

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Eighty-Second Session  
February 13, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 1:31 p.m. on Monday, February 13, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Elaine Marzola, Chair  
Assemblywoman Sandra Jauregui, Vice Chair  
Assemblywoman Shea Backus  
Assemblyman Max Carter  
Assemblywoman Bea Duran  
Assemblywoman Melissa Hardy  
Assemblywoman Heidi Kasama  
Assemblywoman Daniele Monroe-Moreno  
Assemblyman P.K. O'Neill  
Assemblywoman Selena Torres  
Assemblyman Steve Yeager  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Marjorie Paslov-Thomas, Committee Policy Analyst  
Sam Quast, Committee Counsel  
Joe Steigmeyer, Committee Counsel  
Cyndi Latour, Committee Manager



Elizabeth Lepe, Committee Secretary  
Garrett Kingen, Committee Assistant

**OTHERS PRESENT:**

Margi A. Grein, Executive Officer, State Contractors Board  
Alexis Motarex, Government Affairs, Manager, Nevada Chapter, Associated General  
Contractors of America  
Eva G. Segerblom, representing Nevada Justice Association

**Chair Marzola:**

[Roll was called. Committee protocols were explained.] We will move to our first agenda item. First, we have a presentation by the State Contractors Board. Margi Grein, please begin whenever you are ready.

**Margi A. Grein, Executive Officer, State Contractors Board:**

On behalf of the Nevada State Contractors Board (NSCB), I would like to express my appreciation for the opportunity to provide you with an overview of our Board that addresses our mission to promote public confidence and trust in the competence and integrity of the licensees while protecting the health, safety, and welfare of the public. My presentation today will provide you with an overview of the operations of the Board and touch on some of our recent accomplishments and activities. Hopefully you all have a copy of the handouts I have provided to the Committee. These provide you with a high-level overview of the Board's 2022-2023 Strategic Plan [[Exhibit C](#)], our operational highlights [[Exhibit D](#)], our legislative package [[Exhibit E](#)], and our constituent services [[Exhibit F](#)].

The NSCB was established by the Legislature in 1941 and is comprised of seven members, including six licensed contractors and one representative of the general public [page 1, [Exhibit C](#)]. Each member is appointed by the Governor for a three-year term. Our Board meets monthly to provide staff direction on policy and governance matters. In addition to developing an annual strategic plan that outlines goals and objectives to be achieved each fiscal year, we have a number of subcommittees that meet as needed. The exception is the Residential Recovery Fund Subcommittee, which is a subcommittee that meets every other month and is comprised of three board members.

The NSCB is self-funded with revenue received from licensing fees. We are not part of the State General Fund budget, although we do remain part of the Executive Branch of government. Our board has maintained an operating reserve policy since 1948, which has been modified over the years based on recommendations received by our auditors as well as the Sunset Subcommittee of the Legislative Commission to comply with the most current financial statement reporting requirements. The current reserve policy requires an annual analysis of the ratio of the unrestricted net assets and the NSCB's operating expenses at fiscal year-end during the annual audit.

The NSCB employs 58 personnel between our two offices in Reno and Las Vegas, and we maintain our own benefit and retirement plans. The NSCB has never been a part of the Nevada Public Employees' Retirement System (PERS) since inception in 1941. However, we have been an active participant in social security since 1952, and offer both the 401(a) employer-funded retirement plan, as well as the 457(b) employee-funded retirement plan.

Since construction was deemed an essential industry during the COVID-19 pandemic, the NSCB remained open and continued to serve the public without interruption. We currently license over 17,800 construction businesses in the state of Nevada, including both residential and commercial contractors. Licensees consists of corporations, LLCs, partnerships, and sole proprietors. Of the 17,885 license holders, approximately 35 percent are from out of state and 65 percent are from Nevada [page 6, [Exhibit C](#)]. Each of the licensed entities are directly responsible for the hiring and employment of the estimated 105,000 workers in Nevada's construction industry. Our licensing process includes, among other requirements, a review of the applicant's experience, financial wherewithal, and character. Applicants are required to take and pass any required trade exams as well as the business and law exam, which tests the applicant's understanding of applicable state laws and knowledge of operating a business. The license classifications range from specialty licenses such as plumbers and electricians to general contractors. Projects can range from small home repairs to large-scale building projects such as the Allegiant Stadium. To give you an idea of the work performed by our licensing division, during the past fiscal year approximately 5,330 new licenses and license change applications were received, and over 7,600 license renewals were processed. Making licensure more accessible for those who have an interest in starting a construction business in Nevada is something the Board remains committed to.

