

MEMBERS PRESENT: Mr. Bennett (Late-excused)
 Mr. Bremner (Late-excused)
 Mr. Chaney
 Mr. Dini (Late-excused)
 Mr. DuBois
 Mr. Kovacs
 Mr. Prengaman
 Mr. Rusk
 Dr. Robinson

MEMBERS ABSENT: Mr. Brady
 Mr. Jeffrey

GUESTS PRESENT: See Attached Guest List

Assemblyman Robinson called the meeting to order at 2:13 p.m. in Room 200 of the Legislative Building.

As the first order of business, a motion was made by Mr. Prengaman to approve the minutes of the 17th and 18th of March. The motion was seconded by Mr. Kovacs and carried with the unanimous vote of the members present.

Dr. Robinson then opened the hearing on A.B. 288.

A.B. 288: IMPOSES CERTAIN FINANCIAL REQUIRE-
 MENTS FOR PROTECTION OF SUBCONTRACTORS
 AND EMPLOYEES ON CONSTRUCTION PROJECTS.

Joe Midmore, representing the American Subcontractors Association, spoke on behalf of the bill. Mr. Midmore reminded the Committee that the measure to be addressed had passed the Assembly in a previous session but had trouble passing the Senate. Mr. Midmore explained to the Committee what he regarded as the essential parts of A.B. 288. These were:

1. Page 1 -- No certificate of occupancy can be issued until all contractual charges for work done and for materials furnished have been paid.
2. Page 1 -- Payments on public construction projects are changed from the end of each month to twice monthly.
3. Page 2 -- Whenever performance bonds are required, payment bonds equal in amount to the performance bonds will also be required.

Mr. Midmore added that the provisions of this bill were favored over the lien procedures for collection because of the cost and time involved with such procedures. He also said that there have been instances of subcontractors being forced out of business because they have to wait for payments to be made for work and

materials. Mr. Midmore stated, "We don't think it's unreasonable to ask Government to assist in making sure that contractors pay their bills in a timely fashion to subcontractors.

Dr. Robinson asked Mr. Midmore to furnish the Committee with evidence supporting his claim that some subcontractors have been forced out of business by the reluctance of contractors to pay their bills in a timely fashion.

Mr. Midmore responded that he would get the information for the Committee.

Dr. Robinson also asked Mr. Midmore to clarify Section 3 of A.B. 288.

Mr. Midmore stated, "If a performance bond is demanded; and it is not uncommon, there should be no reason why the person demanding it cannot, in turn, bond himself to fulfill his contractual obligations."

Mr. Rusk questioned if there were actually two bonds involved.

In response to Mr. Rusk's question and Dr. Robinson's request for additional clarification, Mr. Al Setton, representing the Nevada Contracting Company and the American Subcontractors' Association, came forward. Mr. Setton said, "What we're basically saying is that if you insist on a . . . if the owner insists that the contractor comes up with a 100 percent performance bond, that the contractor has the right to ask the owner for a payment bond. It's just a counter bond." He went on to explain that the subcontractor has the same right in such situations as the contractor.

Dr. Robinson asked Mr. Setton if, as indicated in line 30, page 2, the contractor could still retain 10 percent even though the bonds were in effect.

Mr. Setton responded, "Yes."

Dr. Robinson indicated that he was concerned with the term, "reasonable time," and suggested that a specific term be established such as 30 days or so.

Mr. DuBois asked if the term "contracting body" found on line 30, page 2 was correct. Mr. Midmore stated that perhaps "contracting parties" would be a better term.

Sherman Simmons, attorney, added that "contracting parties" would be a better phrase.

Mr. DuBois then asked how prevalent was it for contractors not to pay their bills on time.

Mr. Setton replied that it was very prevalent.

Mr. Rusk asked if the practice of nonpayment or slow payment was not just as prevalent in any type of business.

