

## Senate

## COMMITTEE ON FEDERAL, STATE AND LOCAL GOVERNMENTS

Minutes of Meeting -- February 20, 1969

The fourteenth meeting of the Committee on Federal, State and Local Governments was held on February 20, 1969 at 3:00 P.M.

Committee Members present: Chairman James Gibson  
 Warren L. Monroe  
 Vernon E. Bunker  
 Chic Hecht  
 Carl F. Dodge  
 \*Marvin L. White - excused

Also present were:

|                   |                                 |
|-------------------|---------------------------------|
| Frank Johnson     | Chairman, Gaming Control Board  |
| R. Edmonds        | North Las Vegas                 |
| Sam Boyd          | Henderson, Nevada               |
| J. N. Littlefield | Dep. Mgr., State Planning Board |
| Edwin J. Dotson   | Las Vegas, Nevada               |
| Paul A. Richards  | Reno, Nevada                    |
| John Gianotti     | Harrah's                        |
| Will Eber         | Intern for Senator Swobe        |
| John M. Diggs     | Tahoe City                      |
| Tim Hafen         | Assemblyman                     |
| Coe Swobe         | Senator                         |
| Harry Drackert    | Verdi, Nevada                   |

## Press Representatives

Chairman Gibson called the meeting to order and stated that the purpose of this meeting was to discuss Senate Bill 140 and find out whether or not the Gaming Commission Control Board had a position on this matter. Also, he said the Committee was concerned about Senate Bill 48 and where it fit in with SB-140. He then asked Mr. Johnson for any comments he might have in this regard.

SB-140 Proposed by Committee on Federal, State and Local Governments. Implements Nevada racing commission's multiple racing program by authorizing greyhound racing on tracks holding a minimum of 25 days of horse racing each 90-day period.

Mr. Johnson: Senator, we discussed this at the Gaming Policy Board this morning. Our principal thought really, is that no matter what you call gaming, it's gaming and all persons participating in it are licensees. You have similar investigation and approval, and if it can be worked out, we think very much that the investigation and approval and inquiry should be through the Gaming Control Board and Commission -- with a recommendation to the Racing Commission.

Chairman Gibson then asked Mr. Johnson if that was the purpose of Senate Bill 48?

Mr. Johnson: Senate Bill 48, Senator, indicates that we would conduct such an investigation at the request of the Racing Commission, and it is our feeling that simply as a matter of form we should go through the two gaming agencies and that a recommendation for denial from us could not be overturned by the Racing Commission. In other words, these people would be subjected to exactly the same standards as other gaming licensees.

Senator Bunker: In your opinion, Frank, should this be amended in the other bill, or does it in any way conflict? There's no conflict, I'm sure, as far as the investigation is concerned -- it's just a question of whether this bill is okay the way it is without conflicting with the other?

Senator Dodge: You've got to alter some sections of the other bill, however we do it, because under the other bill -- am I not correct -- now the Commission is empowered to grant the applications.

Chairman Gibson: They are marked by the same sections of the bond, in a couple of cases, so we'd have to try to meld them if we can.

Senator Dodge: I have a question. Frank, do you feel that there's any reason for the Gaming Control Board to have any further surveillance in this area after that original investigation is made, and say you recommend approval of an application, license or authority? Would there be any conditions arise after that where you would feel that the gaming people ought to have surveillance authority?

Mr. Johnson: That is a little hard to answer. One, we don't have anybody who is an authority on racing or race problems right now. I think our real interest -- and continuing interest -- would be in the person who has a financial interest in racing itself. Probably also in the conduct of the parimutuel betting, but this would be controlled, as I understand it, by the state agency anyway. We would, or at least I would object to the idea of off-track betting if it involved casinos.

Senator Dodge: Well, in other words, if we were to write in an investigative authority here for the Control Board and say you go through your normal channels of the Gaming Commission, then do I understand also that this provision ought to say that you had a continued surveillance -- would exercise a continued surveillance over the ownership interests in the application or the licensee?

Mr. Johnson: I would say over the ownership interests, but not over the operation.

Senator Dodge: The licensee though?

Mr. Johnson: Right.

Senator Monroe: I think we're going to have to let them operate this thing for the next couple of years and see how it turns out. If

things develop that we need further surveillance over the operation, then we can go into that later. But I think to start with -- Frank says we don't have the experience -- the experienced people in the State to give this thing real surveillance.