The Board continues to provide assistance to those wishing to enter the profession through our small business assistance program classes. This forum allows first-time applicants to gain a better understanding of the application process and receive guidance concerning requirements related to starting a business. Our Veterans Assistance Program offers specialized services to veterans, military families, and veterans returning to civilian life. Each of these services seeks to expedite and minimize the application process.

Through our annual strategic planning sessions and participation in various focus groups and committees, the Board has established ongoing initiatives to improve our services. Over the past several years, we have implemented a number of legislative, regulatory, and procedural changes aimed at removing barriers to licensure and streamlining our application process. Those changes have included: implementing a licensure-by-endorsement program that recognizes certain experience and completion of exam requirements from 12 other states; working with our exam provider to allow applicants to take Nevada-based exams at any of their approved facilities across the nation, which has provided cost savings for many of our applicants; amending the *Nevada Administrative Code* to expand acceptable experience documentation to include a master certification in a discipline substantially similar to the requested classification and allow credit based on completion of a training program for occupational, vocational, career trade, or technical education.

The NSCB also identified a need to serve both consumers and the industry by establishing a classification specific to residential remodeling work. We believe this category of licensure will provide more choices to homeowners seeking to have smaller remodel work performed and provide opportunities for smaller contractors looking to enter the profession. This classification was approved by the Legislative Commission last year, and we are currently accepting applications from interested businesses. In addition to our licensing efforts, our board maintains a responsibility to ensure that those whom we license comply with the statutory and regulatory provisions under *Nevada Revised Statutes* (NRS) and *Nevada Administrative Code* Chapters 624 [\[Exhibit F\]](#).

Our Enforcement Division includes three departments. The Compliance Department investigates all complaints received by the Board related to licensed contractors, which typically fall into one of three categories: (1) workmanship complaints coming from property owners which may include, but is not limited to, abandonment of a project, failure to correct workmanship issues, or failure to complete contractual obligations; (2) money-owing complaints involving contractors, subcontractors, vendors, and suppliers; (3) violations of industry regulations. These offenses usually include violations of building code such as failure to obtain a permit, hiring or doing business with an unlicensed contractor, or failure to maintain industrial insurance.

Our Criminal Investigations Unit investigates all unlicensed contractor complaints and may forward validated cases to the local district attorney's office for criminal prosecution or for administrative action. In addition to investigating complaints, our criminal investigators coordinate operations to proactively address the underground economy by performing jobsite visits and monitoring a variety of electronic means where construction services are being advertised, such as craigslist, Facebook, and other online bulletins.

The Board's Fraud Unit is charged with taking on significant, complex cases of unlicensed contractors who prey upon unsuspecting homeowners, often senior citizens, by committing felony crimes, including obtaining diversion of funds under false pretenses, property theft, and other things. The Fraud Unit also assists licensed contractors who have been victimized by embezzlement through criminal activity such as theft, diversion of funds, forgery, and misrepresentation. During fiscal year (FY) 2021-2022, our Enforcement Division received 2,115 complaints, processed nearly 3,400 fingerprint cards, and performed 230 background investigations [\[Exhibit D\]](#). A total of 383 administrative citations were issued. We also filed 50 criminal cases with the district attorney's offices and issued 287 cease and desist orders to persons operating without a license. Additionally, the Board held 100 disciplinary hearings, which resulted in revocation of 35 contractor licenses and fines assessed of more than \$261,000. The money received from disciplinary fines is deposited into the Construction Education Account and is distributed by the Commission on Construction Education in the form of grants to community, educational, and industry-affiliated organizations wanting to implement and promote construction education and workforce development programs in the state of Nevada.