Mr. Midmore responded that it could be, but that because of the nature of the construction business, such practices caused considerable hardships to subcontractors.

There ensued discussions between Mr. Rusk, Mr. Setton, and Mr. Midmore concerning the lien process for obtaining payment.

Dr. Robinson asked if Mr. Midmore could provide the Committee with a written explanation of how performance and payment bonds work. Mr. Midmore stated that he would provide such an explanation.

Further discussion followed, again on the lien process.

Speaking next was John Raymond, manager of the Northern Nevada Chapter of the National Electrical Contractors Association. Mr. Raymond opened his comments by citing a number of examples where subcontractors had suffered hardships resulting from the abuses of retention. Mr. Raymond stated that his association favored the bonding procedures over retention and gave a number of reasons to explain this stand. He added that a subcontractor should be paid immediately upon the completion of his work providing that the work is satisfactory.

Mr. Rusk questioned Mr. Raymond as to why a subcontractor could not require a payment from the general contractor. Mr. Raymond responded by saying that in many cases such a requirement would not work because of the nature of the relationship between the subcontractor and the general contractor. Mr. Raymond added that approximately 85 percent of the work done on a construction job is done by subcontractors as opposed to general contractors, and that there is a tendency for general contractors to become "project managers" who coordinate the work done by subcontractors.

Scott Wadsworth, with the Electrical Contractors Association, came forward and explained that everything except the management of the addition to the MGM Hotel was subcontracted. He said that in the case of the MGM Hotel, the subcontractors financed in excess of 95 percent of the construction costs. In response to a question from Mr. DuBois, Mr. Wadsworth answered that subcontractors were required to pay their material suppliers regardless of whether or not they were paid by the general contractor.

Jacqueline LaForte, representing the Northern and Southern Nevada Air Conditioning and Sheet Metal Contractors, stated that both chapters of the organization wished to go on record as being in support of A.B. 288 as it is written.

Speaking in opposition to the bill was Tony Taormina, Chief Building Inspector of Washoe County. Mr. Taormina read a letter that he had prepared, which outlined the reasons for his opposition

to A.B. 288. This letter is attached and marked EXHIBIT A.

Mr. DuBois asked Mr. Taormina to explain what is involved in placing a mechanic's lien on a construction project. Mr. Taormina explained the process. Mr. Simmons also entered into the discussion between Mr. DuBois and Mr. Taormina regarding liens.

Next to speak was Phil Harrington, the Director of Building and Safety for the City of Reno. Mr. Harrington expressed concern with line 3, page 1 of A.B. 288. He gave an illustration of how problems could arise from the city withholding a certificate of occupancy when a subcontractor had not been paid by the contractor. Mr. Harrington also indicated that he was opposed to the subcontractor using the Building Department to collect payments from contractors. He added that Mr. Weber of the Clark County Building Department was in agreement with the stand taken by the Washoe County Building Department. Mr. Harrington concluded his remarks by saying, "I sympathize with the intent of the bill, just keep the building department out of it."

Next to address provisions in the bill was Steve Tapogna, representing the City of Las Vegas, the City of North Las Vegas, the City of Reno, and the Nevada League of Cities. The complete text of Mr. Tapogna's remarks is attached as EXHIBIT B. Mr. Tapogna summarized his comments by saying that if the bill should pass, political subdivisions should be exempted.

Tom Cooke, representing the State Contractors Board, then came forward to speak. Mr. Cooke remarked that his only opposition to A.B. 288 was the proposed change on page 2, line 40. He indicated that the Board had no jurisdiction to require performance of someone who is not a licensed contractor in the state of Nevada. He added that the Board was sympathetic to the problems of subcontractors but the section mentioned should be deleted from the bill.

Dan Fitzpatrick, representing Clark County, stated that he agreed with the position of the Washoe County Building Department. He said that if the bill were to pass, Clark County would have to set up a central clearing house, a regulatory body of clerks, and possibly the district attorney and a financial staff to be sure that all bills were paid prior to issuing licenses or certificates of occupancy. He indicated that he did not believe government should be involved in disputes between contractors and owners.

