

IN THE SUPREME COURT OF THE STATE OF NEVADA

**BOMBARDIER TRANSPORTATION
(HOLDINGS) USA INC.,**

Appellant,

v.

**NEVADA LABOR COMMISSIONER;
THE INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS; and
CLARK COUNTY,**

Respondents.

Case No. 71101 Electronically Filed
Nov 06 2017 03:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT BOMBARDIER TRANSPORTATION
(HOLDINGS) USA INC.'S APPENDIX**

VOLUME 17

ER3953-ER4005

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1981

A. B. 94—Committee on Government Affairs, Feb. 2.

Summary—Limits definition of “public works.” (BDR 28-233) Fiscal
Note: Effect on Local Government: No. Effect on the State or on
Industrial Insurance: No.

Feb. 2—Read first time. Referred to Committee on Government
Affairs. To printer.

Feb. 3—From printer. To committee. 2/12; 2/19; 3/10; 3/17

Mar. 17—From committee: Amend, and do pass as amended.

✓Mar. 18—Read second time. Amended. To printer.

Mar. 23—From printer. To engrossment. Engrossed. First reprint. ✓

✓Mar. 24—Read third time. Passed, as amended. Title approved. To
Senate.

Mar. 25—In Senate. Read first time. Referred to Committee on Gov-
ernment Affairs. To committee. 4/3, 4/29

May 8—From committee: Amend, and do pass as amended.

✓May 11—Read second time. Amended. To printer.

May 12—From printer. To re-engrossment. Re-engrossed. Second
reprint. ✓

✓May 13—Read third time. Passed, as amended. Title approved. To
Assembly.

May 14—In Assembly.

May 15—Senate amendment concurred in. To enrollment.

May 18—Enrolled and delivered to Governor.

May 20—Approved by the Governor. Chapter 278.

Effective July 1, 1981.

218.NV
LCB/SOL
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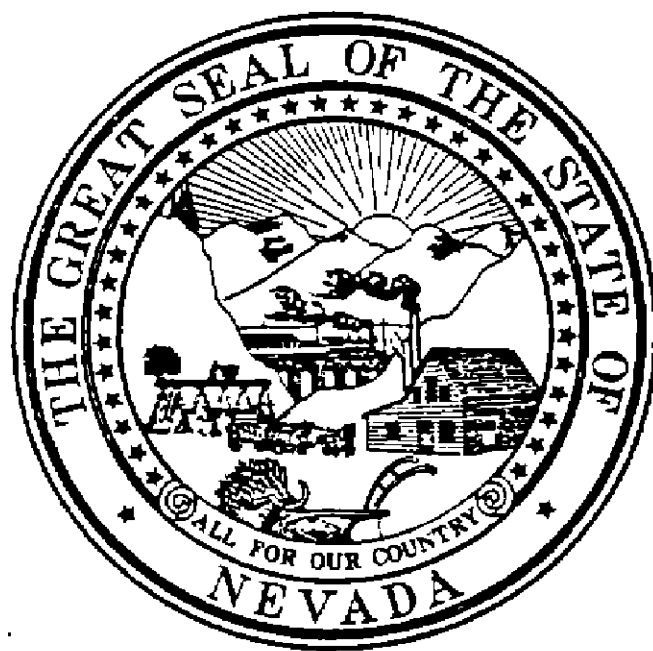
1981

NEVADA LEGISLATURE

SIXTY-FIRST SESSION

1981

SUMMARY OF LEGISLATION



PREPARED BY

RESEARCH DIVISION

LEGISLATIVE COUNSEL BUREAU

SEP 30 1982

LEGISLATIVE COUNSEL BUREAU 0-152
REC. ARCH. 11/25/82

AB94 002
ER-3954

A.B. 94 (chapter 278)

Specifies that the requirements of the public works projects law do not apply to contracts awarded in compliance with the local government purchasing act or the state purchasing act which are directly related to the normal operation of the public body or the normal maintenance of its property or awarded to meet an emergency which results from a natural or manmade disaster and which threatens the health, safety or welfare of the public.

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A. B. 94

ASSEMBLY BILL NO. 94—COMMITTEE ON
GOVERNMENT AFFAIRS

FEBRUARY 2, 1981

Referred to Committee on Government Affairs

SUMMARY—Limits definition of "public works." (BDR 28-233)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public works; limiting their definition for certain purposes; and
providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

1 SECTION 1. NRS 338.010 is hereby amended to read as follows:

2 338.010 As used in this chapter:

3 1. "Day labor" means all cases where public bodies, their officers,
4 agents or employees, hire, supervise and pay the wages thereof directly
5 to a workman or workmen employed by them on public works by the day
6 and not under a contract in writing.

7 2. "Public body" means the state, county, city, town, village, school
8 district or any public agency of this state or its political subdivisions spon-
9 soring or financing a public work.

10 3. "Public work" means *any project for the new construction* [of
11 and the repair and], *repair or reconstruction* [work on all] of public
12 buildings, public highways, public roads, public streets and alleys, public
13 utilities paid for in whole or in part by public funds, publicly owned
14 water mains and sewers, public parks and playgrounds, and all other
15 publicly owned works and property [.] *whose cost exceeds \$5,000.*

16 4. "Wages" means:

17 (a) The basic hourly rate of pay; and

18 (b) The amount of pension, health and welfare, vacation and holiday
19 pay, the cost of apprenticeship training or other similar programs, or
20 other bona fide fringe benefits which are a benefit to the workman.

21 The obligation of a contractor or subcontractor to make such wage
22 payments in accordance with the prevailing wage determination of the
23 labor commissioner may be discharged by the making of payments in

AB94 004

ER-3956

- 1 cash, or by making contributions to an established third person pursuant
2 to a fund, plan or program in the name of the workman.
3 5. "Workman" means a skilled mechanic, skilled workman, semi-
4 skilled mechanic, semiskilled workman or unskilled workman.

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Minutes of the Nevada State Legislature
Assembly Committee on GOVERNMENT AFFAIRS - Room 214
Date: February 12, 1981
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MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Mr. Craddock
Mr. DuBois
Mr. Jeffrey
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS ABSENT: None

GUESTS: Mr. W. E. Hancock, Public Works, Carson City
Mr. Mike Cool, City of Las Vegas
Ms. Joyce Devine, County Clerk, Washoe County
Mr. Stephen Tapogna, Local Gov. Purchasing Act
Mr. Joe Cathcart, City of N. Las Vegas
Mr. Bill Isaef, Deputy Attorney General
Mr. Jack Warnecke, Carson City
Mr. Richard Williams, Carson City
Mr. Harold Jacobsen, Mayor, Carson City
Mr. Don Hataway, City Manager, Carson City
Mr. Bob Sullivan, Carson River Basin, COG
Mr. John Hawkins, Nevada School Board Assoc.
Mr. Dino Martini, Welfare Division
Mr. Gary Crews, LCB, Audit
Mr. Frank Halzhauer, Dept. of Human Resources
Mr. Gerry Colquhoun
Jamie D. Goodhue
Mr. Ralph DiSibio, Human Resources
Ms. Alice Smith
Mr. T. Tanhavick, Dept. of Transportation
Mr. Sal Quilici, Dept. of Transportation
Senator Wilbur Faiss
Mr. Chuck Neely, Clark County School District
Mr. and Mrs. Dennis O'Connor
Mr. Bryn Armstrong, Parole Board
Mr. Jim Hannah, State Environmental Commission

Chairman Dini called the meeting to order at 8:03 A.M. with a quorum present.

The first bill to be heard will be AB-92 - Makes various amendments to charter of Carson City.

Alice L. Smith testified that we have had no problems with auditing our books. The money appropriated has been well spent. The people in the remote areas of the state have been well served. We have had competent persons in the division. It takes someone that can handle the administrator's job and what I am hearing it sounds like more of a personal affair. I believe he has done a terrific job. It seems that Nevada is the melting pot for all the seniors in the rest of the United States. We are overloaded with them. But take a look at what has been accomplished in the time this has been operating. There are many things done for senior citizens. It's age discrimination when you don't want a man because he isn't 65. Let's not discard young people because they are younger, then take a look at the books. Keep a close look at what's going on. One of the things is, you people don't get around to these places. Take time out and go to these nursing homes, these feeding sites, etc.

Catherine Lockland of Reno testified that she has been involved with four different boards on senior citizen projects. She concurred with Mrs. Smith's comments.

Mr. Mello stated that he was not trying to bring out personalities. He stated that he had met with the administrator two years ago and they discussed what positions should be classified or unclassified. At that time, I expressed a lot of concern that this particular administrator was coming under a lot of criticism by people in Washoe County. The administrator knew of some of those points and I think that he has made a lot of changes and should be given some credit for this.

Mr. DiSibio said he appreciated Mr. Mello's comments. He said we have worked very hard in the last two years to make that administrator more responsive and to develop some new programs there to reach + to the community.

End of testimony.

Mr. Dini indicated that the next bill to be heard would be AB-94.

Mr. Joe Cathcart, representing the Nevada League of Cities, was the first testifier, on behalf also of the study committees of the Local Government Purchasing Act. I have also spent four years as a committee member of the American Bar Association's model procurement code. We have tried to incorporate many of the things suggested in this model code within our statutes. One of the items we covered is the right to work with the wage labor rates throughout the United States. AB-94, with the amendment, is trying to clarify it and take some of the costs off the local governments.

Mr. Steve Tapogna, representing the Local Government Purchasing Study Commission for Northern Nevada, as well as the City of Reno, testified that the Statute 338.010, Paragraph 3 states that public works means new construction of repair of or reconstruction work on all public buildings. Our problem lies with the word 'repair'. The Attorney General stated an opinion that the word 'repair' and the word 'maintenance' were synonymous under the law. This means that if the City of Reno would like to contract out to replace a broken window or possibly wash windows, or replace a key in a door lock, this now becomes public works. It is bound by those provisions specified under statute 338, which requires that arbitration and fair labor clauses, hourly and daily rates must be stated. This becomes very time consuming and very costly to local government. The intent of the change is to remove the word 'repair' to allow us to do our day to day repairs when city crews or local government agency crews are not available to do this type of work and contract out on a day to day basis. As an example, when we go to have a window washed, I believe that the current labor rate for the basic labor is \$9.95 per hour, plus fringes. Certainly, we are not going to pay \$9.95 per hour to have windows washed. There are many mom and pop operations that can do this much more effectively. The \$5,000 limit that has been suggested in this legislation and the wording thereon is to bring it into parity with the Local Government Purchasing Act, NRS 332.