The Commission is comprised of a total of seven members, one member who is a member of the board and six members appointed by the Governor as follows: four members who represent the construction industry and two who have knowledge of construction education programs. In FY 2021-2022, the Commission on Construction Education awarded nearly \$227,000 in grants [[Exhibit D](#)]. The Commission has awarded a total of \$4 million since inception in 2001. Additionally, the Residential Recovery Fund Subcommittee considered 85 claims this past fiscal year and awarded just over \$767,000 to harmed homeowners, many of whom were senior citizens who were taken advantage of or homeowners who had their projects abandoned. The Recovery Fund is such an important protection we have for owners of single-family residences who hire licensed contractors because it allows them to receive financial recourse up to \$40,000 without having to go through civil litigation [[Exhibit F](#)]. Since the first claim was paid in 2001, the Recovery Fund has awarded over \$14.5 million to harmed homeowners throughout the state. There is no greater feeling than helping a homeowner who has been harmed by an unscrupulous contractor.

While much of our work centers on the accountability of our licensees and regulating their ability to follow the laws of the state, our greater purpose and outcome is measured by the people we protect each and every day. We have developed a number of innovative programs to further our mission and goals. Some of these programs include the creation of an underground economy task force comprised of various state, local, and industry partners focused on combating the impacts of unlicensed contracting, which often target our most vulnerable citizens and harm the credibility of the industry. We have partnered with the Attorney General's Bureau of Consumer Protection to address solar complaints, and also to implement Senate Bill 303 of the 81st Legislative Session. We have run public relations campaigns aimed at informing consumers and contractors concerning the enhanced protections and contract requirements related to our residential solar projects; a senior awareness program that addresses construction-related scams and highlights the free resources available by the Board; a home improvement forum that brings together industry professionals and the NSCB to highlight the importance of hiring licensed contractors for homeowners of all ages looking to engage in home repairs or remodel projects; construction career panels to educate and inform at-risk populations, students, and others about employment in the construction industry and how this is a viable career option; legislative town hall events to help raise awareness of the Board resources and related public safety initiatives and programs [[Exhibit D](#)]. Topics in these forums include the value of hiring a licensed contractor, home repair scams, how to identify scammers, as well as Nevada's joint task force on labor.

Our "Hammers & Hope" event highlights the many construction industry career opportunities for women in the community, with a particular focus on women in need. We also make an effort to meet with various industry associations to share our objectives and activities of the Board, seeking their input and proactively addressing concerns of relevance to the Board as well as the industry. As noted earlier, it is the NSCB's vision to be a model regulatory agency, which is why we engage ourselves in the annual strategic planning discussions. In doing so, we reflect on environmental changes and recent experiences in order to continue advancing the services of the Board. We are proud of the efforts the Board

has made and continues to make to protect the public, and therefore promotes the integrity of the industry. I am more than happy to answer any questions.

**Chair Marzola:**

Thank you for your presentation. Do any of the committee members have any questions? [There were none.] We will now open the hearing on Assembly Bill 27.

**Assembly Bill 27: Revises provisions relating to contractors who provide management and counseling services on construction projects. (BDR 54-269)**

**Margi A. Grein, Executive Officer, State Contractors Board:**

Assembly Bill 27 is primarily housekeeping in nature and is intended to ensure that the construction manager is properly licensed and skilled for the type of construction project covered by the contract. The lack of specificity in the current language, which was passed in 2019, was questioned by an administrative law judge in a disciplinary proceeding and resulted in a decision that a licensee holding any one of the general building classifications can act as a construction manager on any type of construction project. Under this ruling, it is feasible that someone holding a license classified for premanufactured housing or residential remodeling, with only these limited skill sets, would be permitted to act as a construction manager for the construction of a high-rise hotel/casino, or any other significant and complex project. It is clear that this decision poses a significant health and safety risk to the public. This amendment would remedy the unintended consequence and ensure that the work is only performed by licensees with the proper qualification and skill set based on the scope of work.