Next to testify as opponents to A.B. 288 were Irene Porter, Executive Director of the Southern Nevada and the State Home Builders; Edd Furgeson, representing the Carson City Builders Association; and Bob Nielson, representing the Builders Association of Northern Nevada.

Ms. Porter stated that she was sympathetic to the subcontractors' problems, but that she did not think this bill was the answer to

the problems of the subcontractors. She indicated that sometimes the general contractors have problems as a result of the subcontractors. Ms Porter referred to the Boyd Company, which is an administrative agency set up through the union contracts to administer the union trusts. She stated that under state law, if a subcontractor does not make his trust payments to the Health and Welfare Trust or to the Pension Fund Trust, the general contractor is responsible to the union for the subcontractor's payments. She gave an example of a situation where a general contractor withheld payment to a subcontractor to cover the payments to the union trusts that he had made on behalf of the subcontractor. She said that there were dozens of instances where the general had had to pay the union trust payments for subcontractors.

Ms Porter remarked that the only way to recover such money was through the court system and said, "That's where this kind of thing belongs." She added that any administrative agency which would be saddled with the administration of A.B. 288 would find the job to be "absolutely horrendous."

Mr. Furgeson commented that the basic problem stemmed from the fact that too many subcontractors were not aware enough of the different avenues available to them for collection of monies that are due. He added that a licensed subcontractor should be capable of running a business.

Mr. Nielson added that he felt that there were some inherent problems with the bill, specifically in the areas of certificates of occupancy.

Ms Porter remarked that she thought A.B. 288 would create a "paperwork monster." She indicated that the present laws were ample protection for subcontractors.

Gene Creech, representing Concord Development Corporation came forward to tell the Committee how liens worked and how financial institutions funding projects worked within the lien system. He also stated that general contractors have just as much trouble getting paid as subcontractors do. Mr. Creech used an example to illustrate his point.

Next to speak was Floyd Vice, Washoe County Public Works Director. Mr. Vice stated that there were certain provisions in the bill that the Department was opposed to. The first problem was with Section 1 and the certificates of occupancy. Mr. Vice said that the second problem was with Section 2, which required bimonthly payments to subcontractors rather than monthly payments. He went on to say that Subsection 1 of Section 3, which addressed the subject of performance and payment bonds also presented a problem to the County. The same subsection eliminated retention when a 100% performance and a 100% payment bond was in effect, and Mr. Vice said that also posed a problem for the County.

In closing, Mr. Vice remarked that if the bill was adopted, he would hope that political entities could be exempt from the requirement of posting a payment bond.

Chairman Robinson then moved the hearing to A.B. 309.

A.B. 309: REQUIRES FILING PERFORMANCE BONDS BY CONTRACTORS ON INDIAN HOUSING.

Presenting the bill to the Committee was Assemblyman Bob Sader, District 32, Washoe County. Sitting with Assemblyman Sader at the witness table was Will Nevin, a contractor. Mr. Sader stated that he was the prime sponsor of A.B. 309 with Mr. Dini being the cosponsor. He indicated that the bill was being proposed as a solution to a loophole in the present laws. He also stressed that the bill would apply only to Indian land and to housing projects on Indian land.

Mr. Sader stated that mechanics liens do not apply to construction on Indian reservations and unless performance bonds are required, there is no protection for subcontractors who are dealing with general contractors. He added that A.B. 309 was a direct result of an incident which occurred last year that resulted in very involved litigation and a number of subcontractors not getting paid. Mr. Sader remarked that if mechanics' liens applied to construction on Indian lands, there would be no need for this bill.

Mr. Sader indicated that Mr. Frank Daykin, Legislative Counsel, had assured him that A.B. 309 was constitutional.

