MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Eighty-third Session
March 26, 2025

The Senate Committee on Government Affairs was called to order by Chair Edgar Flores at 2:55 p.m. on Wednesday, March 26, 2025, in Room 2149 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4 of the Nevada Legislature Hearing Rooms, 7120 Amigo Street, 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 Edgar Flores, Chair
Senator James Ohrenschall, Vice Chair
Senator Skip Daly
Senator Lisa Krasner
Senator Lori Rogich

COMMITTEE MEMBERS ABSENT:

Senator John Ellison (Excused)
Senator Dina Neal (Excused)

GUEST LEGISLATORS PRESENT:

Senator Skip Daly, Senatorial District No. 13

STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Heidi Chlarson, Committee Counsel
Diane Rea, Committee Secretary

OTHERS PRESENT:

Gideon Davis, Administrator, Purchasing Division, Nevada Department of Administration

Charlie Donohue, Administrator, State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources
Noah Villa

CHAIR FLORES:
Please let the record reflect we do have five members present. We do have a quorum.

You should have received notice on a possible work session document for Senate Bill (S.B.) 282. I know that we preemptively notified you of it, but I wanted to make sure that you do have it in front of you. I am going to hand it over to our committee policy analyst to go over the work session document (Exhibit C).

SENATE BILL 282: Revises provisions relating to food security. (BDR 18-75)

JANN STINNESBECK (Committee Policy Analyst):
The bill in work session is S.B. 282 which was heard in this committee on March 12.

There was one proposed amendment presented during the bill hearing. The amendment was proposed by Allison Herzik, Chair of the Governor's Council on Food Security, which proposed to remove the Council on Food Security as an entity that designates an area as a food desert and instead authorizes the Department of Health and Human Services, by regulation, to designate one or more existing areas as a food desert or food insecure area. The proposed language is attached to the work session document.

CHAIR FLORES:
I would like to entertain a motion to amend and do pass [as amended].

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 282.
>
> SENATOR DALY SECONDED THE MOTION.

SENATOR KRASNER:
I really like the concept of this, but I am a little concerned about the $10 million appropriation. I think I am going to have to vote no and reserve my right to change my vote prior to floor.

SENATOR ROGICH:
I am going to vote yes but reserve my right to change my vote on the floor.

THE MOTION PASSED. (SENATOR KRASNER VOTED NO.)

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CHAIR FLORES:
Next on the agenda, we will go back to our bill hearing for S.B. 313.

SENATE BILL 313: Revises provisions relating to state purchasing. (BDR 27-558)

SENATOR SKIP DALY (Senatorial District No. 13):
The genesis for S.B. 313 came to me from serving on the Audit Subcommittee of the Legislative Commission.

One of the audits that was presented there brought into focus a little bit on what was called a questionable use of sole source waiver procedures. The audit report showed that a contract went from its original scope and amount—I do not remember the exact dollars, but it was somewhere around $90,000. Over the course of several extensions without competitive bidding it went to in the neighborhood of $16 million without ever going back for competitive bidding.

When I first submitted the bill for drafting, I had some ideas on the direction that I wanted to head but not that information regarding some of the circumstances that resulted in the audit report we received. I was able to reach out and meet with Purchasing Division Administrator Gideon Davis, who's here today to answer questions on a technical issue. He's not here to support or anything like that, but he will be able to answer questions.

I worked with Mr. Davis on the amendment (Exhibit D) you should have before you, and that is the one I am hoping to work off today. My goal with this bill was to tighten up the use of noncompetitive contracts and to strengthen

policies on competitively bid contracts but allow for the appropriate amount of flexibility for different types and lengths of contracts for services, goods, et cetera.

I am repeating some of the information that was given to me by Mr. Davis. That is why he is here in case you have specific questions. In other words, a one-size-fits-all approach will not be in the best interest of the State. Accordingly, with the help of the Purchasing Administrator, I am proposing the following amendments to S.B. 313.

Section 1, subsection 1 requires a using agency, and that is the term the Purchasing Division uses, I guess, to submit a report to justify entering into a contract without competition. In section 1, subsection 1, [paragraph] (c), we are adding a requirement for the department to post a notice if a noncompetitive contract is awarded, and subsections 2, 3 and 4 provide for the two-step process that starts with an informal objection process resulting in a letter of determination to either withdraw the noncompetitive award or proceed with award and provide any justification for that award.