**Assemblywoman Jauregui:**

Could you give an example of how this would work or what this looks like? If someone is supervising a project, would they have to have a license, say, as a plumber, or for electrical work and HVAC [heating, ventilation, air conditioning] as an electrician?

**Margi Grein:**

If you look at the bill in section 1, subsection 6, the current language states, "A general building contractor may contract to provide management and counseling services on a construction project for a professional fee. A general building contractor who has contracted to provide management and counseling services . . . ." So that only narrows it down to the general building contractor. To draw an example, say it is a high-rise project and that full license classification is a full Class B, which can build high-rise construction. The problem that happened with this particular case was that a small residential contractor was performing work as a construction manager on this high-rise when he did not have the skill set or qualifications on that type of project. That is where it would come into play. It is simply for the general building contractor, and it has to be of the same classification. If it is a Class B contractor on a high-rise, the construction manager who is hired to oversee the project would have to have that same skill set as a B contractor.

**Assemblywoman Backus:**

I have a sort of follow-up to make sure it is clear to my colleague. I understand what you are saying on the general side. So, a B-2 classification for a residential builder could not oversee something that would require a B license. However, what about the situation where you have a general contractor who is the prime contractor also performing, for example, carpentry under a C-3 license? Is the intent of this language to now mandate the construction manager to also maintain both the B license and the C-3, or is it sufficient that we are comparing B licenses, like an AB to an AB, and a B to a B, and a B-2 to a B-2?

**Margi Grein:**

You are correct on that. So, a B contractor could perform work a C contractor could, so he would not have to have a separate license for that.

**Assemblywoman Kasama:**

In the example you gave with the lawsuit, was the issue that caused a lawsuit that this person did not have all the licenses of the main contractor, or was that just something to the side that came up?

**Margi Grein:**

In that particular case, the complaint itself was about a B-2 contractor acting as a construction manager on a class B project. That was the crux of the complaint. I believe there was one other issue with a building permit, but that one was resolved. It was simply that there was an out-of-scope contractor performing work as a construction manager on a high-rise.

**Chair Marzola:**

Are there any additional questions? [There were none.] We will hear testimony in support of Assembly Bill 27.

**Alexis Motarex, Government Affairs, Manager, Nevada Chapter, Associated General Contractors of America:**

We are here representing the commercial construction industry in northern Nevada, and we are in support of A.B. 27, as we believe that any contractor providing management and counseling services should have the expertise and an active license in each classification or subclassification required by the prime. It is common sense, it protects the public, and we encourage your support.

**Chair Marzola:**

Is there anyone else in support of Assembly Bill 27 wishing to speak? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] We will now move to neutral. Is there anyone to testify in neutral of Assembly Bill 27? [There was no one.] Ms. Grein, would you like to add any closing remarks?



**Margi Grein:**

Thank you for allowing us to present this bill. It is effective upon passage and approval, so I would just urge your support. Thank you.

**Chair Marzola:**

I will close the hearing on Assembly Bill 27. I will open the hearing on Assembly Bill 29.

**Assembly Bill 29: Revises the grounds for disciplinary action against a licensed contractor. (BDR 54-268)**

**Margi A. Grein, Executive Officer, State Contractors Board:**

Assembly Bill 29 would amend *Nevada Revised Statutes* (NRS) 624.3016 by adding a cause for disciplinary action for making a false or misleading statement or representation or knowingly admitting a material fact in connection with the application of another person. Since the experience validation process also often requires references or employment verifications by other contractors, preserving the integrity of this process is important and is in the best interest of the industry and Nevada consumers. During some recent background and experience in investigations, we have discovered some questionable and even falsified documentation. The proposed amendment would provide the Board with an additional tool to deter this type of activity.

**Assemblywoman Monroe-Moreno:**

In your statement, you said that you have seen some fraudulent information. Can you tell us how often that happens? Is it a growing thing? Has it grown since the pandemic as we are reopening and new things are coming on?