Dr. Robinson asked Mr. Sader why the bill was directed only at "housing" instead of other types of construction. Mr. Sader responded that that was where the problem was, but that there was no reason for such a narrow restriction.

Mr. Prengaman then asked why bonds must be maintained for two (2) years after completion. Mr. Sader responded that this time limit was set to allow a long enough period of time in the event of litigation or problems. Mr. Sader added that the two (2) year period was "quite negotiable."

Dr. Robinson asked whether or not Indian reservations licensed contractors. Mr. Sader remarked that a later witness, Peter Sferrazza would be better able to answer that question.

There ensued conversation with respect to the the contractor who had created such a problem with a HUD funded turn-key project that was built on Indian lands.

Mr. Nevin testified as to what steps he personally had taken to try to collect monies due to him for work done on the HUD project. He commented that he never received the full amount for any of his vouchers and that there was no way to collect after the job was completed.

Speaking in opposition to A.B. 309 was Peter Sferrazza, representing the Reno/Sparks, Las Vegas and Washoe Tribal Council. Mr. Sferrazza gave some background information on Mr. Hudson, the contractor who perpetrated the fraud with the HUD housing project previously mentioned. Mr. Sferrazza noted that liens do apply to Indian reservations and cited 25CFR11.23, the law and order code, as the enabling legislation. He placed a large portion of the blame for the subcontractors not getting paid on the bank which provided the funds.

Mr. Sferrazza commented that he did not feel Mr. Sader's bill would protect the subcontractors as planned and that he was opposed to the bill for two reasons: (1) first, Nevada has no jurisdiction on Indian land; (2) this legislation is discriminatory. He added that the Tribes were opposed to the legislation.

Dr. Robinson asked if the Indian Housing Authority was a state wide organization. Mr. Sferrazza stated that each reservation had its own Housing Authority. Dr. Robinson then asked if any of the reservations licensed contractors. Mr. Sferrazza responded that he knew of none that did.

Speaking next in opposition to A.B. 309 was Lawrence Astor, Chairman of the Reno/Sparks Tribal Council. Mr. Astor commented that Mr. Hudson's unfortunate incident was the first such incident to occur in an Indian housing project in Nevada in over fifty (50) years. He also said that A.B. 309 poses a jurisdiction problem. He added that the Tribes would welcome a Joint Resolution requesting the Tribes to adopt performance bonds for contractors. He went on to say, "We will not entertain another government imposing additional barriers to our community development efforts." Mr. Astor indicated that he felt this bill would hamper development on Indian reservations and that the bill was a hasty response to the Hudson incident.

Dr. Robinson asked Mr. Sferrazza if changing the wording on page 1, line 4 from "board" to "Tribal Council" and also on line 5 would still be preempting the sovereignty of the reservations. Mr. Sferrazza indicated that he felt it would be. Mr. Sferrazza also mentioned that the Indian reservations actually belonged to the Federal Government and that any laws made to apply to such reservations would have the same effect as the state passing a law to govern a military reservation of the Federal Government.

There followed conversation between Mr. Dini and Mr. Sferrazza in which Mr. Dini tried to relay the intent behind the bill, and Mr. Sferrazza defended his opposition to it. Both parties used the Hudson case for illustrative purposes. Mr. Sferrazza then explained to the Committee that 25CFR11.23 created a law and order code for reservations that don't have one. He said that it set out a body of criminal and civil laws and that it incorporates state law where there is no federal law or tribal law

applicable. He added that since there were no federal or tribal lien laws that were applicable, state lien laws apply (with respect to subcontractors).

Following Mr. Sferrazza was Tom Cooke, representing the State Contractors Board. Mr. Cooke voiced the Board's opposition to A.B. 309. His reasons for opposition were:

1. Lack of jurisdiction.
2. Discriminatory intent.
3. Denial of equal protection.
4. Since the Hudson incident, HUD has decided to permit the reservations to require performance bonds on turn-key projects.
5. According to John Isabell, performance bonds are now required on all reservations on all other types of housing construction.