Mr. Johnson: Our real concern is that the licensees have the same scrutiny that other gaming licensees do.

Senator Farr: Generally, what it's saying -- I think what he said, Senator, not to misunderstand your words, but we don't have anybody in his particular Gaming Control Board that's thoroughly familiar with horse racing. I think we have people in the State -- maybe this Racing Commission.

Senator Monroe: But I don't think we've got anybody in the State that's really capable of surveying parimutuel operations as a gambling operation.

Senator Farr: Well, what I'm saying is that we frankly, don't want to get at cross-purposes with the Racing Commission. We're not equipped to go around running horse races or dog races.

Chairman Gibson: I can understand your position.

Mr. Johnson: Could I make one suggestion: In relation to Senate Bill 48, and that is if we are given this function -- I'd like to have this bill amended to specifically require the applicants to pay all costs of investigation as is currently the case with other gaming applicants. This makes reference to a one per cent collection by the Racing Commission, but does not specifically require an applicant to pay all costs of his investigation.

Senator Hecht: Talking about that if we turn to page 3 about the Commission getting two per cent -- is that for the use of the Commission or for the general fund of the state? Section 4, line 1 -- is that the general fund or the Commission?

Chairman Gibson: Senate Bill 140 -- that's why I say we'll have to meld these bills. It says just a flat 3% on all parimutuel monies handled on horse races and 4% on all parimutuel monies handled on greyhound races.

Senator Dodge: We better get the pros and cons on this, because I think it's an essential element in this other bill, if I understood it. I would gather you want an off-track wagering as a help in trying to finance -- in trying to get greater volume on the wagering on the horses and dog races, right?

Mr. Edmonds: I'd like to answer that. Frankly, I'd rather not have off-track wagering. But in the past there has been, like Omaha or a couple places, that the volume of business has been too great and they wouldn't handle it, and there've been mutuel machines in the auditorium downtown. That may be the case in five, eight, ten years from now, but I can see no advantage of off-track betting right now. But I understand that some people will want it re-worded, but I don't think it would ever take place at our track, the one that we had, would even consider that off-track betting.

Chairman Gibson: I want to read the new language there, Frank, to see if this is an area -- they've knocked out some of the language that you read in the bill there. On page -- section 12, page 5, they delete -- we did leave in the off-track -- deleting line 13, and inserting there "only races conducted within the state subject to that." All right, so we left in that first paragraph, generally, and then in the second delete lines 16 through 19 and insert: "The wager made with a bonded agent of the licensees outside the track enclosure on a race being run at the licensed race track within the State of Nevada, shall be considered a wager made within the track enclosure." Well, that's still off -- I guess by your definition as off-track wager? And you would want to enter into that -- as I understand it.

Mr. Johnson: No. We prefer not to have it. One, our regulations now prohibit it -- if this were considered for a casino -- would prohibit it under our regulations; and two, I think we have some responsibility to our existing licensed "books" not to go into competition with them off-track.

Senator Bunker: This satisfies as far as they're concerned, but we still don't need it -- we don't need it and if you're going to delete, delete it. There's no conflict here, whatsoever.

Mr. Boyd: For our purpose, we'd rather drop it out.

Chairman Gibson: We have another amendment drawn as a result of our discussion yesterday, in which we have now -- this amendment is on page 3, lines 47-50. Remember as a result of our hearing, I think we concluded this did not say what the gentlemen really wanted it to say, so we've re-drawn that now and this is the new language: No. 6 -- "A license to conduct greyhound racing (a) may be issued only in conjunction with a license to conduct horse racing, and for track on which horse racing is actually conducted; and (b) shall provide that the days of greyhound racing shall not exceed two days to one day of horse racing in any one year." I think that does what we want it to do. (Committee expressed unanimous agreement.)

Senator Monroe: Should that be any one calendar year, or any period of 12 months?

There was some discussion at this point between Senator Monroe and Mr. Edmonds, concluding that that provision would be satisfactory.