**Margi Grein:**

I do not have the numbers on that. It has been a problem we have noticed over the years, and there is nothing we can really do. For example, there is no educational component of being a licensed contractor. It is simply the exam and experience. We have to put a lot of credibility in those providing references and employment verifications to ensure that person has the requisite experience and qualifications to perform the type of work he is applying for a license in. This would give us another tool to ensure that the qualifications are as stated on that reference.

**Assemblywoman Monroe-Moreno:**

And would this apply only to the applicant or to the references as well?

**Margi Grein:**

This allows us to take disciplinary action against those providing the false references or qualification verifications.

**Assemblyman Yeager:**

I certainly understand knowingly making or causing to be made any false or misleading statement. I am trying to wrap my head around the "knowingly omitting" any material fact.



In the context of either an applicant or someone who is providing a reference, what kind of obligation are they under to actively provide information? Do you ask them certain questions? I am trying to get a sense of what the "omitting" part of this is getting at in practice.

**Margi Grein:**

This would be an action we are taking against the person providing the reference, not necessarily against the applicant. That would be misrepresentation of a material fact if he provided false information, so this particular statute that we are attempting to change is addressing those that provide the false reference "knowingly," as defined in Chapter 624 of NRS. I really cannot answer that from a legal standpoint.

**Assemblyman Yeager:**

It was not so much about "knowingly," but about "knowingly omitting." Omission is when you are supposed to disclose something and you do not. Rather than actively providing information, instead you withhold information. I am just wondering, when you talk to references, how does that process work? I am trying to think of the pieces of information the person would not have disclosed, because certainly if they lie to you about something that makes a lot of sense, you would discipline them. But this, to me, implies they have an obligation to tell you things, and if they hold back from telling you those things, you could take discipline. I am sorry if it was confusing, but I am trying to wrap my head around what they affirmatively tell you versus what they are supposed to tell you and maybe do not, and then you take action on that.

**Margi Grein:**

I do not have an answer for "knowingly omitting." In regard to the reference, let us consider an electrician, for example. Say this contractor was an employee of his and perhaps this applicant performed office work; he was not an electrician. He signs the reference knowing that this individual was not an electrician and did not have the skill set for that or the four years of experience.

**Assemblyman Carter:**

Why is this only addressing the affirmative side? Why does it not address penalties for somebody who knowingly submits a false representation trying to limit competition or deny somebody an application for a contractor's license?

**Margi Grein:**

Could you rephrase that?

**Assemblyman Carter:**

Section 1, subsection 14 says, "for the purpose of assisting the applicant to obtain the license." What if the person is submitting a false representation trying to impede that person from getting a license? Why is that not included in here?

**Margi Grein:**

The applicant is the one who gets the references. For example, you are his employer and he submits you as the reference. The references do not come in on their own. It is part of the application process. They have to supply four references to support their experience. So, I have never seen a situation where that would come into play, in my opinion.

**Assemblywoman Backus:**

Sometimes, with respect to these licensure applications, the concealment, especially the "knowingly" concealment, may not be discovered within the statutory period of four years. Has the Board contemplated expanding NRS 624.331, subsection 1, to contemplate when the fraud may be discovered?

**Margi Grein:**

We have not, but that is a good point.

**Assemblyman O'Neill:**

In section 1, subsection 14 of Assembly Bill 29, there are the words, "misleading" and "making, or causing to be made, any false or misleading statement." It is the word "misleading" that I question. To me, that is open to interpretation. What I may consider misleading may be different to somebody else. I find that troublesome when it is on such an important document for a person's license. Can you explain to me your definition of misleading?

**Margi Grein:**

This is not a legal definition of it, but the "knowingly" making a misleading statement, in my mind, is that they know they are falsifying that reference. The form itself is certifying that the information is true. I would assume most people know before they fill that out whether they are giving a misleading statement or not. Again, I am not giving the legal opinion on it; this is just what we see.

**Assemblyman O'Neill:**

I understand falsifying; it is just that "misleading," to me, is very open to interpretation.