Mr. Dini stated that the amendment that has been proposed in in Section 1, Page 1, Line 10, by inserting between 'project' and 'for', the phrase 'the estimated cost of which exceeds \$5,000'. Then on Line 11, delete the word 'repair'. On Line 15, delete Line 15 and insert 'publicly owned works and property'.

Mr. Tapogna stated that the basic reason for this change is that under the Attorney General's opinion, the words maintenance and repair are synonymous. It causes restraints when we try to do day to day maintenance. By bringing it into parity with the Local Government Purchasing Act, any project over \$5,000 has to go to public advertised bid. Through the League of Cities when the Local Government Purchase Act Commission proposed this legislation, our wording was a bit different. The definition is attached hereto and made a part of these minutes as EXHIBIT B.

Mr May stated that what Mr. Tapogna was trying to do was to provide when you have small jobs that you do not have to go through the rigamarole and thus avoid the red tape. Have you given any thought to redefining 'maintenance' or 'repair'.

Mr. Tapogna commented that the way the current Purchase Act reads we have specific bidding limits in the state with which we must comply on any project or job. You are saying that somewhere there

is a large gap where maybe there can be some abuse. Our law states that from 0 dollars to \$2,499.00, we merely have to go through good purchasing practices and obtain a vendor. From that point forward, from \$2,500 to \$5,000, we do have to do informal bids and by law keep them on record.

It is our intent to bring into parity this act with the Local Government Purchasing Act so that we can mesh and work under the same rules and regulations for both. It will cover only repair and maintenance.

Mr. Cathcart added that they are trying to standardize all the laws on contracts, administration and procurement within the statutes. The \$5,000 figure is really not one to buy very much. We have tried to open it up for some of the small business and minority contractors. They are having trouble in the bonding aspect of it. They can do the job but it is the financial end of it right now. Many cities have small contracts that can be done very economically. One of the reasons for the \$5,000 on this particular part of the Act on the public works is the paperwork, the inundation of the bureaucracy that we have to go through trying to justify everything we do.

Mr. Mike Cool, City of Las Vegas, testified about the financial impact on public works projects in Las Vegas. Of the \$12 million spent in the fiscal 1979-1980 budget, 6% was spent on projects that were less than \$5,000 that were repair projects by definition. Each job averaged approximately \$1,500 each.

Mr. May: I am still a little bit concerned about this. Suppose the committee was desirous of considering an amendment that would allow local government without an ordinance to provide the types of reconstruction or revision that would be exempt from the provisions of the statute and any monetary limit in conjunction with that. I think I would like to see it tightened up a little bit. Out of the jobs you mentioned, I think you said the average was \$1,500, and we are still looking at \$5,000. Maybe, \$2,500 might be more realistic. I would hate to see an individual that might be offered some protection under the present statute, a working guy, lose that protection, either.

Mr. Cool said that if the committee so chose, we could work with your research staff and take a look at any possibilities.

Mr. Sal Quilici, with the Nevada Department of Transportation indicated some concern with the bill. He stated that on federal aided projects that we award, the Davis-Bacon wage scale applies and this would apply to those subcontractors with jobs that are

less than \$5,000, but are part of a larger job with the prime contractor. The employees of the prime contractor are subject to the prevailing wages as established by the State Labor Commission, with the fringe benefits associated with them. What we can foresee is a subcontractor, whose employees are working side by side on the same project, doing the same work in the same classification as those employees of the prime contractor, not having to pay the same wage package.

Mr. Dini stated that you are proposing the estimated cost which exceeds \$5,000 in the amendment in that other language that you had there is for a definite \$5,000. How about if we go to \$2,000, then everyone would be in compliance with the federal law?

Mr. Quilici stated that the \$2,000 would be in harmony with the Davis-Bacon requirement presently under our federal aid contracts.

Mr. Tapogna commented that again, that is not bringing our laws into parity with the Local Government Purchasing Act and there are several other things that must be thought of before making a decision like that. Today, bonding limits and costs to small contractors and minority contractors are extremely expensive. The \$2,000 limit would hamper us as much as it would help us. Again, the idea was to bring us under the same laws for the entire section, both the Local Government Purchasing Act and still hold the constraints of the intent of the law. I am sure it was not the intent of the law to literally be interpreted that for every broken window we have fixed, we need to issue a public works contract.

Mr. Jeffrey stated that he believes we are talking about two different things. We are talking about the Local Government Purchasing Act and talking about the public works projects under this definition, because the intent of the law is entirely different between the two. The government operates more efficiently in those areas, but in this case, you are talking about an entirely different subject matter that deals with the protection of people that work for contractors. \$5,000 in wages for a contractor that does a repair job that may be primarily wages, assuming that he may be doing the job that has a small material cost and high manpower cost, would be exempt in predetermined wage protection and would be exempt entirely from this chapter. That is quite a bit of money. Whereas, to the workman, to the individual workman, there is quite a bit of difference.

Mr. Dini stated that he was going to put this in a subcommittee as we need to do some work on it.

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Joyce Devine, Purchasing Contract Administrator for Washoe County, testified that the issue is a housekeeping one. In the past, until we were notified of our requirement for compliance, functioned totally under the Local Government Purchasing Act, just as your state and universities do. Our compliance has proven to be an extremely costly thing and I think that this is the area of housekeeping that we are concerned about, not public works. If it were not for the Attorney General's opinion, that 'repair' and 'maintenance' were synonymous, we would not have a problem, because we could have withdrawn maintenance, housekeeping, janitorial contracts, etc. If the committee feels that public works and repair and maintenance are the obstacle, I think some provision has to be made to pull the housekeeping items away from public works projects, because housekeeping, by no stretch of the imagination can be considered a public works. I do not think this was the intent of the law. It is, frankly, restricting the business to the small business people. We are being besieged by small vendors who are no longer doing business with their local governments as they have done in years past. If we comply with our Local Government Purchasing Act, as written, we are now violating your public works laws. If we adhere to your public works law we are in conflict with the very law that concerns us at the local government level.

Mr. May stated that it appeared more and more to be a matter of definitions and what we might want to consider as a foundation is to write some new definitions in order to avoid conflict with the statutes.

Mr. Dini will form a committee for AB-94.

Mr. Dini indicated that Mr. Prengaman would speak to AB-101, he being the primary sponsor. It deals with public bodies receiving public comment at meetings.

Mr. Prengaman stated that AB-101 deals with NRS 241 which is known as the Nevada Open Meeting Law. That section of the law provides that meetings shall be open to the public and also sets forth notification requirements for those meetings. However, there is nothing in that chapter that speaks to or guarantees the public a right to testify at those meetings. All it says is that the meetings have to be public. There is no requirement that the presiding officer take any testimony from the public. Basically, at the present time, it is at the discretion of the presiding officer whether people may or may not be heard. In many cases, the presiding officer, in my experience with public meetings, does not ask if there is anyone present who wishes to testify. I, personally, have been denied the right to speak. Section 1, Paragraph 2, of the amendment

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(Committee Minutes)

Subject: Introduction of Proposed Changes to
N.R.S. 338 AND N.R.S. 339

As a result of joint meeting, held between the Southern and Northern delegations of the Nevada Local Government Purchasing Study Commission on September 10, 1930 the following shall reflect our desired changes which we propose be made to N.R.S. 338 and 339 in hopes of clarifying the literal interpretation of those particular statutes.

Proposed Changes to N.R.S. 338

Item 3 of Section 338.010 entitled "Definitions" shall be deleted and in lieu thereof insert the following:

3. "Public Work" means all new construction, reconstruction, replacement or additions, where the estimated cost to perform the contract exceeds \$5,000 on all public buildings, public highways, public roads, public streets and alleys, public utilities paid for in whole or in part by public funds, publicly owned water mains and sewers, public parks and playgrounds and all other public works and property.

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MEMBERS PRESENT: Mr. Nicholas

MEMBERS EXCUSED: Mr. Jeffrey

GUESTS: Ms. Joyce Devine, Washoe County, County Clerk
Mr. Steve Tapogna, Local Govt. Purch. Comm.
Mr. Sal Quillici, Nevada Dept. of Transportation
Mr. Ed McGoldrick, Nev. Labor Commissioner

Mr. Nicholas called the meeting to order at 2:05 P.M. The subcommittee will discuss AB 94. Mr. Nicholas suggested that there would be another meeting of this type in about two weeks. He stated that those who did not get to testify or those who wished to testify again would have an opportunity to speak at the next subcommittee meeting. Written material would be accepted any time from now on until about a week after the next meeting.

Ms. Joyce Devine testified first. A copy of her testimony is attached to these minutes as EXHIBIT A.

Mr. Steve Tapogna was the next speaker: At the meeting that was previously held on AB 94 on behalf of the Nevada League of Cities and Local Government Purchasing Study Commission and the City of Reno, we had introduced some new language. It is the language that was proposed through the package submitted by the League of Cities and I would like to offer for the committee's evaluation that language and I will leave a copy of it. It is attached hereto as EXHIBIT B. In the definition, it reads "A public works means all new construction, reconstruction, replacement or additions, where the estimated cost to perform the contract exceeds \$5,000 on all public buildings, highways, etc. The wording here is in parity with that in NRS 332, the Local Government Purchasing Act and it reflects the formal bidding on it which we now operate under. Again I would like to reiterate my testimony to the Government Affairs Committee previously, I think our major problem lies in those areas of housekeeping and the word "repair". The Attorney General has stated that the words "repair" and "maintenance" are synonymous under the law and I believe that was opinion No. 171. The problems that we are incurring on a day to day basis might be the replacement of a broken window to window cleaning services. It is hard to imagine contracting out to have your windows cleaned in a small public building and paying an exorbitant fee when such services are available as a maintenance type item for far less, sometimes 60% and 70% less of what the posted labor rate would be. Other than that, I concur with those statements made by Joyce and would encourage the committee to look at this in great depth.