Mr. Edmonds: I would like to say a few words on that. I've been involved in racing in many states, and racing has grown to tremendous volume in an awful lot of states under the Racing Commission. The Racing Commission makes all effort to see that the races are conducted on the highest plane. They have a system with the National Association of Racing Commissioners -- if they set a jockey down, the horses and trainer -- he's through in the United States for the time he's set down -- for life or for 90 days. But I do not see why there should be a conflict with the Gaming Commission and the Racing Commission when both of them are supposed to be for the same reason -- to protect the public. Each one has a certain function to do, and I think

they certainly should be able to work together. I don't see why the Racing Commission would want someone to have a permit that the Gaming Commission considered was not worthy of it. I see no reason why the two departments should have any conflict.

Chairman Gibson: I think it's just a matter of making sure that we touch base with everybody.

Mr. Edmonds: Racing cannot be protected too much, and at the base of all of it is honesty of the people that are behind the racing.

Senator Farr: May I ask a question? Yes, you seem to be an authority in this area -- you mentioned racing withdrawing. Are some of the larger tracks in California closing down? Are they closing them? Are they out of business -- a lot of them?

Mr. Edmonds: No, I know of no tracks that are closing down. One thing I would like to mention here: In most states where there's a corporation with stockholders, every year we must file a stockholder's list of everybody that owns stock in the track. And that's customary in a lot of states -- that when we apply for a permit that we have to submit a complete stockholder's list every year.

Senator Bunker: Are stockholders receiving any dividends in other states at the moment or are they breaking even?

Mr. Edmonds: Well, I don't know -- I happen to know the Santa Anita Race Track the stock was \$1,000.00 a share -- that's quite a few years ago. The doctor that started it had a very difficult time. In an estate the other day it sold for \$65,000.00 -- some of the stock -- so I don't think their losing much money. The Fairgrounds in New Orleans makes quite a good deal of money. I had a track at Jefferson Downs in New Orleans -- owed a couple million dollars -- everybody was paid off and we're building an eight million dollar race track on the same site, so we didn't lose any money.

Senator Farr: I understand another person this morning told me there were some tracks closing down in California, and that's the reason we're trying to broaden the concept of racing in this area -- and the reason being that they don't have enough stables and the people come to race and they can't get in and a number of things in that direction. I listened to this man -- he seemed to know what he was talking about. Also at the same time he told me the stockholders were not making any money -- that they were trying to break even because the taxes were too high, so they're moving out and trying to find another area.

Mr. Edmonds: Now, there may be some small tracks, quarter-horse tracks, or something. I don't know of a nationally recognized race track in California that is closing down or that is not making money. I don't have the financial statements, however. But most tracks that I know of in the country are progressing steadily forward. In fact the mutuel play have shown in all of them every year has all the way from a three to eight per cent increase in mutuel play.

Mr. Drackert: Senator Farr, I think maybe I can answer your question. On the quarter-horse racing, they passed a bill in California for night racing -- for quarter-horses and harness horses, and they had a meet at Bay Meadows -- it was cold -- and that one was not a success, but it wasn't the fault of the track, it was the fault of the weather.

Chairman Gibson: I think the one in Southern California is very successful.

Senator Dodge: Bill, I think there might be some of the operations in California, might be having some trouble. At Cal Expo, the new fair grounds set up in Sacramento, is in desparate financial trouble, and of course they built a big new race plant there. But as he points out, this isn't one of these commercial racing operations -- it's connected with the California State Fair.

Senator Hecht: The hotels and the Gaming Control Commission are very concerned about all this. How do you feel about this stock issue before we pass this bill?

Mr. Johnson: I think we have to be very very careful that nobody gets hurt in any kind of a stock venture involving gambling. We require them to come before us with the full 90% of the financial commitment and not peddle more than 10% of it at the outset. And then after it gets going, they can enter into a covenant with us that they will not sell any of that 90% or trade it until after construction is completed. I don't know if that's too tough for a track venture or not?

Senator Dodge: I frankly want to say that this is the biggest reservation I have about this piece of legislation. It isn't that I think there hasn't been a good case made for the validity of the operations that go in, but I have a real concern -- I still think it's not any leadpipe cinch that an operation in the near future in Nevada is going to be a successful operation. I don't know enough about it one way or the other, but at least based on the past, I think it's got some problems, even combined with the dog racing. And I really don't know that it should be the province of the legislature to try to insure against loss by investors or creditors of a track operation; but I really have some reservations about the fact that we may be encouraging that sort of thing unless we have some type of good regulation on it.