The second step in the appeal would be a formal appeal procedure which is in existing law in [*Nevada Revised Statutes*] (NRS) 333.370. Section 1, subsection 5 requires the administrator to annually provide the reports generated by subsection 1 to the Interim Finance Committee. I added that we should send it to the Legislative Audit Division and the Audit Subcommittee of the Legislative Commission in even-numbered years in the interims. Section 2, subsection 1 adds services to this section of purchasing provisions and specifies that the period of service must not be longer than ten years. We went through, back and forth, and I am sure the administrator can give you more examples on why that is fair because I will say I struggled with that language, but after several discussions and with the addition of the language to adopt regulations under subsection 6, I think this bill will get to the tightening up we need without completely eliminating the flexibility that is sometimes warranted.

Section 2, subsection 3 put some process around requests for contract extensions beyond the originally intended period of performance and requires the administrator to direct the using agency to solicit and advertise for a new contract. The nuance is that when you put out the original intent, it may or may not include extension provisions. Sometimes it does, and if they go past that extension which was allowed in the original contract, they have to say, “We

want an additional extension." This would allow for that. That extension can't be more than four years under the provisions here, and it has to come with, if it is granted by the administrator, direction to that agency that you got four years. If we give the extension, it might be less, but you have to put this out to competitive bid.

Then in our discussions, there were several examples where the agencies are still not doing it for a variety of reasons. Maybe they do not have staff, maybe they are just ignoring whatever, and that is where we got into some of the other provisions here, which I will get to. If asked, Mr. Davis can explain the types of circumstances that have led to the repeated extensions.

Section 2, subsection 5 will require a using agency that fails to solicit and advertise for a new contract to appear before the Legislative Commission to explain why the new competitively bid contracts have not been awarded.

Again, in the discussions, a lot of this is starting with the budget process we currently have. I am not trying to say that it is wrong or right or anything, but some of it has resulted in this over time, and I think the only way it is going to get corrected going forward is for Legislators to learn some of the issues. I wanted to send it in front of the Legislative Commission for that review so they can hear the explanation; they can hear how they got there and then hopefully start to learn, as I did from the audit [sub]committee, what we need to change to make sure that we are acting in the best interest of the State: we are competitively bidding; public dollars are being used appropriately; and we are getting the best bang for the buck, which is why we even have a Purchasing Division and all the competitive bidding in the first place. As I mentioned previously, section 2, subsection 6 requires the administrator to adopt regulations to address policy for the terms for solicitation and award of contracts; policy for extensions of contracts; and policies to ensure contract extensions and sole source waiver requests are not used to avoid competitive bidding procedures.

I thought about trying to put some of that into the statute, and I believe that is better left to the regulation. There are some procedures and various things in my discussions with the administrator that are in the SAM, the *State Administrative Manual*, which can be changed fairly easily that should be elevated up. Some of it is elevated up to a statute in this proposal which should be elevated up to a regulatory process that's a little more formalized.

I think with that, and I hope you were able to follow that pretty well, we have struck a balance between just do it this way and hammer on them with no flexibility while also trying to give some guidelines that we have expectations to things to be competitively bid. There may be exceptions, but they should be rare and infrequent.

SENATOR OHRENSCHALL:
Would this change any current law posting, requiring that certain bids or posting for bids be published in a newspaper, or would that stay the same?

SENATOR DALY:
To my knowledge, we are not changing any of those procedures. All that would be the same, but Mr. Davis can give further explanation if you needed it.

CHAIR FLORES:
I may have missed it, Senator, but in section 1, is there a specific reason we use 11 days?

SENATOR DALY:
My understanding is that the 11 days is already in their statute on the process they use for people to appeal. If you are doing the appeal, if you went to NRS 333.370, the formal appeal process, if you put in a competitive bid and you were not there, you wanted to appeal, you have 11 days to do it. So that was the recommendation on the 11 days there.

CHAIR FLORES:
I always understood sole source as you need 1,000 glasses identical to that of Senator Skip Daly, and there is only one company in Nevada that can give us the 1 million or 1,000 glasses, or whatever it is, and that is why you do not put it out there for bid. Can you walk me through a hypothetical of how many of these contracts we have out there now? Well, that is not a hypothetical. Do we know those numbers? How many we have out now and then presently, what the process is to challenge that? Maybe there is one big player in town that could give us 1 million glasses over the years. Now, there are a few other folks that came into the space, how that process works now and how they can change that and say, maybe I think I can give you a better price or whatever it may be.

SENATOR DALY:
I will ask Mr. Davis if he feels comfortable to come up. He will have the answers on how many and some of that stuff.