Mr. Quilici: Mr. Nicholas, my name is Sal Quilici, I am here before you today on behalf of the Nevada Department of Transportation. The department does not have any objection to the \$5000.00 limitation as proposed in AB 94, we do have some serious reservations as to the impact this particular bill would create on the department. As you are aware, the majority of our contracts are formally advertised and awarded to an awarding process, to the lowest responsible bidder. The projects that we are talking about in most cases exceed \$5000.00. We would like to amend the original bill to include on Line 15, paragraph 3, "the publicly owned works and property whose total project costs exceeds \$5000.00."

Mr. Nicholas: You were aware that there has been an amendment No. 40 294 which has changed the terminology and where you find at the end of paragraph 3 those words, "whose cost exceeds \$5000.00" in this amendment and the phrase "the estimated cost of which exceeds \$5000.00" has been put in line 10 after the two words "ending project." Were you aware of that?

Mr. Quilici: On the previous meeting on the 12th, I was familiar with the discussion but I did not get a formal amendment to that.

Mr. Nicholas: In the event that this particular amendment did apply, where would you possibly want the phrase, "total project cost" inserted in the above line?

Mr. Quilici: "Total project cost" would not necessarily have to be on Line 15 as long as the bill makes reference to the total cost of the contract. Another area we feel we would probably be impacted would be the word "repair". We can appreciate the problems that the purchasing people are experiencing in their minor contracts or informal negotiated contracts with small business firms. Nevertheless, we would like to avoid a situation where if in fact "repair" is to be eliminated and "repair" is synonymous with "maintenance" contracts we were concerned with. When we award contracts that are maintenance contracts or considered maintenance contracts for highway reconstruction in the millions of dollars, will in fact this type of contracting be effective by removal of the word "repair"?

Mr. Nicholas: Are you taking into consideration Steve's comment concerning the opinion of the AG's office in reference to the definition of the term?

Mr. Quilici: Correct. I do not believe that Section NRS 608 100 was mentioned and that would probably be influenced by this bill. The section in itself consists of wage and hour regulations and the payment and collection of wages. What our concern would be is if in fact these contracts are in the \$5000.00 or less category we would not be receiving certified payrolls. We would not have any monitoring process as to the payment to the employees. What requirements would we need in case of a wage complaint to properly monitor the complaint? Another area, if the word "repair" is to be omitted and in effect it would affect our bidding process and our formal process, again, purchasing operates under a little different guidelines than we do. If we award a contract to the lowest responsible bidder would these prevailing wage rates not have to be paid if in fact a maintenance contract that we advertised would exempt or exclude signatory contractors from bidding on the project.

There being no further business, the meeting adjourned at 2:27 P.M.

Respectfully submitted,

Robbie Alldis

Robbie Alldis
Assembly Attache

AB-94 (AS AMENDED)

IN REFLECTING UPON THE DISCUSSION WHICH TOOK PLACE DURING THE FEBRUARY 12TH HEARING BEFORE THE GOVERNMENT AFFAIRS COMMITTEE I FEEL THAT A GOOD DEAL OF CONFUSION EXISTS AMONG THE COMMITTEE MEMBERS AS TO THE PURPOSE AND INTENT OF THE PROPOSED REVISIONS BY THE LEGISLATIVE PURCHASING STUDY COMMITTEE.

THEREFORE, I BELIEVE A MORE IN DEPTH EXPLANATION IS WARRANTED WHICH SHOULD CLARIFY OUR POSITION AND ADDRESS THE SPECIFIC CONCERNS WHICH YOU HAVE EXPRESSED.

•IN ORDER TO DETERMINE THE SCOPE AND EXTENT OF THE PROBLEMS FACING LOCAL GOVERNMENTS AND THE ADVERSE FINANCIAL POSITION WHICH WE HAVE BEEN PLACED BY COMPLYING WITH THE EXISTING STATUTES IT IS NECESSARY TO ADDRESS THREE STATUTES, NRS 332, LOCAL GOVERNMENT PURCHASING ACT, NRS 338 AND 339 GOVERNING PUBLIC WORKS PROJECTS.

•NRS 332-

THE LOCAL GOVERNMENT PURCHASING ACT SETS FORTH CONTRACTUAL PROCEDURES TO BE FOLLOWED BY LOCAL GOVERNMENTS IN CONTRACTING FOR SERVICES, SUPPLIES AND EQUIPMENT IRREGARDLESS OF THE TYPE AND NATURE OF THE CONTRACT.

•SAID PRODECURES PROVIDE FOR:

- CONTRACT AWARD OF LESS THAN \$2500.00 WITHOUT FORMAL ADVERTISING.
- CONTRACT AWARD OF \$2500.00 TO \$4999.00 BY INFORMAL BIDS WHICH MUST BE SUBMITTED TO TWO OR MORE PERSONS CAPABLE OF PERFORMING THE CONTRACT IF AVAILABLE, AND REQUIRES THE MAINTENANCE OF PERMANENT RECORDS OF ALL REQUESTS FOR BIDS AND ALL BIDS RECEIVED.

- CONTRACTS IN AN ESTIMATED AGGREGATE AMOUNT OF \$5000 00 OR MORE MUST BE AWARDED AS A RESULT OF A FORMAL ADVERTISED BID AND IN COMPLIANCE WITH ALL REQUIREMENTS THEREOF.
- AS PREVIOUSLY STATED THESE PROCEDURES ARE APPLICABLE TO ALL CONTRACTS IRRESPECTIVE OF SUBJECT MATTER, WITH THE EXCEPTION OF THOSE ITEMS SPECIFICALLY EXEMPTED BY STATUTE.
- NRS 338 GOVERNING PUBLIC WORKS PROJECTS BY DEFINITION AS WRITTEN, WITHOUT THE BENEFIT OF REVISION THE TERM "PUBLIC WORK" READS:
 -"PUBLIC WORK" MEANS NEW CONSTRUCTION OF AND THE REPAIR AND RECONSTRUCTION WORK ON ALL PUBLIC BUILDINGS, PUBLIC HIGHWAYS, PUBLIC ROADS, PUBLIC STREETS AND ALLEYS, PUBLIC UTILITIES PAID FOR IN WHOLE OR IN PART BY PUBLIC FUNDS, PUBLICLY OWNED WATER MAINS AND SEWERS, PUBLIC PARKS AND PLAYGROUNDS, AND ALL OTHER PUBLICLY OWNED WORKS AND, PROPERTY".
- AS IT STANDS, WE NOW HAVE TWO STATUTES GOVERNING THE SAME FUNCTION UNDER DIFFERENT RULES AND REGULATIONS.
- BECAUSE OF THE A/G'S OPINION THAT REPAIR AND MAINTENANCE ARE SYNONYMOUS, OUTSIDE SERVICES REQUIRED TO MAINTAIN OUR FACILITIES IN THE AREAS OF HOUSEKEEPING, GENERAL MAINTENANCE AND MINOR REPAIRS ARE NO LONGER CONTRACTED FOR UNDER THE PROVISIONS OF NRS 332 LOCAL GOVERNMENT PURCHASING ACT, BUT RATHER UNDER NRS 338 PERTAINING TO PUBLIC WORKS PROJECTS.
- ALTHOUGH THERE ARE A NUMBER OF DIFFERENCES IN REQUIREMENTS BETWEEN THE TWO STATUTES WHICH ARE TIME CONSUMING AND COSTLY TO THE LOCAL GOVERNMENT THE PRIMARY FACTOR IN CONTENTION IS THAT ALL CONTRACTS NEGOTIATED REGARDLESS OF AMOUNT SHALL BE IN ACCORDANCE WITH THE PREVAILING WAGE DETERMINATION OF THE LABOR COMMISSIONER PLUS FRINGE BENEFITS.

•NRS 339 GOVERNING PUBLIC WORKS PROJECTS

REQUIRES PAYMENT AND PERFORMANCE BONDS IN AN AMOUNT OF
NOT LESS THAN 50 PERCENT OF THE CONTRACT AMOUNT.

OBJECTIONS TO THE CONSTRAINTS OF THE PUBLIC WORKS STATUTES
IN THE AREA OF HOUSEKEEPING, REPAIR AND MAINTENANCE ARE:

- 1) COMPLIANCE ELIMINATES THE COMPETITIVE ASPECTS OF
CONTRACTING WHICH IS THE PRIMARY INTENT OF THE LOCAL
GOVERNMENT PURCHASING ACT.
- 2) DEPRIVES APPROXIMATELY 75% OF THE SMALL LOCAL
INDEPENDENT VENDORS OF THE OPPORTUNITY TO CONTRACT
WITH STATE OR LOCAL GOVERNMENT AGENCIES.
- 3) ELIMINATES MINORITY CONTRACTORS TOTALLY.
- 4) FUNNELS ALL TAX DOLLARS EAR MARKED FOR OUTSIDE
SERVICES TO A SMALL SPECIAL INTEREST GROUP WHICH
CONSISTS OF THE MORE AFFLUENT VENDORS WITHIN THE
STATE
- 5) INCREASES THE OPERATING COSTS OF STATE AND LOCAL
GOVERNMENT WITHIN THE CATEGORIES SPECIFIED BY 50%
TO 100% ON EACH CONTRACT AWARDED BECAUSE OF
ADHERENCE TO THE POSTED LABOR WAGE SCALES.
- 6) TOTALLY DISREGARDS THE RIGHT TO WORK LAW OF THIS STATE
AND PLACES THE CONTRACTING AUTHORITY IN A POSITION OF
DISCRIMINATING AGAINST A NON-UNION LABOR FORCE WHICH
HERETOFORE WE HAVE BEEN UNABLE TO DO.
- 7) IT IS ESTIMATED THAT IF ALL AGENCIES WERE COMPLYING
FULLY TO THE REQUIREMENTS STATED THAT A MINIMUM OF
\$1,000,000.00 MORE PER QUARTER WOULD BE SPENT TO
ACQUIRE THE SAME SERVICES PREVIOUSLY CONTRACTED
FOR UNDER NRS 332 FOR LESS

8) GENERALLY SPEAKING, SERVICES PROVIDED ARE PERFORMED BY NON-SKILLED LABORERS WHO ARE PAID MUCH LESS THAN THE SKILLED TRADESMAN ADDRESSED IN THE POSTED LABOR RATES.

IT IS MY UNDERSTANDING THAT EFFECTIVE JULY 1, 1981, THE POSTED NON-SKILLED LABORER CATEGORY WILL BE \$11.71/HOUR.