Mr. Edmonds: It's very difficult to tell the outcome of anything. It must be dependent upon the organization itself. I have made these ability studies and market reports for several race tracks. I have always been very close. Now this report on this track does not say it was going to be a success the first year. I know that the dogs will take three years before they start making money. It will take about three years before the horse track will show any money. The prospectus explains that. It is stock with a potential future that's all -- and that's the only way you can describe it. If people buy stock knowing that situation, this is not what you would say -- parimutuel wagering is not a gamble -- 28 states say that -- they say parimutuel wagering is not a gamble -- because all the states have a law against that. This is a commission agent the same as the stock market

or the commodity market. We always take a commission out of their wager and it's not a gamble, the Supreme Courts have ruled.

Senator Hecht: We're very gun-shy in this state of any type of legislation which might cast aspersions on the Gaming Control Commission.

Chairman Gibson: I'd like to assign Senator Bunker and Senator Dodge to review these amendments that we have. Now, apparently if we read the law and amendment to remove the parimutuel -- or the off-track wagering, and then we want to meld the investigation procedure of the Gaming Control Board providing for recovery of the costs. I think the same language we have in the Gaming License Act. And then review these other amendments to get it in harmony in one bill, if you'll do that. Are there any other questions or comments here?

Mr. Dotson: Well, I don't know what I can add here. All gaming has not been successful from it's beginning. There have been many hotels, businesses that have gone busted, leaving contractors and other creditors. So actually I think we have to view this as a beginning point. We always can look back 10 years ago and say well, that happened or this happened, but we have in our race track down there qualified with what I considered a reasonable security law and as attorney for the corporation, we have, I think, no "Blue Sky" in this corporation. Every share of stock in the original group has been paid for in cash a hundred per cent. There is no "Blue Skies" as that term is legally defined. We use that term as a misnomer many times. Promotions, where there's "Blue Skies" where somebody got 20% for putting the deal together, and in this particular track that we have down there, all the promoters have paid in their cash, and contributed considerable amount of time for nothing. But they're interested in putting in a profitable horse track. They're all respectable and substantial men of the community -- and I can't take, in the argument with the fact that where you have licensing -- okay, maybe that certainly should be well looked at. I happened to be on the original conference committee that wrote the gaming law we now have, as many of you know. And so I'm familiar with what's involved here, but I think oftentimes we, in Nevada, and in other places, look at the sale of stock as being something that isn't proper and fitting.

Actually, if you look at it in this manner also, that here's an opportunity for serving Nevada residents that will mean a lot of state residents owning stock in this company in Las Vegas. Certainly Nevada residents will be the purchasers of this stock, if the land is sold. We have made sworn statements regarding all the facts that affect the present circumstance under which the stock will be sold. There will be continuous reports every 60 days under our law to the Secretary of State, and all the stockholders are known -- their contributions are known -- there is a full disclosure as that Security Law which was enacted by the legislature requires. And I feel that if the Committee has some question about sale of stock, that that's a matter the Securities Law should look at, if that's what you want to do. However, the law now permits sale of stock under full disclosure, (which is SEC), the California Corporation Commission and all of the other states have similar laws.

There is no guarantee in any business that you are going to make a profit. Others have gone busted in the gaming business -- with private owners -- with stockholders. In this particular business we have, I believe, tried to look at all the ramifications to eliminate this possibility if we possibly can. And regarding our own particular company, if you have any questions, I'd be most willing to explain them to you. We'd be happy to send you copies of our prospectus, which is now being printed.

Chairman Gibson: We'd like to have a copy for our file. Why don't you send us a dozen of them.

Senator Dodge: I'd like to ask just a couple of specific questions: I think we had good explanations the other day about the fact that this was a local group and it was explained that it was to be financed by the sale of stock in the corporation. Under your plan, and as I understood it, not more than 15% -- at least that was estimated -- I don't know whether it's firm -- not more than 15% was to go to stock sales, or however it was handled on the closing of the stock issue and the selling of it. But under your plan, I presume that you've got some sort of an idea of placing that money in trust until such time as you go ahead to commit it on the development. But, more specifically, did you have a point in time in mind that you would actually undertake a commitment to build the track as far as the amount of money that you had raised? In other words, were you going to do it when you had a million dollars actually raised, or a million and a half, or were you going to raise the full three before you could proceed with that?