**Assemblywoman Torres:**

To make sure I understand clearly, does this apply to the references? Does this not actually apply to the applicant? This only applies to the individuals who are referring or talking about that applicant, correct?

**Margi Grein:**

That is correct.

**Assemblywoman Torres:**

I have a concern because there is nowhere in here stating that that reference would be made aware there would be such a penalty. I work with young people, so I am often a reference on job applications, and if I was contacted as a reference, there is nothing guaranteeing in here

that that reference would even know these penalties exist. I have concerns about a reference possibly facing penalties they might not know exist. I am sure there is some type of information that is required from that reference, but I would like to see language in here that guarantees that that individual knows, because you are giving somebody responsibility and saying there are penalties just because somebody else said that you are a reference.

**Margi Grein:**

We will amend our reference certificate form if this bill should pass so that the reference provider, which is the contractor, will know what the penalties are and what the law says.

**Chair Marzola:**

Are there any other questions? [There were none.] How often does this happen where there are misleading statements in these applications?

**Margi Grein:**

I do not have the numbers on that, but it is fairly frequently. At times, we try to determine if a reference is valid and we spot check them. Someone else may say that they know this person is just doing construction cleanup; they are not a contractor. So I do not have the exact number on that. I can get that for you and report back if that is something you would like.

**Chair Marzola:**

Yes, please. If you can, submit it to the committee manager. Next, we will hear testimony in support of Assembly Bill 29. [There was none.] We will move to testimony in opposition. [There was none.] We will move to neutral testimony for A.B. 29. [There was none.] Ms. Grein, would you like to give any closing remarks? [There were no closing remarks.] I will close the hearing on Assembly Bill 29. I will now open the hearing on Assembly Bill 39, which is our final bill on the agenda today.

**Assembly Bill 39: Revises provisions relating to contracts for work concerning certain residential improvements. (BDR 54-265)**

**Margi A. Grein, Executive Officer, State Contractors Board:**

I am here today to testify in support of Assembly Bill 39, which aims to strengthen protection for consumers looking to contract for certain residential improvements. Residential contractors are most relied upon by consumers—the consumers we serve. They are the ones we invite into our homes, who we call in our time of need, and who help to restore our environment to a comfortable norm. It is because of the variety of contracted work required to sustain a home that the Nevada State Contractors Board (NSCB) believes consumers deserve to have standard contract expectations that guide their best interests and ensure the contract is enforceable for both parties.

A common trend noticed among the complaints filed with our office is validation of overpayment when too large of a down payment was made, up to 50 percent of the contract price, or payments in excess of the amount of work completed. We know most homeowners

would benefit from specific contract terms guaranteeing important project details are defined and agreed upon upfront. To illustrate, between fiscal years (FY) 2018-2019 and FY 2021-2022, the NSCB validated 135 complaints of contractors accepting money when little or no work was performed, resulting in damages to residential homes in excess of \$1 million. I think it is important to note that these are only representative of homeowners who have chosen to contact the Board with their concerns. Assembly Bill 39 speaks on behalf of all homeowners facing these circumstances and offers them protection from becoming our next statistic.

Following the investigative process, eligible consumers have access to the Residential Recovery Fund. Created by the Legislature and enacted into law in 1999, the Recovery Fund provides monetary relief to qualified homeowners whom the Board finds financially harmed by licensed residential contractors. Each of those 135 cases I referenced had their claims heard by the Recovery Fund committee, and a total of \$1,057,700 was awarded validating financial harm incurred. This award alarmingly represents 32 percent of the total amount awarded to homeowners from the Residential Recovery Fund during that four-year period.