9) WE HAVE AND ARE CONTINUING TO LOSE WELL QUALIFIED VENDORS WHO SIMPLY CANNOT AND WILL NOT PAY THEIR EMPLOYEES AT THE RATES STIPULATED.

10) IN SOME INSTANCES WE HAVE BEEN TOTALLY UNABLE TO CONTRACT FOR SERVICES PREVIOUSLY AVAILABLE TO US

● WASHOE COUNTY TOTALLY SUPPORTS THE PROVISIONS OF NRS 338 AND 339 WITH REGARD TO BONA FIDE PUBLIC WORKS PROJECTS. HOWEVER, WE DO NOT FEEL THAT THE CATEGORIES IN QUESTION MEET THAT CRITERIA AND SHOULD THEREFORE BE REMOVED VIA THE REVISIONS SUBMITTED.

● BY DOING SO, YOU WILL NOT BE GRANTING THE CONTRACTING AUTHORITY ANY ADDITIONAL LATITUDE. YOU WOULD BE REMOVING THE CONFLICT BETWEEN STATUTES, RESTORING THE COMPETITIVENESS WHICH SHOULD EXIST, AND REDUCE OPERATING COSTS FOR BOTH STATE AND LOCAL GOVERNMENTS.

● THE END RESULT WOULD BE THAT THE STATUTES AS REVISED WOULD PROVIDE ADEQUATE CONSTRAINTS AND SAFEGUARDS AGAINST VIOLATIONS FOR ALL CONTRACTS IRRESPECTIVE OF TYPE AND NATURE.

• I STRONGLY URGE YOUR THOUGHTFUL CONSIDERATION OF THE FACTS
PRESENTED FOR THE IMPACT IS FAR GREATER THAN EVEN THOSE
OF US WORKING WITH IT ON A DAILY BASIS EVER IMAGINED.

• AT A TIME WHEN THERE IS SO MUCH CRITICISM OF GOVERNMENT SPENDING
I DO NOT BELIEVE THAT WE CAN CONTINUE ON THIS COURSE WITHOUT
A "HUMAN OUTCRY" FROM THE BUSINESS COMMUNITY AND TAXPAYERS.

The legislation under consideration is A.B. 94 regarding Public Works, and has been proposed as a result of the literal interpretation of NRS 338.010, Paragraph 3, which defines Public Work.

We find the basic problem within the definition of "Public Work" as it currently reads is that "Public Work" is defined as new construction of and the repair and reconstruction work on all public buildings. Our problem here lies with the word "repair".

The Attorney General's opinion (#171) in part states that "'repair and maintenance' are synonymous under the law" and therefore all publicly funded projects, no matter how small and insignificant, are subject to the public works requirements as stated in this statute.

The literal interpretation of this section states that all general day to day maintenance done on any public building or piece of property by any outside labor is defined as a "Public Work". An example of this might be the replacement of a broken window, the repair of a door lock, the replacement of carpeting, window cleaning services, or possibly even the replacement of a simple light bulb.

The requirements state that (for even the smallest of public works) for each project we (all government agencies) must include in the selected vendor's contract document: an arbitration clause; a documented statement of fair employment practices; a forfeiture clause; and a statement in express terms of the hourly and daily rates as determined by the State of Nevada Labor Commissioner. Also, the vendor is required to maintain wage records which must be kept available for the contracting agencies audit.

I'm sure that you can see the ramifications of this interpretation as applied to small day to day maintenance, repair, and housekeeping type projects done by any local government agency. Today, if the City of Reno wishes to have a lock on a door repaired, a \$3 to \$7 dollar project, the Purchasing Division will have to issue a contract, post wage scales, and include the clauses I mentioned. The internal cost in time and paperwork is exorbitant. Further, many small businesses within the community cannot afford and do not have the resources available to keep the lengthy and time consuming records required.

The end result in applying the literal interpretation of the law may be the loss of many vendors who now perform day to day maintenance and repair when local government crews are not available.

It is our intent, with this legislation, that the definition of "Public Work" be brought into parity with the formal bidding limits (Chapter 332, the Local Government Purchasing Act) and further, as you will see in following legislation, the bonding limit requirement relating to public works (NRS 339).

The subsequent outcome of this legislation, if passed, will literally redefine the term "Public Work" and place the requirements imposed upon such public work at a level at which all, both local government and independent business men, can be comfortable and able to comply.

Subject: Introduction of Proposed Changes to
N.R.S. 338 AND N.R.S. 339

As a result of joint meeting, held between the Southern and Northern delegations of the Nevada Local Government Purchasing Study Commission on September 10, 1980 the following shall reflect our desired changes which we propose be made to N.R.S. 338 and 339 in hopes of clarifying the literal interpretation of those particular statutes.

Proposed Changes to N.R.S. 338

Item 3 of Section 338.010 entitled "Definitions" shall be deleted and in lieu thereof insert the following:

3. "Public Work" means all new construction, reconstruction, replacement or additions, where the estimated cost to perform the contract exceeds \$5,000 on all public buildings, public highways, public roads, public streets and alleys, public utilities paid for in whole or in part by public funds, publicly owned water mains and sewers, public parks and playgrounds and all other public works and property.

Proposed Changes to N.R.S. 339

In Section 339.025 entitled "Performance and Payment Bonds: Amount; conditions; filing with contracting body" the phrase [\$2,000 for the construction, alteration or repair of] shall be deleted and replaced with:

1. Before any contract, except one subject to the provisions of chapter 408 of NRS, exceeding \$5,000 for the construction or reconstruction of or the replacement or addition to any public building or other public work or public improvement of any contracting body is awarded to any contractor, he shall furnish to the contracting body the following bonds, which shall become binding upon the award of the contract to such contractor:

An Item 4 shall be added to this section which reads as follows:

4. Nothing in this section prohibits a contracting body from requiring bonds.

We, the Local Government Purchasing Study Commission, respectfully request your full support and any assistance which you may lend with regard to these clarifications.

The subject legislation will be introduced as a unified package via the Nevada League of Cities during the 1981 legislature.

MEMBERS PRESENT: Mr. Nicholas
Mr. Jeffrey

MEMBERS ABSENT: None

GUESTS PRESENT: Joyce Devine, County Clerk, Washoe County
Steve Tapogna, City of Reno, Local Govt. Pur. Comm.
Ed Park, City of Las Vegas
Mike Cool, City of Las Vegas
Ed Mc Goldrick, Labor Commissioner
Glenn Taylor, Labor Commission
Sal Quilici, Nevada Department of Transportation

Mr. Nicholas called the meeting to order at 1:23 P.M.

Mr. Nicholas stated the purpose of this meeting was to take additional testimony on AB 94.

Mr. Jeffrey indicated that there was another bill that was introduced that was apparently the bill that the league was after to start with, AB 284. Although, technically we are not authorized to get into that bill, I think it would be helpful if we would deal with both of them at the same time.

Mr. Nicholas stated that apparently AB 94 is contained in the first part of AB 284.

Mr. Steve Tapogna, Purchasing Manager with the City of Reno, representing today, the City of Reno and Local Government Purchasing Committee of the State of Nevada, Northern Section, as well as League of Cities was the first speaker. There was some discussion as to the word "repair" as it reads currently. A committee of the Local Government Study Commission of the north did provide both of you with a copy of some suggested exceptions to the statute as it currently reads with no re-write to the definition of "public works." The document which I have just given you, again amends our exceptions by amending exception No. A on the correspondence dated February 25. Those exceptions which we feel will be equitable to all concerned would then read, "Exceptions to the provision of the statute upon completion of public work. Item No. A, contracts which by their nature are directly related to the day to day maintenance and operating services excluding construction related work. EXHIBIT A Item No. B, Emergency contracts as defined in the Local Government Purchasing Act, Section 332.055. Item No. C, Contracts awarded under the exceptions of Subsections A and B must be in compliance with the provisions of NRS 332 or 333 as applicable." Those for your information, are the Local Government Purchasing Act and the State Act. "Exception D, nothing in this section shall pertain to new construction, reconstruction or additions to publically owned land, buildings, parks and playgrounds."

Mr. Nicholas asked Mr. Tapogna when he mentioned the Number 1 for contracts, if that would be 1 or A in your exceptions.

Mr. Tapogna answered that it should probably read, "A. Contract which by its nature is directly related to day to day maintenance." Mr. Tapogna stated that he would like to place in the record some correspondence received by the City of Sparks, from our Honorable Governor List. EXHIBIT B

Mr. Tapogna stated that he would like to make some comments that Mr. Nicholas and Mr. Jeffrey had referred to. The first section on AB 284 is the original request as presented through the League of Cities for revision to 338. It is also the original request through the League of Cities for the revisions to 339. Mr. Tapogna stated that if AB 94 is passed when the hearing on AB 284 is made, we could possibly just strike the first section pertaining to 338. I believe I had previously provided you the original proposals as submitted through the League as subsequently entered under AB 284. EXHIBIT C

Mr. Jeffrey: The problem the committee had and the problems that I had too, was the elimination of the term "repair" by definition. If we do it by definition then we exclude any contractor receiving any amount of money in the "repair" area and I think that this language does that also. I don't think it would if we eliminated the last four words "excluding construction-related work." I think contracts which by nature are directly related to the day to day maintenance and operating services.

Mr. Tapogna stated that would be acceptable.

Mr. Jeffrey said that if we eliminated the last four words there wouldn't be any doubt then that the projects over whatever dollar amount we come to would be exempt.

Mr. Tapogna said that would be acceptable. He pointed out that Section C. Exceptions will confine the local governments to those bidding requirements as specified therein, for it affects not only local governments but also the state.

Mr. Jeffrey said that in B, emergency contracts, as defined in the Local Government Purchasing Act, I don't have any problem with that, local government certainly should have the latitude to do whatever they have to, to protect their citizens and naturally you shouldn't have to go out and bid if there is a broken water main or something along those lines. I think in this section if the emergency work exceed the dollar amount then the reported requirement should still be in effect.

Mr. Tapogna stated that by law if we have an emergency contract and we act on it then we, too, have to take it back to our governing body with full explanation after the fact.

Mr. Jeffrey indicated that is under 332 and 333. He just wanted to be sure that the other provision in 338 is in effect.