The last part about it is what do you do if you wanted to challenge the sole source? That's why we added in the notice and the objection, the first step part, because right now from what Mr. Davis told me, there is no process. The sole source contract goes out. Nobody may even know about it. But under this provision, what was suggested was that we should at least post it on the website and give somebody an opportunity to object if they want to do the formal appeal later. And then the Purchasing Division under that scenario would at least know there is somebody else out there. I can look at it and say, "We do not have enough time. We need to go forward on this, we are going to collect that debt on this person and advertise next time." Or we are going to say, "There is somebody else. Let us get a bid."

But Mr. Davis can answer the questions on how often and what rules are existing. My understanding, there is no requirement to provide anybody any notice when the sole source contract or noncompetitive without competition contract goes out.

GIDEON DAVIS (Administrator, Purchasing Division, Nevada Department of Administration):
As the administrator of the Purchasing Division of the Department of Administration, I oversee the procurement that is done through NRS 333, and the State Purchasing Act sets forth my primary duties as administrator. To your question about quantity, I do have numbers with regard to how many contracts were awarded via noncompetitive award over the last few years versus how many solicitations were done in those same time periods. I have them by calendar year, and in calendar year 2025, since January, we have approved 12 noncompetitive contracts, and in that time, we have 126 formal solicitations that we have released.

CHAIR FLORES:
I am assuming that the way we determine that we only have 11 possible suppliers, or whatever it may be, is because you initially put it out to bid, we only get one person and then eventually it becomes this kind of we are just going to repeat that contract. I am just trying to determine the answer to that.

MR. DAVIS:
No, not exactly. We have currently in regulation, but it does not exist in statute, NAC [Nevada Administrative Code] 333.150 regulations around noncompetitive awards. Those regulations have been in the statute, I think since around 2012 or so. But they lay out two situations where the administrator may approve a noncompetitive contract, and there are five situations where it does not require the administrator's approval because the State assumes that formal competition is not practical in those purposes. For the two that the administrator approves, which is what is included in these numbers, one is a legitimate sole source, which is the agency has provided sufficient justification that competition cannot be possible, meaning they have demonstrated through evidence that there is literally only one vendor in the world who can do this.

Usually, sole source comes with things that are incredibly new emerging technology or situations where some other entity has already made that decision for us, and so we have to participate in same.

An example of a sole source like that is, there are certain places in the law like in wildlife law related to boater education where the law explicitly says that the Department of Wildlife must work with the National Organization for Boating Education with regard to providing those testing services. That is a legitimate sole source because we have no ability to compete that because the Legislature put the name of the vendor that we must use in the law and explicitly said in the law that it could not be solicited, or it was exempt from [NAC] 333. There are other situations where the federal government mandates a particular vendor as part of a process. Again, there's a Wildlife example with duck stamps where we have to use the federal vendor that produces those duck stamps. But Nevada Wildlife is buying them, and they have ducks native to Nevada on the stamps or something like that.

There are also situations where I have the authority as administrator again under NAC 333.150 to determine that solicitation is not practicable. That sometimes falls into your example. We solicited for something. We have invested a lot in that original system, and it is not appropriate to go back out to bid right now, so it might be appropriate to recoup return on investment to extend that contract longer than we intended to do.

Other situations are where the agency for one reason or another feels they should not go out to bid. There is a process that right now is documented in

NAC and through a form they submit through our office where they can request it. But as Senator Daly said, there is not a formal process for appeal for that. The Purchasing Division does complete an informal process, but it is absolutely a choice right now. We do that as a courtesy to the public because we value transparency. It is not something that is statutorily required. There is nothing in the statute or regulation currently or even in the *State Administrative Manual* that requires public review when we award a sole source contract prior to it being submitted to the State Board of Examiners for consideration.

There was a place on the Purchasing Division website where solicitation waivers were posted for five days, and people were notified they could send us an email if they wanted to protest. When I took over as administrator, we moved to posting them in the same place that we post our competitive solicitations. We advertise our competitive solicitations in NEVADAePro, which is our procurement system, and then in the newspaper as well. From that system we now post, and this bill would require us to post those noncompetitive awards side by side with our competitive solicitations so they would be advertised in the newspaper, same as the competitive ones are, and then they would basically elevate them to equal status with those things that we solicit competitively.

The second part of this change creates a formal process for protesting those. Right now, that process is informal. We post that on our website. If someone complains, I and my team review their complaint and determine whether it is legitimate or not. If it is legitimate, we rescind that solicitation waiver and we notify the agency they have to go out to bid. If we determine that in fact our solicitation waiver was just, we notify them of that. And that is the end of that process.

This legislation would allow someone who received an unsuccessful determination to then appeal in the same way an unsuccessful bidder can appeal a competitive award.

CHAIR FLORES:
I know Senator Daly wanted to add one more point.