The NSCB favors new requirements proposed in A.B. 39. These include limiting initial down payments or deposits not to exceed \$1,000 or 10 percent of the aggregate contract price, whichever is less; documenting the estimated date of completion; writing a description of work to be performed under the contract and any change orders incorporated; and specifying the total amount to be paid for the work under the contract. The provisions of A.B. 39 provide necessary safeguards that enhance consumer protection while reducing the gray area often caused by miscommunication and poor contracting practices. The NSCB finds the language specific to residential improvement projects to be sufficient and appropriate given that the enhanced statutory requirements for new residential construction and work concerning residential photovoltaic systems and contracting for residential pools and spas already exist under *Nevada Revised Statutes* (NRS) 624.855 and NRS 624.915, respectively. These areas of the construction industry were addressed and improved following similar rises in complaints with concerning trends. In the 1990s, we noticed an increase in pool construction complaints, and laws were passed in 1997 and 2001 addressing those concerns. In 2021, when solar contracting issues trended upward, Senate Bill 303 of the 81st Session was passed with the help of Senator Brooks to address problems in the solar industry. Just as we have experienced in both the pool and solar industries, once contract requirements were standardized, the industry responded to heightened accountability by fulfilling the new statutory expectations. It is our belief that A.B. 39 will achieve the same outcome and we will begin to see a noticeable decrease in the complaints filed with the Board against licensed contractors performing residential improvement work who took down payments from homeowners without performing any work or providing any materials. Assembly Bill 39 is a consumer protection win for Nevada, but it is also an opportunity to standardize contracting for Nevada contractors, affording businesses of all sizes to have confidence in the work they are engaging in. I am happy to answer any questions you may have.

**Assemblywoman Jauregui:**

This is very similar to my pool contract. I signed my pool contract and paid a \$1,000 deposit. This contract does not exist for remodeling of single-family residential projects. Is it basically taking something that we already do for some types of projects and making it for, say, a kitchen remodel as well?

**Margi Grein:**

That is correct.

**Assemblywoman Jauregui:**

Why is it only applying to single-family residences? Why is it not applying to townhomes or condos, or do they also fall under that single-family residence definition?

**Margi Grein:**

They have defined single-family residence. It is defined in NRS 624.455, and I believe that came from the Legislative Counsel Bureau (LCB) because there was no other definition in it. Single-family residence would apply to the interior work performed in a condo or townhouse, not to the exterior work. That was the reason for that.

**Assemblywoman Backus:**

I want to make sure that I fully understand what the reasoning was behind creating this specialized legislation for residential builders who are only doing remodel work.

**Margi Grein:**

This has evolved as we have seen more complaints involving improvement work. As I mentioned, this is from our statistics for our claims against the Residential Recovery Fund. And it is not coming from the builders or commercial construction; it is coming from those residential remodels like patio covers and kitchen cabinets. We had a huge issue with the pools, and legislation was passed to address that. It was a huge issue with solar. And now we are looking back as we go through our records. Initially, we were going to just submit a bill that only limited the down payment, but working with LCB, we agreed that it was standard that we follow the similar provisions to address residential remodels as we did with pools and solar. In the complaints that are coming forward, we do not see complaints where the contractor takes no money and does no work or leaves the project unfinished with major residential builders or someone who is building an entire home. However, we do see that in the remodel work, and that is the purpose of this legislation.

**Assemblywoman Backus:**

I see where the language has expanded on what needs to be in the contract and that the penalty is that a contract can be voidable. Let us say, for example, that the contract does not state that the obligation of the owner is to make payment in accordance. If that language does not appear in the contract, then as I understand this, the whole contract becomes voidable. As I understand it, voidable contracts usually go to something that is against public policy. Usually, when we are looking at remedies, when there is a voided contract, it puts someone back in the place that they originally were in before they contracted. In situations

like this, contractors may expend lots of money to already start doing the work, such as securing materials and paying labor. How does that work when a contract is deemed voidable?

**Margi Grein:**

It is my understanding that the homeowner has the right to void the contract. The NSCB does not void the contract. I am not certain, if they are going to void a contract, if that has to go through a court of law. That is a legal question, and I am not certain how that works. But it is the same provisions we have in those other two sections concerning pools as well as solar. I am sorry I cannot give you a clearer answer.

**Assemblyman O'Neill:**

I have a follow-up on the previous question. If, for some reason, the contract is voided for one of these eligible pieces that I did not put in the contract, and you can contact an attorney to read the contract before signing it—which, to me, is an assumption—so, say the contract is voided but the contractor has already put in thousands of dollars' worth of work. Is that contractor paid for the work performed up until the time the contract is voided?