Mr. Tapogna said that would be acceptable because if it is an actual public work, we would have to comply.

The next speaker was Mr. Ed Park, Chief of Purchasing and Contracts for the City of Las Vegas, Nevada and also a representative of the Southern Group of the Purchasing Study Commission. I am here to endorse 100% the remarks of Steve. We would have no problem with the elimination of excluding construction related work. I believe we put that in there to make it very definitive that what we were trying to do is place maintenance aside from construction. We have no problems with reporting the emergencies as required under NRS 332.

Mr. Jeffrey said that, he assumed, that somewhere in here we are going to arrive at a dollar amount. If the emergency contract exceeds that dollar amount, where other contracts would be covered by the reporting requirements to the Labor Commissioner then those emergency contracts should be covered under that same provision.

The next speaker was Mr. Glenn Taylor, representing the Nevada State Labor Commissioner's Office. Mr. Taylor stated that they had no problem with the bill except in the area on Line 15 which covers the actual threshold which currently reads in AB 94, "whose cost exceed \$5000.00." We would like to amend the amount of \$5000.00 to be at least a minimum of \$2000.00. We believe that would insure that just the prime contractor's themselves would not be the only individuals which would be responsible for insuring prevailing wage rates on various public work projects. We feel that if the amount, as written here, whose cost exceeds \$5000.00 is amended as read, then in turn we believe that \$5000.00 would eliminate our jurisdiction in overseeing many of the subcontractors which are involved in those types of projects, in which they are subs to a prime contractor and the amount of their particular work or bid is less than \$5000.00. For example, in some of the projects, we found that on the average violations were those of individual subcontractors who throughout the course of their particular work on a project have failed to pay their individual employees the prevailing wage rates. Generally, those contracts have been anywhere between the \$5000.00 and \$10,000, but we have found other jobs in which the individual contractors have violated our state statute NRS 338 and they have actually been between \$2500.00 and \$5000.00. We would like to see the current bill amended on Line 15 to at least a minimum of \$2000.00 instead of \$5000.00

Mr. Jeffrey stated that this is the problem we have had with this bill because, really what we are trying to do is to cover all the bases with a piece of legislation that is intended to do one thing and interpreted very broadly. I can understand your concern with the dollar amount when we are talking about a construction project. When you get into other areas, then \$5000.00, depending on the nature of the contract, can be funded if it's primarily for labor. I did ask Mr. Mc Goldrick to bring the information over on the Davis-Beacon Act. I don't know if this has been amended or not. This was published in 1977 and I don't know if there was a later edition or not. In 1977, the covered amount of the federal contractor was \$2000.00. It seems to me that with the exception that we are excluding by statute day to day operation which I think covers such things as custodial services, window washing contracts for the city of Las Vegas that far exceed \$5000.00, those things should not be covered by this act. I think with these exclusions that provide a fairly broad blanket exemption in the act, I think even the \$2000.00 limitation would cover the small repair projects and they would be excluded from the bidding process and the reporting process.

Mr. Tapogna stated that the amendment which we had provided you left the definition of public works as it was written and it excluded any dollar limit request. It was to leave the statute as written in its present form adding only those exceptions, and thereby dropping that dollar limit.

Mr. Jeffrey felt that wouldn't completely solve the problem. If you agree that we exclude construction or related work from the definitions, that puts "repair" back in. If we put repair back in, then I think you are going to need a dollar amount. I think you are going to need some kind of dollar limitation. It is going to take a combination of both of the exceptions.

Mr. Tapogna asked if Mr. Jeffrey would suggest the \$2000.00 limit.

Mr. Jeffrey answered that it was kind of open to suggestion, the testimony that we have had so far for the intent of the bill the \$5000.00 doesn't seem to be a problem. It seems to be a \$2000.00 problem.

Mr. Tapogna stated that he would like to offer several comments in that case, when the \$5000.00 would bring it into parody with the Local Government Purchasing Act. The Local Government Act does stipulate that it is a total aggregate amount of the contract. I believe that the Department of Transportation was concerned about this previously. It would be covered under 332. It's also specified within Chapter 338 of the Public Works Act that all subs are tied to the prime and must be paid the going wage.

Mr. Jeffrey said that the problem I think you have here in Chapter 338, 332 and 333, is kind of a apple, orange thing. I was involved back when 332 and 333 were changed and I supported those changes. The problem we have, and maybe Mr. Taylor would like to comment on this, I understand the problem the highway has when you have federal funding involved with the highways. I think we also may have the same kind of problems in Parks and Recreation. We spent a lot of federal dollars on a matching basis. \$5000.00 in this case might be quite a bit.

Mr. Tapogna said that any time there is any federal money involved, they have to comply with the federal rules and regulations.

Mr. Jeffrey asked if it wouldn't be easier to make them all the same.

Mr. Tapogna replied it's possible.

Mr. Jeffrey stated that if the limitation is \$2000.00 on the federal level for the same act, it seems to me that it would make more sense to bring it in line with the federal act than it would be to try to be in compliance with an act that was designed basically for government purchases.

Mr. Tapogna said that he had a problem relating to the \$2000.00 because he did not know the exact guidelines set down by the Feds with regards to that \$2000.00. He was under the impression that there was some other set asides or other exceptions to that.

Mr. Jeffrey said that there are other exceptions. We were talking about dollar amounts, that is what my concern was, what the dollar limitations were. The best information I have is \$2000.00.

Mr. Nicholas asked if there were any other thoughts on this matter.

Mr. Ed Park stated that there are a great majority of set asides especially at Nellis Air Force Base where they have small business set asides up to \$10,000 where Davis-Beacon is waived, payment performance bonds are waived. They just give the contract to a small business set aside if you can qualify. We are in direct competition for that labor force with Nellis AFB and it is becoming extremely difficult for us in our area to obtain that necessary labor when they go to Nellis AFB and not have to turn dime one for payment and performance bond or worry about reporting requirements under Davis-Beacon for a \$10,000 contract. They had a small business set aside, I believe if I recall correctly, of over 3½ million dollars to small businesses.

Mr. Jeffrey commented that again you are comparing apples and oranges. Working on federal projects under the Davis-Beacon Act, there are a lot of differences between the enforcement of that act and the enforcement of the little leagues. We have to go to reporting requirements because we don't have the staff of the labor commissioners office.

Mr. Park stated that we received a letter from the State Labor Commissioner in 1978 which indicated that it is a requirement that any contract involving labor be reported to the Labor Commissioner's Office in writing, with the name of the contractor, their address, the title of the contract and the dollar amount. We do handle upwards of 150 to 200 of these contracts every year and it is becoming somewhat of an administrative burden to keep track of them.

Mr. Phil Cathcart, representing the City of North Las Vegas, also a member of the Southern Nevada Local Government Purchasing Act Committee spoke next. I think we have all agreed on the makeup of this bill. It would make it easier as far as the reporting goes if we set a limit say of \$2000.00, that is standard with government. It would also cut down all the reporting for everything under \$2000.00. The way the law is now, it should be reported no matter what the amount is. By setting the \$2000.00 limit it would cut down tremendously on the work load of reporting all these small contracts.

Mr. Etcheverry, Executive Director of the Nevada League of Cities stated that he concurred with the purchasing personnel that testified here today. He indicated that the purchasing people have put a lot of effort into trying to make this statute presentable and workable and that they were speaking on the position of the Nevada League of Cities.

Mr. Sal Quilici, representing the Nevada Department of Transportation, stated that he would like to re-confirm his position on this bill. His main concern was basically in two areas. He asked if the word "repair" was still part of AB 94 or has it been deleted.

Mr. Jeffrey stated for all practical purposes, one way or another, the word "repair" would still be in there.

Mr. Quilici stated that in the bill AB 284 it has the word "repair" omitted from it.

Mr. Jeffrey said that as far as the first pages of AB 284 and AB 94, he thought basically what we said here today we will come out with that revision.

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Mr. Quilici said that the second area they would like to address would possibly clarify the intent of this amendment as he had earlier testified on under Paragraph 3 under Section I, Line 15. He stated that he would like to add to that particular line, "whose total project cost exceeds \$5000.00 or whatever amount you so desire to put into that particular area to simply eliminate the possibility of misinterpretation and having to be involved with a subcontract of less than \$5000.00 and the subcontractor indicating that he would be exempt from any payroll requirements, certified payrolls and this type of documentation and the minimum prevailing wage rate.

Mr. Nicholas: Sal, if you will recall the first amendment to this taking that line out, I will say again we are on Page 1, Line 15, and have inserted it on Line 10, I believe.

Mr. Quilici said that in further evaluating this, we felt it was probably more appropriate on Line 15. It would be the total project cost.

Mr. Nicholas said we had talked in terms of under \$5000.00 being 6%, if we had the \$2000.00 limit what kind of proportion are we talking about for total business.

Mr. Quilici answered that on our contracts, primarily, approximately 5% to 10% of the subcontracts in a range from \$1000.00 to \$5000.00. In review of last year's work it came up closer to 10 than it was to 5 the number of subcontracts on our projects that were below \$5000.00.

Mr. Nicholas: The percentage we are talking about as far as \$5000.00 is concerned, is that the 6%?

Mr. Quilici stated that of the \$12 million spent in fiscal 79-80 budget, 6% was cut on projects that were less than \$5000.00.

Mr. Nicholas: When you get down to the \$2000.00 figure is what I am working on at this point, what kind of percentage are we talking about?

Mr. Quilici thought that from our agency that would be reduced from the 8% or 9% that we presently have, it would be closer to maybe 3% or 4% of the projects that would have subcontracts in that range. Even lower than that, probably 1%, because most of our jobs that include labor and the subcontracts and materials does not take much more to utilize \$2000.00. I don't think we have had in the last couple of years, that I am aware of, a single contract below \$5000.00.

Mr. Jeffrey stated from the testimony from the City of Las Vegas they said that their jobs that were under \$5000.00, averaged approximately \$1500.00.

Mr. Quilici stated that as a suggestion, he would like to bring up the fact from his past experience in monitoring payrolls, and contractors and subcontractors, possibly the relief that these entities are seeking as in the area of also reporting and documenting of these reports which is time consuming and it takes a number of man hours to accomplish this process. It would be incumbent on a contractor to maintain his records on file in case of a wage complaint. Only through proper documentation can we, as contract compliance officers, monitor the complaint to the satisfaction of the employees to see whether in fact the contractor was paying the prevailing wage rate, the hours worked, etc.