Mr. Cooke said that in view of the above facts, A.B. 309 is no longer necessary. Mr. Cooke also used the Hudson incident and explanations of First National Bank's role in that incident as part of his argument. He added that he did not think the bill would be able to withstand a constitutional attack.

Mr. Dini again stressed that the whole intent of the bill had been to protect innocent subcontractors from unscrupulous people like Hudson when those subcontractors were under the impression that the law protected them when, in fact, they were not protected.

Gene Creech, representing Concord Development Corporation, stated that he wished to go on record as opposing A.B. 309. He said that his primary reason for the opposition was the fact that all the things the bill was asking for were now already being done through other avenues. He indicated that he was particularly upset by the two (2) year requirement for a contractor to carry a bond.

Mr. Creech produced a specification book for a house and read the following paragraph to the committee:

"It is understood and agreed that no funds may be disbursed to the contractor so long as there are any outstanding liens, claims or encumbrances against the project, written notice of which has been received by the Indian Housing Authority."

Mr. Creech mentioned that this stipulation had been added to the government regulations for building houses on Indian land as a result of the Hudson problem. He then explained to the Committee how a job on a reservation is supervised and administered. He stated, "If there's a complaint or a problem, it's simple--they don't pay the check." Mr. Creech concluded his comments by saying, "There are enough protections built into this thing right now without belaboring the point."

There being no further testimony on A.B. 309, Chairman Robinson opened the hearings on S.B. 202.

S.B. 202

INCREASES FINE FOR VIOLATION OF CERTAIN
LAWS BY CONTRACTORS.

Testifying on behalf of S.B. 202, was Joe Midmore, representing the American Subcontractors Associations. He commented that the reason for this bill was to prevent certain contractors from getting themselves into positions that make it difficult for them to pay their bills as they should. Mr. Midmore stated that the bill simply increased the amount of the penalties imposed upon contractors who entered into obligations for contracts in excess of what they can legally handle.

Tom Cooke, representing the State Contractors' Board, stated that S.B. 202 represented a compromise that was reached in the Senate committee. Mr. Cooke suggested that the Committee place a time limit on the second offense so that if there was a reasonable amount of time between the first and second offense, the penalties for the second offense would not be as severe.

Dr. Robinson questioned Mr. Cooke if such a time limit would not be an encouragement for contractors to commit violations. Mr. Cooke said that he did not think it would be an encouragement if the time period was long enough to be effective. He used two (2) or three (3) years as an example. Mr. Cooke indicated that he had not made that suggestion to the Senate committee.

Dr. Robinson asked Mr. Cooke if there was a precedent for such a time limit between violations. Mr. Cooke responded that he believed there was in the drunk driving laws. Dr. Robinson asked the secretary to consult Mr. Frank Daykin, Legislative Counsel, to provide further information to the committee on such a time limit.

Mr. Dini remarked that he was very dissatisfied with the State Contractors' Board and their reaction to disciplinary action against contractors. He cited an example of where a contractor had not performed as agreed.

Mr. Cooke defended the Board by saying that the Board did not have any power to compel a contractor to go back to repair or fix or do over a defective job. He said the Board's sole power is to reprimand, suspend or revoke a license of a contractor. He then explained the procedures of the Board when a complaint against a contractor is received.

A discussion developed between Mr. Dini and Mr. Cooke with regard to what the Board did and did not do for the consumer and the general performance of the Board.

There being no further testimony on S.B. 202, the Chairman opened the hearing on S.B. 129.

S.B. 129: MAKES CERTAIN REVISIONS CONCERNING CERTIFICATES REQUIRED ON MAPS FOR CERTAIN DIVISIONS OF LAND.

There was no one present to testify either for or against the bill. The Chairman requested that the secretary contact the Real Estate Division to find out about the bill.