**Margi Grein:**

If the contractor has followed the payment schedule in the contract, then he would be paid for the work performed. I am not certain how that would come into play. Again, that is a legal question that maybe someone in here can answer.

**Assemblyman O'Neill:**

Is the language here the exact same language that is already in statute for contractors to do swimming pools and solar?

**Margi Grein:**

It is very similar. It is not quite identical because there are different provisions that go into pool and solar contracting versus residential, but it is very similar.

**Assemblyman O'Neill:**

I misunderstood your prior statement and I appreciate that.

**Assemblywoman Kasama:**

I understand what you are trying to do because we do have people out there who are being taken advantage of, where the contractors come in and customers pay a lot of upfront money and then never see them again. I know that is an issue. I have a concern for the contractor's side if he has to order, for example, a \$5000 HVAC [heating, ventilation, air conditioning] system or a fancy appliance. Say he orders that and then the owner says they are not going to pay for it and then the contractor cannot get the money to at least cover the material. I am concerned because we have the one side where we want to protect the consumer, but what about the contractor who goes out and puts out money upfront for expensive materials? The owner can decide he does not want this anymore, or something has changed, and then the contractor is possibly out of that money.

**Margi Grein:**

I do understand your concern. I do not have an answer to address that problem for the specialty order items.

**Sam Quast, Committee Counsel:**

The provisions of this particular section, as well as the other sections that are similar, do not specifically spell out how this is going to work. What would probably happen here is the general principles of contract law would govern voidability of this contract. So, if the homeowner in this instance decided to void a contract, I believe the principles of contract law would govern, which do not allow a person to just obtain a windfall and something for nothing. I believe those would be worked out in court by a judge who would then determine if someone were to spend a lot of money on materials, the principles of contract law would not allow that person to have all those materials without people being put in the proper place under law. I believe they would have to pay some sort of compensation as determined by a court. However, this is my belief not having looked at any of the specific cases or times this has come up previously with respect to the other provisions.

**Chair Marzola:**

Are there any other questions? [There were none.] We will open testimony in support of Assembly Bill 39. [There was none.] We will hear testimony in opposition of Assembly Bill 39. [There was none.] We will move to neutral testimony.

**Eva G. Segerblom, representing Nevada Justice Association:**

We are neutral to A.B. 39. We believe the intent is good in terms of offering more protections for consumers, but we think that the bill could go further in terms of protecting both homeowners and contractors by adding a prevailing party provision for attorney fees as well as making sure that these contracts do not include forced arbitration. That is why we are neutral on this bill and hope that we can potentially work on an amendment.

**Chair Marzola:**

Is there anyone else wishing to testify in neutral? [There was no one.] Ms. Grein, would you like to add any closing remarks?

**Margi Grein:**

I would like to thank the Committee for allowing us the time to present our bills and the overview of the Board. I am happy to work with anyone who has suggestions for improvements on our bills.



**Chair Marzola:**

I will close the hearing on Assembly Bill 39. I will now open up for public comment.  
[There was none.] This meeting is adjourned [at 2:37 p.m.].

RESPECTFULLY SUBMITTED:

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Elizabeth Lepe  
Committee Secretary

APPROVED BY:

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Assemblywoman Elaine Marzola, Chair

DATE: \_\_\_\_\_

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a document titled "Nevada State Contractors Board 2022-2023 Strategic Plan," dated July 2022, presented and submitted by Margi A. Grein, Executive Director, State Contractors Board.

[Exhibit D](#) is a document titled "Nevada State Contractors Board Operational Highlights FY 2021-22," presented and submitted by Margi A. Grein, Executive Director, State Contractors Board.

[Exhibit E](#) is a document titled "Nevada State Contractors Board 2023 Legislative Package," presented and submitted by Margi A. Grein, Executive Director, State Contractors Board.

[Exhibit F](#) is a document titled "Nevada State Contractors Board Constituent Services," presented and submitted by Margi A. Grein, Executive Director, State Contractors Board.