Mr. Dotson: Our prospectus states something to this effect: That the funds will be used when and as received. We have a scheduled development. We will prepare the area, for example, level the land, and so forth. There is no trust arrangement -- we put it all aside until the point where we determine whether we go ahead or we don't, and if we don't then it would be returned with less whatever the expenses are. To give you the way the expenses are aligned -- there is an allowance made of 10% in the event a sale of these is desired to sell the stock -- 5% is estimated to be the cost. It will not exceed 5% for administration getting the stock issued and office expense. So the 15 is your outside figure. The track will go ahead.

The prospectus states something also to this effect: In the event the stock sales are not adequate to complete the plan, we feel that we would be able to go ahead and mortgage the balance of it, we would then -- and the prospectus so states -- call a meeting of the then existing stockholders, present a plan to complete it, and at that time the stockholders who are then the owners of the company would vote and approve that plan or they would reject it. So we anticipate the sales will be made principally by the officers and directors of the company, and there will be no commission paid to them -- and of course there would only be a 5% expense. Now, that has been qualified as a sale under those statements and securities. The land is owned outright -- 140 acres, and has been appraised at \$140,000.00.

Senator Hecht: What type of agency -- the original group going in as to the stock -- the people buying the stock?



Mr. Dotson: They have -- I didn't want to get into our offering here, but since you are asking these questions, if you want to take the time, I'll be glad to explain it to you. When I said there was no "Blue Skies," that's exactly what I mean. "Blue Skies" is promotional stock given to somebody who promotes. The stock is only granted to the original stockholders in this company who have the right to buy two more shares for every share they own within five years. If it's a profitable venture, that right will have a value; if it isn't a profitable venture, it means nothing. So they have the right to buy it at the same price as anybody else does. But if it increases in value in a five year period, of course we would give them a little extra -- it's no "Blue Sky" at this time.

Chairman Gibson: I think we've satisfied the purpose of our consideration today. Thank you.

AB-61 Proposed by Committee on Government Affairs.  
Authorizes state planning board to negotiate with bidders on construction projects. Executive estimate of cost: None.

Mr. Littlefield: Well, in this case we had a million dollar appropriation and, of course, it was based originally on a question of estimates and all that. The board indicates it adopts a proposed budget of construction \$850,000.00. Now the architect/engineers get \$50,000.00. The other items total up to one million dollars in appropriations. When the bid came in, if it exceeds \$935,000.00 which is the construction item, plus 10%, under the proposal that's submitted to you here -- if it exceeds that amount of 10%, we have to reject the bids -- have the plan redrawn and rebid. But if it does not exceed the \$935,000.00 -- if it's in excess of \$850,000.00, but not in excess of 935, then we can negotiate with the low bidder to arrive at something which gives approximately in the area of our budget and which we can go ahead. But that means we can usually save time and we think money, because the rebidding process always does save time and we think money, because the rebidding process always does take both extra time and money. There would be some circumstances where we wouldn't want to apply it, but basically our experience has been that it would be very wise if we did have this capability.

I'd like to mention one thing to you -- we do have an example where this is done within the Federal Government -- the Health, Education and Welfare Standards for construction -- they have this stipulation in them: "In the event the goods received are higher than the applicant can accept, and changes in the work are necessary to effect a reduction in cost, one of the following procedures shall be used: (1) the applicant may negotiate with the lowest acceptable bidder for each planned contract for minor changes in the plans and specifications, prior to the award of the contract. The total value of negotiated changes shall not, except in special circumstances, exceed 5% of the contract as base bid. Where there is a possibility of bids exceeding the available funds, a reasonable number of alternates should be provided in the bidding material." So this procedure is accepted by Health, Education and Welfare, although they do specify 5% of the base bid, where we're talking 10%. However, they do open the door to more in some circumstances. Generally, our experience has been 10% we think -- if we're within that kind of money,

then we've got the sum to put together the project and can negotiate reasonably.

Chairman Gibson: Would this procedure meet with any static from your contractors' association. Do you think they would be in sympathy with it?

Mr. Littlefield: They have been in the past. Basically, we've established a contractor on the basis of the low bid.