Mr. Jeffrey: I think we would be covered by that, I think the reports should be eliminated for amounts under \$2000.00 and in the cases where we are talking about the exceptions.

Mr. Nicholas asked that if we then go for a \$2000.00 figure, eliminate the reporting under \$2000.00, utilize Steve's amendments, do we have a consensus here of the people in this room that this would be a direction that would be acceptable?

Mr. Jeffrey stated that he thought the \$2000.00 still belongs in the definition of "public work".

Mr. Nicholas said that he would like to ask Steve for his thinking insofar as the insertion point and the NRS of his amendment.

Mr. Tapongna said that, as I understand it, we are talking about setting a \$2000.00 threshold within the definition of public works leaving the word "repair" in that definition and then by exception taking out maintenance and operating services, emergency contracts, and tying those portions or exceptions back into the Local Government Act and State Act.

Mr. Jeffrey said he thinks the only thing we need to add in there is that you will comply with the provisions of 338.

Mr. Tapongna: The only place where you would have a problem would be relating to 339 because of the bonding thing.

Mr. Nicholas stated that what we are intending to do is to go ahead basically with AB 94 taking care of the changes we are talking about here, as far as the other bill is concerned, delete all the references that are duplicatory - AB 284 would simply stay in tack dealing only with 339.025.

Mr. Tapongna said that there are several instances in 332, exceptions to competitive bidding, that should be placed right within the definition.

766

(Committee Minutes)

Minutes of the Nevada State Legislature

Assembly Committee on GOVERNMENT AFFAIRS - Room 214

Date: March 10, 1981

Page: 9

Mr. Nicholas and Mr. Jeffrey stated that the next step would be to go to the bill drafters office with the amendments and then back to the committee.

With no further business, meeting was adjourned at 2:20 P.M.

Respectfully submitted,

Robbie Alldis

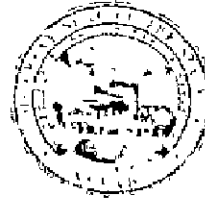
Robbie Alldis
Assembly Attache

(Committee Minutes)

A Form 70

8769

AB94 032
ER-3984



The State of Nevada

Executive Chamber

November 3, 1930

Robert List
Governor

Capitol Complex
Carson City, Nevada 89710

Mr. Thomas J. Milligan
City of Sparks
431 Prater Way
Sparks, Nevada 89431

Dear Mr. Milligan:

During the past three months, the Office of the Labor Commissioner has been asked by local government agencies in Washoe County to review the public works project requirements contained in Chapters 338 and 339, Nevada Revised Statutes.

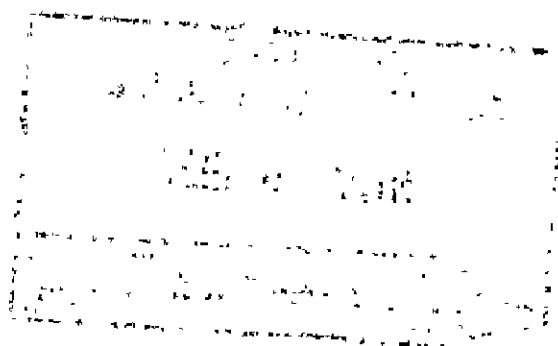
As you are aware, NRS 338.020 requires that every contract to which a public body is a party is subject to the reporting and prevailing wage provisions of the state public works laws.

The local government agencies had requested that the Labor Commissioner establish monetary thresholds below which the prevailing wage and reporting requirements would not apply.

Upon review of the matter with legal counsel, the Labor Commissioner denied the request and ruled that all public works projects entered into by local government agencies must comply with the prevailing wage and reporting requirements. This would include minor repair and maintenance contracts, operating services, and purchasing contracts on which labor is employed.

The Labor Commissioner ruled that he did not have the legal authority to establish arbitrary monetary thresholds, or to raise the \$2,000 bonding requirement specified in Chapter 339, Nevada Revised Statutes.

The ruling was reviewed by Washoe County District Attorney Calvin Dunlap and Reno City Attorney Louis Test who requested a ruling from the Attorney General on the matter.



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AB94 033
ER-3985

Mr. Thomas J. Milligan
November 3, 1980
Page Two

The Attorney General's Office upheld the Labor Commissioner's ruling. In an opinion issued September 2, 1980, Deputy Attorney General Donald Klasie stated:

"[I]n short, there appears nothing in either statute (NRS 338.010(3) and NRS 339.015(2)) which would justify a limitation on the term 'repair' to include only structural changes to a building. The term 'repair' as utilized in each statute is simply too broad for such limitation. . . ."

I am enclosing a copy of the Attorney General's opinion for your information.

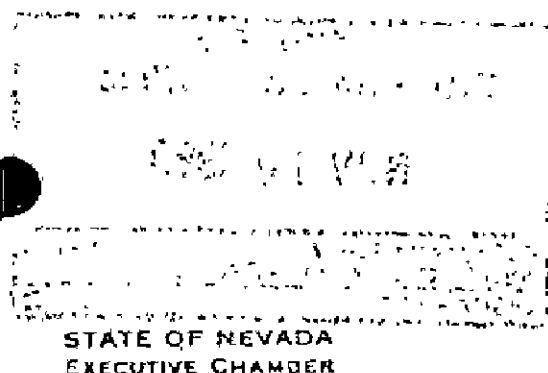
In light of the legal opinion, the Labor Commissioner simply cannot institute an "administrative remedy" that would be contrary to the wording of the statutes.

I agree with you that current procedures adversely affect the efficiency of local public works' activities. Nevertheless, it is clear that we must adhere to the statutes as they are written. You can be assured that I will do everything necessary to see that this problem is resolved, as soon as possible, through corrective legislative action. Until that time, we must continue to work together to minimize the effect of this procedure on the activities of our individual operations.

Thank you for your cooperation and your interest in this matter.

Sincerely,


ROBERT LIST
Governor



772

AB94 034
ER-3986

Stephen J. Tapogna, Chairman
Local Government Purchasing
Study Commission
P.O. Box 1900
Reno, NV 89505

February 25, 1981

Re Assembly Bill 94

The Honorable David Nicholas
Assemblyman, State of Nevada
Legislative Building
Carson City, NV 89710

Dear Sir:

Pursuant to discussion in subcommittee hearings re AB-94 on February 19, 1981 I met with Joyce Devine, Washoe County Purchasing, to discuss the problems encountered with the subject bill. We would offer for your review the following addendum to the current statute as written:

Exception to provisions of the statute upon completion of public work:

- a. Contracts awarded by the public body to care for and preserve, and keep in proper condition of a non-structural nature on all publically owned land, buildings, public parks, and playgrounds.
- b. Emergency contracts as defined in the Local Government Purchasing Act, Section 332.055.
- c. Contracts awarded under the exceptions of sub-sections a. and b. must be in compliance with the provisions of NRS 332 or 333 as applicable.
- d. Nothing in this section shall pertain to new construction, re-construction, or additions to publicly owned land, buildings, parks, and playgrounds.

As you can see this would allow and provide for the day to day housekeeping chores performed on a daily basis by virtually every government entity in the state.


Further it imposes the legal limitations of the Local Government Purchasing Act and the State Purchasing Act upon such contracts and excludes only the four areas of land, buildings, parks, and playgrounds addressed in Chapter 338.

This too will comply with concerns as expressed by several members of the Government Affairs Committee and as addressed by the representative from the Department of Transportation.

I hope these suggestions are of some help to you in your deliberations regarding this bill and may in some way effect equitable relief for all government entities within the State from the problems imposed by the limitations of Chapter 338.

Sincerely,

LOCAL GOVERNMENT PURCHASING
STUDY COMMISSION



Stephen J. Tapogna, Chairman

SJT:lew

cc: Joyce Devine, LGPSC
Ron Creagh, City of Reno Lobbyist

774

AB94 036
ER-3988

MEMBERS PRESENT: Chairman Dini
Mr. DuBois
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS EXECUSED: Vice Chairman Schofield
Mr. Craddock
Mr. Jeffrey

GUESTS: Please refer to the guest list attached to
the minutes of this meeting.

Chairman Dini called the meeting to order at 8:00 A.M.

Mr. Dini indicated that he had a request to introduce BDR 34-1032
by the Clark County School District.

Mr. May moved for committee introduction of BRD 34-1032, which
was seconded by Mr. DuBois. The motion carried unanimously.

Mr. Dini announced that the first bill that the committee would
consider this morning would be AB 275.

Mr. John Crossley, Legislative Auditor testified first. Mr.
Crossley stated that this particular bill encompasses many of
the audit recommendations contained in our audit reports. Up
to two sessions ago we used to have separate bills on each one
of these recommendations which was 14 to 15 bills and we decided
it would be less expensive to try and incorporate many of the
provisions or recommendations into one bill and this is what
we have done the last two sessions. We do have other bills
of course out of the audit reports but this one takes in many
of the recommendations. This particular bill involves the
creation, repealing, categorizing and retitling of funds in
the State's accounting system. Mr. Crossley handed out a
copy of his testimony for the committee, which is attached to
the minutes of this meeting as EXHIBIT A.

Mr. Crossley discussed Exhibit A with the committee.

Assemblyman Robinson testified next on AB 151. Dr. Robinson
indicated that his motivation for putting in this bill came
about as I was subjected to more and more criticism from
constituents for having voted for this measure in the first
place and of all of the bills over the four sessions that I
have been in and voted for, I think this is the only one that
I regretted that I had voted for, not that it did not accomplish

Mr. Robert Gagnier, Executive Director of the State of Nevada Employees Association testified next. Mr. Gagnier indicated that he would like to speak on behalf of AB 278. Mr. Gagnier indicated that he agreed with everything that has been stated here this morning.

Mr. Jim Wittenberg, State Personnel Division, testified next. He indicated that he thought the problem that is caused at the state level is the result of salaries in the structure. He indicated that this law affects some 58 people. He indicated that they had serious recruitment and retention problems.

Mr. Robert Forbus, Clark County School Board testified next. He indicated that he was in favor of this bill, and that he did not have a vested interest.