The Chairman then moved the meeting to S.B. 213.

S.B. 213: LIMITS REGULATION TO CERTAIN TRUST COMPANIES.

Presenting the bill to the Committee was Joseph Sevigny, Superintendent of Banks for Nevada. Mr. Sevigny indicated that he had been opposed to the bill when it was first introduced in the Senate, but after it was amended, he changed his mind. He gave a definition of a trust and stated that if his department would have to regulate all types of trusts (fiduciary relationships), he would have to have another "400 examiners."

Mr. Sevigny testified that the purpose of the bill was to remove from the regulation of the Banking Division certain obvious entities which are regulated in other ways or should not be regulated by the Division such as in a case where a trustee serves for a relative by blood or marriage.

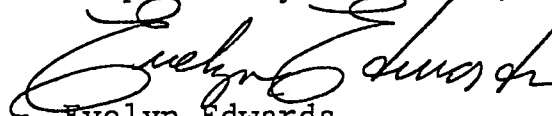
Mr. Dini questioned who would be controlling escrows if the Banking Division stopped controlling them. Mr. Sevigny stated that escrows were controlled in some way by the Real Estate Department. He added that if the Banking Division were to control them, every title insurer would have to become a trust company and would have to put up a cash bond of \$500,000 and establish management in the area of trusts. He also indicated that the Banking Division was not now controlling such title insurers anyway due to the lack of manpower.

Mr. Sevigny then went into an explanation of what a fiduciary relationship was.

Dr. Robinson then explained some of the bills that the Committee was going to take action on but did not get to. He indicated that he would schedule them for action at a later date.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Evelyn Edwards
Committee Secretary

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

DATE: 3-26-81

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
Joe Midmore	American Subcontractors Assoc.	✓		AB 288 + SB 200
LAWRENCE ASTOR	RENO-SPARKS TRIBAL COUNCIL		✓	AB 309
John C. Raymond	No. Nev. Chapter NECA	✓		AB 288
Phil HERRINGTON	CITY OF RENO		X	AB 288
Steve Tapogna	CITY OF RENO		X	AB 288
TONY TARRMINA	WASHOE COUNTY		✓	288
Jane (Patton)	So. Nev. & Nev. Home Builders		✓	A-288
Bob Nielsen	Build. Assoc. of Nevada Nevada		✓	AR 309
GENE CREECH	CONCORD DEV. CORP		✓	AR 309
BILL COZART	Nev. Assoc of Refineries			
LEONARD KAPOTE	110. W. U. Air Cond. Street North Center 30. W. U. Air Cond. Street North Center	✓		AB 288
Joseph D. Sevinger	Commerce - Banking	✓		SB-213
Edd Ferguson	Comm. City Builders Assoc		✓	AR-288
TOM COOKE	STATE CONTRACTORS Bd			(AR 288) SB 202
Steve Vise	Washoe County Public Works		✓	AB 288
W. Stone	Washoe County Public Works	✓		AB 288
S W Wadsworth	No Nev. Chap. NECA	✓		AB 288
Will NEVINI	SELF	✓		AB 309

• Hcr Sferrazzo

Reno Sparks Las Vegas
& Washoe Tribal Council

✓

• AB 309

DEPARTMENT OF BUILDINGS & SAFETY
BUILDING AND SAFETY DIVISION

March 25, 1981

Assemblyman Robert E. Robinson, Chairman
Assembly Commerce Committee
Legislative Building
Carson City, NV 89710


Dear Dr. Robinson:

Washoe County Building and Safety Division opposes the proposed Assembly Bill 288, Section 1, for the following reasons:

1. Interjection of an agency into contractual concerns when the agency's primary function is the inspection of structures.
2. Placing of an added burden and responsibility on political subdivisions.
3. The furthering of governmental interference into the affairs of private citizens and adding to their dependence on government.
4. Increasing the costs of construction by the addition of increased building permit fees necessitated by the hiring of more personnel.
5. The near impossibility of policing the bill due to the numerous subcontractors and suppliers involved.