SENATOR DALY:
I just wanted to maybe give a little bit more explanation. In the audit subcommittee, one audit that we had was the genesis of this for me. As I recall

on that one, the contract went out to competitive bid, and they were selected for under $100,000; and then through an extension, a variety of different reasons around that, maybe they were doing some software—I know Mr. Davis has explained some of that stuff.

You make an investment, you have a contractor, they are in the middle of writing software, you can't really switch horses and say we are going to put this vendor that we hired in his proprietary software out to bid. There are reasons. That is why I think we got some of the flexibility there, but then it changed the scope, and it kept getting extended. Then there was questionable use of the sole source waivers. I am not sure if Mr. Davis was there then, I do not think that he was. That extension went out and after several years grew to $16 million without ever going back out to competitive bid.

Those are the things that I tried to talk about with Mr. Davis as we tried to find the flexibility. I think that the regulations develop a process and a policy to make sure those types of things do not happen as a way to evade because I think that was the case on the one example that I gave that got me onto this. There was a plan by somebody who is either not wanting to do this, did not have the staff to do it or was not exactly in conformance with the request that got in to get a waiver.

CHAIR FLORES:
In that hypothetical that you put out a competitive bid, you get one individual, one company that bids on that and they get it. Does that happen often that you have a scenario where you are putting it out there, but you are only getting one person or one company?

MR. DAVIS:
Yes, that does occur. I would not necessarily say often, but it does occur.

There are examples where we solicit for something and only receive a single response. There are situations where that single response still does not meet our requirements; we then have to cancel the solicitation, potentially rewrite our requirements and resolicit. There are situations where that single vendor is deemed to be qualified, and we proceed with a contract because we attempted competition, and we can only control our own actions.

SENATOR ROGICH:
I just have a question, listening to you go through the process. How long does it take to go through the solicitation? And then if somebody challenges, then a reposting of solicitation and then finally selecting and entering a contract with a vendor?

MR. DAVIS:
For our solicited contracts, the normal timeline is approximately four to six months from when we start the solicitation process until a contract is awarded and executed.

If a contract is appealed, NRS 333.370 lays out the timeline for an appeal. As Senator Daly said, the initial timeline after we execute or release the notice of award, the unsuccessful vendors have an 11-day period with which they have an opportunity to appeal. That appeal must be filed with the Purchasing Division and the Hearings Division and must state an alleged violation of NRS 333, the State Purchasing Act. If the Hearings Division receives an appeal, they then have to schedule a contested hearing within 20 days. So that is 11 days plus 20 days; we are now at 31 [days]. After that contested hearing occurs, they then have to release a finding within 60 days. That is not added to the 60 days total. And so that is 71 days from a word of a contract until we receive a decision from the hearing. In the event we are appealed on a solicitation, that acts as a stay in the contract, and the State cannot proceed with execution of that contract until the appeal is completed.

SENATOR ROGICH:
So you are talking about nine months. What does the State do while waiting for all this process to play out?

MR. DAVIS:
Sometimes the State is forced to award noncompetitive contracts. During that time that we sometimes call bridge contracts, a contract for a period while we are soliciting, sometimes we are required to extend the contract beyond the originally intended term as section 2 of the bill addresses where if a request for proposal (RFP) is unsuccessful or has to be canceled, we have to go out to bid. Then sometimes we have to extend with the previous vendor or find a vendor in some sort of informal process because it is potentially an emergency situation at that point to continue services while they are replaced. However, if the services

that we are soliciting for are not mission-critical, there may be situations where the agency has a lapse in project, or a project does not get to start until the solicitation process is complete.

SENATOR DALY:
The four to six months sounds like a long time. But with the public money and various things, they have to develop what the proposal is, and I believe that is part of the time, then they have requirements that you have to advertise it for a certain period of time. Oftentimes in that, I see it on the construction side more than this side, people will say, what do you mean by this particular question? There is a comment period, they can come back and forth and say, what does this mean? If they make an adjustment, they say, that is a good question. We are not as clear; this is the new attempt. Then they would send that out to all the rest of the bidders, and it scans a little bit of time. There are things that are built in to make sure we are getting the competitive price. We are not trying to drag it out for nine months.

The appeal process is the process that is going out of everyone's control. I do not think it happens as often as you might think because you left out the part that if you go to the official appeal, you have to put up a bond. It is not just a frivolous complaint or whatever you got. You got to put up the bond that you may have to pay damage to the State for delaying. You have to be serious about that objection and that there was a violation to do that. The State tries not to get caught up in that they do not like to lose those, so they try to be as cautious as they can and make sure they got it right. There are some built-in precautions on how the process goes on purpose. I know it sounds like a lot of time.