Mr. Charles Sylvestre, Clark County School District testified next. He indicated that he concurred with the previous speakers. He stated that their district is a very large district. It is the 23rd largest in the United States and employs 7,600 people.

Mr. Dan Fitzpatrick testified next. He stated there was a problem in Clark County. It is a matter of retention and that they had a contradiction in the law. He further stated that there was a situation now where 13 individuals cannot make a comparable salary.

This concluded the testimony on AB 278. The committee took a short recess.

Mr. Dini indicated that the next bill before the committee is AB 275. He stated that this bill needs an amendment.

Mr. Nicholas moved for amend and do pass on AB 275, which was seconded by Mr. Polish. The motion carried unanimously. Mr. Jeffrey and Mr. Craddock were not present at the time of this vote.

Mr. Dini asked Mr. Nicholas about the subcommittee amendments on AB 94.

Mr. Nicholas stated that as a result of the several meetings that we had and the testimony that we took in our final meeting, in conjunction with all of the people who were in attendance at the meeting with Assemblyman Jeffrey and I, worked out this amendment which conforms with the wishes of all present, including Assemblyman Jeffrey and myself, so this is sent back to the committee as the recommendation of the subcommittee on AB 94, for your approval and process.

Mr. Dini stated that the amendment lowers the limit to \$2,000. A copy of the amendment to AB 94 is attached to the minutes of this meeting as EXHIBIT E.

(Committee Minutes)

Mr. Dini stated that he would like to commend the committee on AB 94 for their work on this bill.

Mr. Nicholas moved for an amend and do pass on AB 94, which was seconded by Mr. Redelsperger. The motion carried unanimously. Mr. Jeffrey and Craddock were not present at the time of the vote.

Mr. Dini indicated the next bill up for discussion would be AB 151. Mr. May moved for a do pass on AB 151, which was seconded by Mr. Mello. The motion carried unanimously. Mr. Jeffrey and Mr. Craddock were not present at the time of the vote.

Mr. Dini indicated that the next bill to be discussed would be AB 276. He indicated that the committee had the amendments from Dan Fitzpatrick. Mr. Dini stated that with the amendment presented by Dan Fitzpatrick and the conflict notice that that would be a good bill. Mr. Polish moved for an Amend and Do Pass on AB 276, which was seconded by Mr. DuBais. The motion carried unanimously. Mr. Jeffrey and Mr. Craddock were not present at the time of the vote.

The next bill discussed by the committee was AB 282. Mr. Dini stated that he felt personally that AB 282 was a bill that we don't really need on the books.

Mr. Mello moved for an Indefinite Postponement of AB 282, which was seconded by Mr. Redelsperger.

Mr. Dini asked if there was any discussion.

Mr. Mello asked if he could say why he made that motion. Frankly I felt when Dave Parraguarre came back the second time, he gave a good case to keep it. I don't understand the problems. They have been treating the deputies as unclassified and perhaps that is why they haven't any problems and if they treat them like classified, maybe they will have some, but until we actually see if they are going to have problems if they treat them as classified. There are no problems in Clark County, obviously.

Mr. Dini asked for a vote of the committee of who was in favor of indefinitely postponing AB 282. The motion carried unanimously. Mr. Jeffrey and Mr. Craddock were not present at the time of the vote.

Mr. Dini stated that he had the amendments for the bonding bill, AB 189, where the State Treasurer has a municipal bond bank and I would like to have a motion to amend it and re-refer back to committee.

Mr. Mello moved for the amendment and re-referral back to committee, which was seconded by Mr. Schofield. The motion on AB 189 carried unanimously.

24.8

1981 REGULAR SESSION (61st)

ASSEMBLY ACTION	SENATE ACTION	Assembly	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to Assembly	
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Bill No. 94	Joint
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>		Resolution No.
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	BDR 28-233	
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Proposed by Committee on Government Affairs	
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>		
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>		

Amendment No 210

Conflicts with Amendment No. 40

Amend section 1, page 1, line 15, by deleting "exceeds \$5,000." and inserting "as a whole exceeds \$2,000."

Amend the bill as a whole by adding a new section designated as section 2, following section 1, to read as follows:

"Sec. 2. Chapter 338 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The requirements of this chapter do not apply to a contract awarded in compliance with chapter 332 or 333 of NRS which is:

1. Directly related to the normal operation of the public body or the normal maintenance of its property.
2. Awarded to meet an emergency which results from a natural or man-made disaster and which threatens the health, safety or welfare of the public."

To: E & E
LCR File
Journal ✓
Engrossment
Bill

Drafted by FWD:smc Date 3-10-81

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AB94 040
ER-3992

Senate Bill No. 256.

Assemblyman Vergiels moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 298.

Assemblyman Vergiels moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 333.

Assemblyman Vergiels moved that the bill be referred to the Committee on Education.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 88.

Bill read second time, ordered engrossed and to third reading.

Assembly Bill No. 94.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 210.

Amend section 1, page 1, line 15, by deleting "*exceeds \$5,000.*" and inserting "*as a whole exceeds \$2,000.*".

Amend the bill as a whole by adding a new section designated as section 2, following section 1, to read as follows:

"Sec. 2. Chapter 338 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The requirements of this chapter do not apply to a contract awarded in compliance with chapter 332 or 333 of NRS which is:

1. *Directly related to the normal operation of the public body or the normal maintenance of its property.*

2. *Awarded to meet an emergency which results from a natural or man-made disaster and which threatens the health, safety or welfare of the public.*"

Assemblyman Nicholas moved the adoption of the amendment.

Remarks by Assemblyman Nicholas.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 151.

Bill read second time, ordered engrossed and to third reading.

Assembly Bill No. 189.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 260.

Amend sec. 2, page 1, by deleting lines 6 and 7 and inserting:

"preservation of the property and natural resources of the State of Nevada, and to obtain the benefits thereof; and that the state should".

Amend sec. 2, page 1, line 9, after "loans" by inserting "to municipalities".

pursuant

in, semi-

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 94

ASSEMBLY BILL NO. 94—COMMITTEE ON
GOVERNMENT AFFAIRS

FEBRUARY 2, 1981

Referred to Committee on Government Affairs

SUMMARY—Limits definition of "public works." (BDR 28-233)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public works; limiting their definition for certain purposes; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

1 SECTION 1. NRS 338.010 is hereby amended to read as follows:
2 338.010 As used in this chapter:

3 1. "Day labor" means all cases where public bodies, their officers,
4 agents or employees, hire, supervise and pay the wages thereof directly
5 to a workman or workmen employed by them on public works by the day
6 and not under a contract in writing.

7 2. "Public body" means the state, county, city, town, village, school
8 district or any public agency of this state or its political subdivisions spon-
9 soring or financing a public work.

10 3. "Public work" means *any project for the new construction [of*
11 *and the repair and], repair or reconstruction [work on all] of public*
12 *buildings, public highways, public roads, public streets and alleys, public*
13 *utilities paid for in whole or in part by public funds, publicly owned*
14 *water mains and sewers, public parks and playgrounds, and all other*
15 *publicly owned works and property [.] whose cost as a whole exceeds*
16 *\$2,000.*

17 4. "Wages" means:

18 (a) The basic hourly rate of pay; and

19 (b) The amount of pension, health and welfare, vacation and holiday
20 pay, the cost of apprenticeship training or other similar programs, or
21 other bona fide fringe benefits which are a benefit to the workman.

22 The obligation of a contractor or subcontractor to make such wage
23 payments in accordance with the prevailing wage determination of the
24 labor commissioner may be discharged by the making of payments in

AB94 042

ER-3994

1 cash, or by making contributions to an established third person pursuant
2 to a fund, plan or program in the name of the workman.

3 5. "Workman" means a skilled mechanic, skilled workman, semi-
4 skilled mechanic, semiskilled workman or unskilled workman.

5 SEC. 2. Chapter 338 of NRS is hereby amended by adding thereto a
6 new section which shall read as follows:

7 *The requirements of this chapter do not apply to a contract awarded*
8 *in compliance with chapter 332 or 333 of NRS which is:*

9 1. *Directly related to the normal operation of the public body or the*
10 *normal maintenance of its property.*

11 2. *Awarded to meet an emergency which results from a natural or*
12 *man-made disaster and which threatens the health, safety or welfare of*
13 *the public.*

(20)

S

EXPLAN

AN ACT

The People

1 SECTION
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Assembly Bill No. 378—An Act relating to economic development; creating an office of minority businesses within the department of economic development; and providing other matters properly relating thereto.

Assemblyman Vergiels moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 209.

Bill read second time, ordered engrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 32.

Bill read third time.

Remarks by Assemblymen Banner and Cafferata.

Conflict of interest declared by Assemblyman May.

Roll call on Assembly Bill No. 32:

YEAS—29.

NAYS—Bergevin, Beyer, Brady, Cafferata, Ham, Nicholas, Rackley, Redelsperger, Rusk—9.

Absent—Rhoads.

Not voting—May.

Assembly Bill No. 32 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 94.

Bill read third time.

Remarks by Assemblyman Nicholas.

Roll call on Assembly Bill No. 94:

YEAS—39.

NAYS—None.

Absent—Rhoads.

Assembly Bill No. 94 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 270.

Bill read third time.

Remarks by Assemblyman Cafferata.

Roll call on Assembly Bill No. 270:

YEAS—39.

NAYS—None.

Absent—Rhoads.

Assembly Bill No. 270 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 271.

Bill read third time.

Remarks by Assemblyman Robinson.

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON GOVERNMENT AFFAIRS

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 3, 1981

The Senate Committee on Government Affairs was called to order by Chairman James I. Gibson, at 11:07 a.m., Friday, April 3, 1981, in Room 243 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator James I. Gibson, Chairman
Senator Keith Ashworth
Senator Gene Echols
Senator Virgil Getto
Senator James Kosinski
Senator Sue Wagner

COMMITTEE MEMBER ABSENT:

Senator Jean Ford (Excused)

STAFF MEMBER PRESENT:

Anne Lage, Committee Secretary

ASSEMBLY JOINT RESOLUTION NO. 29

Encourages local governments to approve and Federal Government to provide money for construction of system for intercepting and collecting wastewater in Sun Valley, Nevada.

Senator Wagner testified that she had attended a homeowners' meeting in Sun Valley where they expressed concern over the standing water that was contaminated. It has become a serious health problem.