I pose the potential problem of how a building department could determine whether the foundation, framing, electrical, plumbing, heating, roofing, insulation, sheetrock, finish work, painting, grading, and landscaping has been done by the contractor, subcontractor, or owner, and how a department would determine whether the labor and material used for these various phases of the construction had been paid for. In order to fully police AB 288 it would be necessary for us to set up a builders control system to approve payment of bills and maintain complete records for each project.

Respectfully,


TONY S. TAORMINA
Chief Building Inspector

TST:mt

cc: John MacIntyre, County Manager
Floyd Vice, Director Public Works

EXHIBIT A

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The following comments are made on behalf of the City of Las Vegas, the City of North Las Vegas, the City of Reno, and the Nevada League of Cities:

For the record my name is Steve Tapogna; I'm the Purchasing manager for the City of Reno and Chairman of the Local Government Purchasing Study Commission / Northern Group.

I have several comments and questions to raise regarding AB 288 and would suggest to the Committee that certain sections should not pertain to political subdivisions.

Chapter 278

The amendments to Chapter 278, indicated on lines 3 through 8 would be extremely difficult to enforce by any public body. There are numerous contracts (especially within the City of Reno) which would require an enormous amount of time to audit and cross check to insure compliance.

In section 2, lines 9 through 14, there is no method to be used to correct any dispute which may arise. I would offer this suggestion that, should this portion of the bill pass, that some reference be made to NRS 338.150 (or some other applicable statute) regarding arbitration of disputes between owner and contractor.

NRS 338

The amendment to NRS 338.160, beginning on line 15 and running through line 22 on the following page (specifically paragraph 4), relate to claims enforced by the Labor Commission. Currently SB 76 (as I'm sure you are aware) is suggesting that public bodies must pay interest on all retained monies posted pursuant to a public works contract. Should a claim be filed, through the Labor Commissioner and, should the Labor Commissioner put a hold on those retained funds, who then would legally pay the interest on those claims. Would the public body have to assume the interest, or would the Labor Commissioner have to accept the charges.

NRS 339

With reference to the proposed changes in Chapter 339, beginning on line 23, we would make note that the legal steps which need to be taken when filing against a bond can consume considerable amounts of time and money. Retention monies are for needs of immediate nature for performance and labor payments. In addition, the cost of the bonds is already part of the successful bidder's proposal. It is our contention that, having already paid for insurance; i.e., the bonds, the contractor will perform and we should then have the right to withhold liquid funds for our immediate protection.

NRS 624

Two changes under 624 of the NRS, in my opinion, should not include political subdivisions. We understand the need to protect the small contractor from private owners failure to pay labor, but the imposing of this requirement on political subdivisions is in question.

Further, while I'm not an attorney, I think that there may be some sort of legal question regarding a political subdivision posting a payment bond for a contractor and using taxpayer's money to support and subsidize private enterprise. It would be my suggestion that the Legislative Council Bureau review this to see if any conflicts exist.

We, a political subdivision, as an owner are contracting to have a project completed. The responsibility of insuring that materials and labor are being paid for should be placed on the contractor, not on the political subdivision. Finally, we as a public body, may not (according to state statute) contract for anything unless the funds for the contract are available prior to entering into the contract. In other words, any contractor doing business with a political subdivision knows that the monies are in the bank. Unfortunately we, as a public body, do not have the same committment from the contractor unless we require him to post both the performance and the payment bond.

I would offer an amendment for the Committee's review, amending Paragraph 1, Line 37 which will relieve the concerns just mentioned:

"Whenever an owner, with the exception of a political subdivision, as a condition of entering into a contract for the construction, alteration....."

This removes the political entities and requiring them to post the payment bond for the contractor and reinstitutes the provisions of 339.

Thank you for your consideration of this matter.