerous but contractors, for the most part, are required to do this. A lot of labor unions do them on behalf of contractors by having affidavits signed. We submit them and then they have to sign the report, but we collect the hours and we have ways of doing that through our trust funds and other documentation. It is onerous and takes a lot of time, so doing it every two years is going to free up a lot of resources—not only for contractors and labor unions but also for the Labor Commissioner. That is the way it was done previously, county by county; surveys were submitted by paper, the Labor Commissioner had to go through all of that, figure out what it was, then entertain any challenges or appeals, and then publish it by October 1 of each year. Now the Labor Commissioner will publish it by October 1 of every other year.

Vice Chair McCurdy:

Are there any additional questions from the Committee at this time? [There were none.] We will now open the hearing for testimony in support of Senate Bill 243 (2nd Reprint). Please come forward.

Paul McKenzie, Executive Secretary-Treasurer, Building and Construction Trades Council of Northern Nevada:

I can agree with Senator Hardy and Warren Hardy in the hallways, but I could not get up here to sit beside them because my picture would have been on Facebook like William Stanley's is. We, too, support this legislation. It took several weeks of cussing and discussing to come to something that we could agree to. I think that this will be a benefit to not only us but it will save the Labor Commissioner some time and effort.

One of the things that we heard several people refer to is the CPI increase. There is a question about whether that language is clear in this bill, and Warren Hardy said he was

going to come up and make sure that was clear and he did not do that. The provision on page 5, line 13, where it says, "In accordance with the Consumer Price Index," that language is if the collective bargained rate does not prevail. Some people who read this are confused that the Labor Commissioner can decide which one of those she wants to use to do the increase, and that is not the intent of the language. I am not sure if the Legislative Counsel Bureau thinks it will require some language to be moved around to make sure that is clear or not, but there have been some people who have read that and been confused by that language. Warren Hardy was going to clarify that on the record this morning, but he must have had a long weekend and forgot he told me he was going to do that Friday.

We are in favor of this legislation and believe that it would be a benefit to the trades and to the Labor Commissioner. It addresses an issue that I have heard many times. Legislators from the rurals say that they should not be getting their prevailing wage based upon the urban communities. This separates those metropolitan areas out and allows the rurals to survey on their own. I would be happy to answer any questions.

Vinson Guthreau, Deputy Director, Nevada Association of Counties:

We are supportive of this legislation. I think the presenters did a good job in explaining it, and we are thankful for the work of the sponsors and the stakeholders in crafting this compromise and just wanted to put that on the record for the Committee.

Vice Chair McCurdy:

Is there anyone else who wishes to speak in support of Senate Bill 243 (2nd Reprint)? [There was no one.] We will open the hearing for the opposition. [There was no one.] Is there anyone here who is neutral for Senate Bill 243 (2nd Reprint)? [There was no one.] Senator Hardy, would you like to make any closing remarks?

Senator Hardy:

I am going to let my "other hat" speak.

Warren Hardy:

I apologize to Mr. McKenzie. Yes, he is correct, and we intended to clarify for the record that the Consumer Price Index only applies to the nonunion wage and not the collectively bargained wage. Again, I want to thank Senator Hardy for being able to help us compromise on this bill.

Vice Chair McCurdy:

We will close the hearing on Senate Bill 243 (2nd Reprint) and take any public comment either here in Carson City or in Las Vegas. [There was none.]

This meeting is adjourned [at 10:37 a.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.