Senator Monroe: You may have established a contractor on the basis of the low bid, but when you stop to negotiate with the low bidder and talk about alternates, maybe then if you went back and suggested the same alternates to one of the higher bidders, maybe his bid on that alternate would then -- if you're talking about eliminating that bid or something -- maybe he would become the low bidder. So you've got a problem there, it seems to me, when you're talking about the low bidder. There ought to be some provision in there to take care of this.

Senator Dodge: All right, but that presents a different matter that I think ought to be clarified here that you can get some beefs about -- and that's some language that says that "you can clearly establish who the lowest responsible bidder is by the base bid plus all the alternates." Now, the one we got into on the Legislative Commission Building, was that if you took a certain combination of alternates, another man was low, and there was a real beef -- there was threats of lawsuits and we finally readvertised. But if we're going to go with this business, I suggested the other day, that we try to write in some language which would clearly establish who that low bidder was, and then at that point I don't think we'd have any beef with any of the contractors. If, in fact, there was no argument about who was low on any combination.

Chairman Gibson: Would you object to us trying to work that out -- maybe you could help us work it out.

Mr. Littlefield: It appears to me that in this Part (b) in the one that the Planning Board has, the authorities solicit bids for and let all contracts for new construction or major repairs. If we included a statement something like this, "where alternates are bid, they may be accepted and made part of the contract only in the order of their listing, and with no omissions prior to the last alternate accepted."

Senator Dodge: That wouldn't do it. No, because here's what I'm getting at -- suppose you have two men -- I don't think you have to write in anything about alternates. I just think that you've got to write in something that says you can clearly establish who that low bidder is considering the prime bid, the base bid, and all the alternates.

Mr. Littlefield: The Chemistry Building is already in violation of that --

Senator Dodge: I don't know about the Chemistry Building. But here's what I'm getting at: Suppose you have a base bid situation --

there's a difference of (a) is low and (b) is \$10,000.00 higher -- okay, you've got alternates one, two, three, four and five. Okay, (a) is still low considering alternates -- if you're only going to take alternates one and two, which would be in the order you're talking about -- but if you took alternates three, four, and five, (b) bid more those alternates, if they were accepted he would be the low bidder -- with all five alternates. And in that case I claim you don't have a clear evaluation of who the low bidder is.

Mr. Littlefield: I think you do under this, because you would have to establish the alternates in the order you accept them. I mean, you could accept (a), accept (a) and (b), (a), (b), (c) -- you could not skip any. You will always have a definite number of alternates given at one time.

Senator Dodge: All right, let's take your example and just the example we're talking about here. If all the bids, let's say, with the alternates that are on it are even on the base bid -- so you say, well, okay, we're going to make the decision that we considered on the basis of the base bid and alternate one and two. And we say that on that basis (a) is the lowest responsible bidder, and (b) comes in and he says well, wait a minute, he is not the lowest responsible bidder on the basis of the over-all bid here. And I am the lowest responsible bidder in light of the base plus the five alternates.

Mr. Littlefield: I don't think -- you have to negotiate under this law -- you can consider anything more than the base bid. I don't see how you could. I don't see how you could consider the base bid plus alternate (a), which puts you even further over.

Senator Monroe: I don't know. It's not the basis of the base bid, it's on the basis of the bid accepted. It's on the basis of the bid that you accept. But you accept the bid with three alternates in it, as the low bid, then every bidder on those three alternates has the right to be considered in any re-negotiation, because, for instance, on alternates (a), one, two and three the low bidder gets low on the base bid and bids low on the second bid, he bids higher than bidder (b) on the second alternate, and he bids more than bidder (b) on the third one. Okay, you give him the bid because he's low, then you go to negotiate but he's still above the project cost -- I mean estimate of cost. You go in and you negotiate, and you say okay, we'll cut out alternate No. 2 on which he was high see -- and you go back and the original bidder, another bidder was lower than him could have got in if you let him eliminate alternate three. No, I got that in reverse. The bidder that was eliminated was higher than alternate No. 2, and that's how come he got eliminated. But if you're going to eliminate alternate No. 2, he may have beat the guy that got the bid on alternates Nos. one and three. Well, if you're going to re-negotiate the bid, you can't just re-negotiate with this guy -- you've got to go back and say well then, this guy over here was low bidder. So low bidder any more isn't low bidder, see.