Chairman Gibson asked if there was federal money available. Senator Wagner was not aware if there was as she was unfamiliar with this particular resolution.

Chairman Gibson decided to hold this bill until further information was available.

SENATE COMMITTEE ON
GOVERNMENT AFFAIRS
April 3, 1981

ASSEMBLY BILL NO. 94

Limits definition of "public works."

Mr. Glen Taylor, Nevada State Labor Commission, testified that his agency was in support of this bill. He believed that this bill would assist the various public entities, such as the City of Reno, to meet their requirements under Nevada Revised Statute Chapter 338. He stated around 6% to 10% of all the projects within the state of Nevada are under \$2000.

Chairman Gibson inquired as to who had requested this bill. Mr. Taylor responded that the League of Cities had requested it.

Mr. Steve Tapogna, Purchasing Manager of the city of Reno, testified that this bill was introduced by the local government purchasing study commission and they were unanimously in support of it.

SENATE BILL NO. 386

Makes various changes to law governing metropolitan police departments.

Sheriff John McCarthy, Clark County, testified that in January of 1980, an opinion was rendered by the 8th Judicial District Court that the legislative act which created the Las Vegas Metropolitan Police Department was constitutionally defective. An appeal of that decision was taken to the Nevada Supreme Court and arguments were heard on March 13, 1981.

The legislature, in 1971, established a committee to review the law enforcement services in the Las Vegas area. The committee decided that the most feasible and practical solution was to consolidate the sheriff's department with the police department. The rationale behind this action was that since both agencies provided similar services divided only by political boundaries, they should be joined. Subsequently, the Las Vegas Metropolitan Police Department became effective on July 1, 1973.

Sheriff McCarthy reviewed the past eight years and indicated that the concept has improved the efficiency of the police department. He cited several advantages of this consolidation.

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON GOVERNMENT AFFAIRS

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 29, 1981

The Senate Committee on Government Affairs was called to order by Chairman James I. Gibson, at 2:10 p.m., Wednesday, April 29, 1981, in Room 243 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator James I. Gibson, Chairman
Senator Jean Ford, Vice Chairman
Senator Gene Echols
Senator James Kosinski
Senator Keith Ashworth
Senator Ste Wagner

COMMITTEE MEMBER ABSENT

Senator Virgil Getto (Excused)

GUEST LEGISLATORS:

Assemblyman Robert Rusk
Assemblywoman Peggy Westall

STAFF MEMBER PRESENT:

Anne Lage, Committee Secretary

SENATE BILL NO. 531

Removes prohibition against state employees taking accrued sick leave during first 6 months of employment.

Mr. Bob Gagnier, Executive Director State of Nevada Employees Association, testified that this bill would delete language placed in the law two years ago. Mr. Gagnier indicated that after extensive negotiations with the state administration, in an effort to arrive at an equitable compensation package and still stay within the presidential guidelines, this benefit was given up. During the past two years this has created a hardship on probationary employees, thus this bill was introduced to alleviate this problem.

SENATE COMMITTEE ON
GOVERNMENT AFFAIRS
April 29, 1981

ASSEMBLY BILL NO. 29

Provides for review by state agencies of water quantity and sewage disposal in planned unit developments.

Senator Keith Ashworth moved "Indefinite Postponement" on Assembly Bill No. 29.

Senator Echols seconded the motion.

The motion failed to carry. (Senators Gibson, Ford and Wagner voted "No". Senator Kosinski voted to "Abstain".)

The committee discussed the "Hoy" amendment. Senator Kosinski explained that Mr. Hoy and some other developers had filed a tentative map on a Planned Unit Development mobile home estates. The amendment would provide that he would not have to go back under this language to obtain a second approval.

Senator Ford moved "Amend and Do Pass" on Assembly Bill No. 29.

Senator Wagner seconded the motion.

The motion failed to carry. (Senators K. Ashworth, and Echols voted "No". Senator Kosinski voted to "Abstain".)

ASSEMBLY BILL NO. 94

Limits definition of "public works."

Senator Keith Ashworth moved "Amend and Do Pass" on Assembly Bill No. 94. The amendment would place the limit at \$4000.

Senator Echols seconded the motion.

The motion carried unanimously.

ASSEMBLY BILL NO. 146

Provides for legislative veto of administrative regulations.

Senator Keith Ashworth moved "Do Pass" on Assembly Bill No. 146.

Senator Kosinski seconded the motion.

5/11/81

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 868.

Amend section 1, page 2, line 1, by deleting "November" and inserting:

"October".

Senator Gibson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 244.

Bill read second time and ordered engrossed.

Senate Bill No. 415.

Bill read second time, ordered engrossed and to third reading.

Senate Bill No. 645.

Bill read second time, ordered engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Keith Ashworth moved that Senate Bill No. 244 be referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 94.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 862.

Amend section 1, page 1, by deleting line 16 and inserting:
"\$4,000."

Senator Gibson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 414.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 839.

Amend the bill as a whole by adding a new section designated section 2, following section 1, to read as follows:

"Sec. 2. NRS 632.270 is hereby amended to read as follows:

632.270 Each applicant for a license to practice as a practical nurse shall submit to the board written evidence, under oath, that he:

1. Is of good moral character.
2. Has a high school diploma or its equivalent as determined by the state board of education.
3. Is at least 18 years of age.
4. [Has successfully] *Is qualified by having:*
 - (a) *Successfully* completed the prescribed course of study in an accredited school of practical nursing [...] or professional nursing; or

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(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 94

ASSEMBLY BILL NO. 94—COMMITTEE ON
GOVERNMENT AFFAIRS

FEBRUARY 2, 1981

Referred to Committee on Government Affairs

SUMMARY—Limits definition of "public works." (BDR 28-233)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public works; limiting their definition for certain purposes; and
providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

1 SECTION 1. NRS 338.010 is hereby amended to read as follows:

2 338.010 As used in this chapter:

3 1. "Day labor" means all cases where public bodies, their officers,
4 agents or employees, hire, supervise and pay the wages thereof directly
5 to a workman or workmen employed by them on public works by the day
6 and not under a contract in writing.

7 2. "Public body" means the state, county, city, town, village, school
8 district or any public agency of this state or its political subdivisions spon-
9 soring or financing a public work.

10 3. "Public work" means *any project for the new construction* [of
11 and the repair and], *repair or reconstruction* [work on all] of public
12 buildings, public highways, public roads, public streets and alleys, public
13 utilities paid for in whole or in part by public funds, publicly owned
14 water mains and sewers, public parks and playgrounds, and all other
15 publicly owned works and property [.] *whose cost as a whole exceeds*
16 *\$4,000.*

17 4. "Wages" means:

18 (a) The basic hourly rate of pay; and

19 (b) The amount of pension, health and welfare, vacation and holiday
20 pay, the cost of apprenticeship training or other similar programs, or
21 other bona fide fringe benefits which are a benefit to the workman.

22 The obligation of a contractor or subcontractor to make such wage
23 payments in accordance with the prevailing wage determination of the
24 labor commissioner may be discharged by the making of payments in

1 cash, or by making contributions to an established third person pursuant
2 to a fund, plan or program in the name of the workman.

3 5. "Workman" means a skilled mechanic, skilled workman, semi-
4 skilled mechanic, semiskilled workman or unskilled workman.

5 SEC. 2. Chapter 338 of NRS is hereby amended by adding thereto a
6 new section which shall read as follows:

7 *The requirements of this chapter do not apply to a contract awarded*
8 *in compliance with chapter 332 or 333 of NRS which is:*

9 1. *Directly related to the normal operation of the public body or the*
10 *normal maintenance of its property.*

11 2. *Awarded to meet an emergency which results from a natural or*
12 *man-made disaster and which threatens the health, safety or welfare of*
13 *the public.*

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5/13/81

Remarks by Senators Getto and Jacobsen.

Roll call on Senate Bill No. 637:

YEAS—17.

NAYS—Keith Ashworth, Gibson, Lamb—3.

Senate Bill No. 637 having received a constitutional majority, Mr. President declared it passed.

Assembly Bill No. 94.

Bill read third time.

Roll call on Assembly Bill No. 94:

YEAS—20.

NAYS—None.

Assembly Bill No. 94 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 115.

Bill read third time.

Roll call on Assembly Bill No. 115:

YEAS—20.

NAYS—None.

Assembly Bill No. 115 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 176.

Bill read third time.

Roll call on Assembly Bill No. 176:

YEAS—18.

NAYS—Lamb, Neal—2.

Assembly Bill No. 176 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 191.

Bill read third time.

Roll call on Assembly Bill No. 191:

YEAS—20.

NAYS—None.

Assembly Bill No. 191 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 414.

Bill read third time.

Roll call on Assembly Bill No. 414:

YEAS—20.

NAYS—None.

Assembly Bill No. 414 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 521.

Bill read third time.

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Assembly Bill No. 94—Committee on Government Affairs

CHAPTER 278

AN ACT relating to public works; limiting their definition for certain purposes; and providing other matters properly relating thereto.

[Approved May 20, 1981]

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

2. "Public body" means the state, county, city, town, village, school district or any public agency of this state or its political subdivisions sponsoring or financing a public work.

3. "Public work" means *any project for the new construction [of and the repair and], repair or reconstruction [work on all] of public buildings, public highways, public roads, public streets and alleys, public utilities paid for in whole or in part by public funds, publicly owned water mains and sewers, public parks and playgrounds, and all other publicly owned works and property [.] whose cost as a whole exceeds \$4,000.*

4. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs, or other bona fide fringe benefits which are a benefit to the workman.

The obligation of a contractor or subcontractor to make such wage payments in accordance with the prevailing wage determination of the labor commissioner may be discharged by the making of payments in cash, or by making contributions to an established third person pursuant to a fund, plan or program in the name of the workman.

5. "Workman" means a skilled mechanic, skilled workman, semi-skilled mechanic, semiskilled workman or unskilled workman.

SEC. 2. Chapter 338 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The requirements of this chapter do not apply to a contract awarded in compliance with chapter 332 or 333 of NRS which is:

1. *Directly related to the normal operation of the public body or the normal maintenance of its property.*

2. *Awarded to meet an emergency which results from a natural or man-made disaster and which threatens the health, safety or welfare of the public.*

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