Mr. Davis alluded to sometimes there are using agencies or the people that are saying, we want to put in this, that are working through the Division that maybe waited too long to start that process; now they can't get it, so they say you have to give me an extension. Prisoners in the prison are not going to get fed if you do not give me the extension, and that is where we are trying to tighten up some of those things. If he gets that extension, it is gone past the original intended period and then any period that was included in the solicitation. That extension can't be more than four years, it could be less. Then they are going to get directions. You gotta go to bid. If you don’t, that is when you are going to get on the bad list and come in front of the Legislative Commission and say, why are you not doing the competitive bidding that the

State requires and needs to have happen. Some of that goes back to some other processes. Unfortunately, there are situations where people may do this with a plan in mind.

SENATOR OHRENSCHALL:
In addition to that web portal or website that you mentioned, I did not catch the name but one question about that. Do you roughly know how many people would get notice who subscribed to that website and what is involved for people or businesses to be subscribed?

MR. DAVIS:
That website is NEVADAePro.com. The word EPRO stands for electronic procurement. NEVADAePro.com is the State's electronic procurement system for supplies, materials, equipment and services; NDOT [Nevada Department of Transportation] has a different system for their construction projects. The public works office has a different system for their construction projects. But supplies, materials, equipment or services, State agencies and the Purchasing Division solicit through NEVADAePro.

To your question about registration, any member of the public or a vendor can register in Nevada. You are required to provide a tax ID number, so if you are a vendor, that is your company tax ID number. If you are a member of the public, you would have to provide your social security number because you are registering as a vendor in the system, even if you are an individual. When someone registers in the system, there's no cost to that, it takes ten minutes to use the self-registration online system. When people register in the system as part of the registration process, they select commodity and service codes. It is a five-digit code from The Institute for Public Procurement that classifies all supplies, materials, equipment and services that governments buy, and vendors can choose as many of those codes as they want.

When we release a solicitation, we select from the list of vendors everyone who signs up for the commodity code for that particular solicitation. Depending on the type of solicitation, that can be between a minimum of 3 vendors, but on most solicitations, it is over 100. On some of them, like the recent solicitation that is currently in evaluation for temporary employment services, I think that solicitation went out to about 500 vendors.

SENATOR DALY:
Along those lines, the Purchasing Division, I do not think, advocated for themselves as well or to get to the part of the question I think you were looking at about who is on this and how they do that. I believe, and we have passed legislation that directs almost all of the purchase agents around the State to have a program to recruit and notify all types of different businesses: small businesses, disadvantaged business, various things. That outreach already happens. All of that is still in place and happens because the State does want to try to attract and make sure that they have people that know about it and have people bidding on it competitively. That is to the advantage of the State. The more people, the more competition we have and the more access by as many people as we have. And I believe those are ongoing programs that they have.

I do not pretend to know everything about purchasing. I have learned a great deal. I believe Mr. Davis was giving me good information and facts, and I think that this bill will at least give us the opportunity to tighten up some of the issues that were identified in that audit. I think the regulation part is the key to get some of those policies written down. I do think that the bill will achieve its intended goal. Is it the silver bullet and going to fix everything forever? No, but I think it will be a step forward.

CHAIR FLORES:
We will close out the hearing on S.B. 313. The only other item that we have on the agenda for today is public comment.

CHARLIE DONOHUE (Administrator, State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources):
I would have testified in neutral, but I am respectfully asking that your Legislative Counsel's Digest for S.B. 340, on page 4, line 159, where it references caselaw and the authority of *Killebrew v. State ex rel. Donohue*, I would ask that Donohue is spelled correctly since it is referenced to caselaw.

SENATE BILL 340: Revises provisions relating to government administration. (BDR 18-1008)

NOAH VILLA:
I strongly urge the committee to support S.B. 279. I was affected by CPS [Child Protective Services] not providing adequate notice of an internal peace officer investigation, and I am currently pursuing a grievance.

SENATE BILL 279: Revises provisions relating to law enforcement. (BDR 23-1023)

CHAIR FLORES:
Having nothing further to come before the Senate Committee on Government Affairs, we are adjourned at 3:37 p.m.

RESPECTFULLY SUBMITTED:

Diane Rea,
Committee Secretary

APPROVED BY:

Senator Edgar Flores, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Introduced on Minute Report Page No.**	**Witness / Entity**	**Description**
	A	1		Agenda
	B	1		Attendance Roster
S.B. 282	C	2	Senator Edgar Flores	Jann Stinnesbeck Work Session Document
S.B. 313	D	3	Senator Skip Daly	Proposed Amendment