Senator Dodge: The trouble on this kind of a deal -- unless you can establish clearly who is the lowest bid on the base, plus all the alternates.

And if you can't do that, I think you're going to wind up in a hassle and I think you better re-bid it.

Senator Farr: Would it simplify things or clarify this if we make it clear that this negotiation principle will only apply if the bid is higher than the budget? If the bid is within the budget, then there will be no indication for negotiation and no authority to do it.

Senator Dodge: Well, of course, I understand that that's what this language says now on the bill.

Mr. Littlefield: No, it doesn't, really.

Senator Farr: The real advantage is where the legislature says well, we will set the fee and that's it -- 9,000 or a million dollars for a building budget -- you've got to work within it. Some place along the line they're not giving those estimates -- you prepare the estimates for us to determine the amount we're going to levy . . . I just want to refer responsibility -- it always seems to me that we're coming back and saying we have the same problem in Sparks -- the architects fouled up and we had to clean up the language and come back and appropriate funds because we had the same situation. They had a total package, they bid on the total package, but didn't have the funds, didn't write it down, so we're voting on it.

Senator Dodge: You estimate these in advance? As the law says you do? Then how come the bids come over that estimate?

Mr. Littlefield: Now, I'd say this -- there's an obvious way to run this, and that's to double our estimate. The only thing is we do have the problem of negotiations. We like this idea of being able to negotiate because we want to keep our estimates to be the best we know how to make, which is probably a little bit on the safe side, but not too far.

Senator Dodge: I think your question is timely, because frankly, I do think that what's going to happen on this is supposing -- like we did on the Legislative Commission -- was to use ourselves as an example, not somebody else. We started to cut out stuff that finally would probably have to go in that building, like the elevators and so on. What I think's going to happen is if you don't have enough money for the project, it's finally going to have to come back to be appropriated by the legislature.

Let me say this -- why don't I do this -- I'll be glad to do it. I may be conjecturing an area of issue among contractors that would not exist. I will be glad to get a hold of Rowland Oakes, who's the Secretary of AGC and who's the homebuilder's man in Reno, and any others that they might want to confer with, and find out if there is any problem on this alternate business, or if they are satisfied with this language, or if they could suggest some language that would be satisfactory to everyone concerned. Is that all right, Mr. Chairman?

Chairman Gibson: Yes, I think so. Carl, if you'll accept that assignment, then we'll meet again on this matter.

There being no further business, the meeting was adjourned.

Respectfully submitted,

*Patricia F. Burke*

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Patricia F. Burke,  
Committee Secretary

EXAMPLE OF APPLICATION OF AB 61

1. Legislature appropriates \$1,000,000 for the design, construction and furnishing of a State Building.
2. Board adopts proposed budget:
 

|                         |              |
|-------------------------|--------------|
| a. Construction         | \$ 850,000.  |
| b. Architect/Engineer   | 50,000.      |
| c. Contingency          | 25,000.      |
| d. Inspection & Testing | 25,000.      |
| e. Furnishings          | 50,000.      |
|                         | \$1,000,000. |
3. If the low bid received is in excess of \$935,000.00 (850,000 + 10%), all bids are rejected and architect instructed to revise the plans at no cost to the State and new bids are solicited.
4. If the low bid is \$935,000 or less, the Board under AB 61 would have the option to either reject all bids and re-advertise or attempt to negotiate with the low bidder to affect changes in plans or specifications to reduce the bid amount to approximately \$850,000 and award the contract.

The major advantages to this are:

1. Provides a procedure which permits the State to explore all possibilities of avoiding the cost of rebidding. On a job of this size, each bidder will have expended approximately \$4,000. to prepare his bid. Subcontractors will have spent a proportionate amount. With 5 to 10 general contractors and 20-30 subcontractors, this cost is significant, and becomes an overhead cost passed on to the State and other clients.
2. Saves time and thereby expedites completion of project. Rebidding of a project of this size requires at least 45 to 60 days, thereby delaying completion of the project.
3. Permits the State to give consideration of cost-saving changes based on the knowledge of the contractor prior to the award of a contract.
4. Permits the State to benefit from any sub bids that were not known to the low bidder prior to bidding.

A similar procedure is permitted by certain Federal agencies such as the U. S. Department of Health, Education and Welfare.