MINUTES OF THE 2015-2016 INTERIM
LEGISLATIVE COMMISSION'S
SUBCOMMITTEE TO REVIEW REGULATIONS

December 30, 2015

The meeting of the Legislative Commission's Subcommittee to Review Regulations was called to order by Chair James A. Settelmeyer at 10:09 a.m. at the Grant Sawyer Building, Room 4401, 555 East Washington Avenue, Las Vegas, Nevada and via videoconference at the Legislative Building, Room 3137, 401 South Carson Street, Carson City, Nevada. Exhibit A is the Agenda and Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT (LAS VEGAS):

Senator James A. Settelmeyer, Senatorial District No. 17, Chair
Senator Aaron D. Ford, Senatorial District No. 11
Senator Pete Goicoechea, Senatorial District No. 19
Assemblywoman Irene Bustamante Adams, Assembly District No. 42
Assemblyman Erven T. Nelson, Assembly District No. 5
Assemblyman Tyrone Thompson, Assembly District No. 17

COMMITTEE MEMBERS PRESENT (CARSON CITY):

Assemblyman Stephen H. Silberkraus, Assembly District No. 29

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau
Angela Hartzler, Secretary, Legal Division, Legislative Counsel Bureau
Linda Hiller, Interim Secretary, Legal Division, Legislative Counsel Bureau

OTHERS PRESENT:

Bonnie Wood
Dennis Zachary, Desert Valley Contracting
Richard Daly, Laborers International Union of North America, Local 169
Matt Fischer, Faith Lutheran Academy
Rabbi Mendy Levine, Executive Director, Yeshiva Day School of Las Vegas
Grant Hewitt, Chief of Staff, Office of the State Treasurer
Margi Grein, Executive Officer, State Contractors' Board
Nancy Mathias, State Contractors' Board

DRAFT

Chair Settelmeyer:
I will open this meeting with a request for public comment. I have received one letter of written testimony (Exhibit C) from Charleston Neighborhood Preservation in support of R061-15, the regulation establishing provisions governing Educational Savings Accounts (ESAs).

Bonnie Wood:
I am the spouse of an active duty member of the military. My family and I moved to Las Vegas a year ago because of my husband's 3-year assignment to Nellis Air Force Base. We have moved 10 times in 14 years, both stateside and overseas. My children have never been in the same school for 2 consecutive years. This is a life we chose and we know the costs of uprooting our family frequently and asking them to be flexible.

I am humble and grateful to Office of the State Treasurer for including a military exemption into the ESA legislation so our military children are not inadvertently penalized because of their uniquely transient lifestyle.

I encourage passage of R061-15 which allows children of active duty military members to be exempt from attending public school for 100 consecutive days before qualifying for the ESA funding. We want to make the best educational choices for our children by keeping them at one school throughout their Nevada military assignment.

We are grateful for how much the Legislature, Governor and Treasurer's Office value the military, recognizing that we all contribute to this state.

Dennis Zachary (Desert Valley Contracting):
I am here on the State Contractors' Board proposed regulation, R009-15. I have taken and passed all the tests for the B-6 license. I have been in business in Las Vegas for more than 25 years, currently employing a staff of 50 employees. We also have a SERVEPRO company. We work with all the major insurance companies.

We are not trying to build high-rises; we just want to be able to work on them, making the repairs after we do water mitigation. We get called out to the Las Vegas Strip where there are many high-rises. Passing this regulation would give us an opportunity to grow our business and employ more people. Small businesses in this town will benefit, I was hoping more would come forward and speak on this issue.

Richard Daly (Laborers International Union of North America, Local 169):
I am here on the State Contractors' Board licensing, R009-15. We oppose this regulation for many reasons. We have rules to work on high-rise construction for

life safety reasons. Currently, a worker needs a full classification B license to work on a high-rise building.

To do some of the remodels and small things that are included in this proposed regulation takes a problem we already have of contractors working outside their scope with the B-2 or other license and makes it worse.

We had a B-2 licensed contractor acting as the general contractor on a 14-story building in downtown Reno. Once the City of Reno discovered this was happening, the building permit was pulled. The company said they would do the job as a B-6 contractor instead.

When you look at the limitations put on a B-6 contractor, which is what this regulation is proposing, they cannot do structural, mechanical, electrical, HVAC (heating, ventilating and air conditioning) or plumbing projects. To do that work directly as a contractor, you have to have that specific license.

This regulation further says the licensee cannot oversee or supervise that work so they cannot get a subcontractor. If they do have a contractor, have them perform work they are allowed to do as a specialty contractor, but not as a prime contractor.

If you are going to be a prime contractor, you should get the full B license. It is not that difficult. You have to apply and you need the experience in the type of construction you are applying to be licensed for and you have to pass the test for that license. If you do not have experience in, say, high-rise construction, most companies hire what is called a "qualified employee," who has that experience and can be put on the license. As long as that person is employed on that job, the company is covered and qualified.

The problem with this regulation is that you will have people working outside their scope of expertise. We do have the B-2 limitations and the B-6 limitations for life safety issues on high-rise sprinkler systems, etc. Class A construction versus stick construction represents two different things.

The firsthand experience I had with the first B-6 licensee was that he went outside his scope. I understand the State Contractors' Board is investigating that. That is great, but he still went outside his scope. You are going to make this problem worse by passing this regulation. You do not really need it. Just get the full B license.

When there is enforcement by a State Contractors' Board inspector or if there is a complaint that a contractor is working outside his or her scope, or on a structural member of the building, they will write to me and ask how we know it is a structural member. They will ask if we are architects or engineers and we will say "No we are not,

but neither is this contractor." It will be hard to enforce and there will need to be a third party to determine if the part of the building is indeed structural. You are going down the wrong path trying to solve the problem by creating an avenue for persons who already worked outside their scope with the B-2 license. This will give them a channel to make that okay.

Matt Fischer (Faith Lutheran Academy):
We are grateful for the establishment of Nevada's ESA program. As I understand it, the spirit of Senate Bill (S.B.) 302 is to promote school choice for Nevada residents.

SENATE BILL 302: Establishes a program by which a child who receives instruction from a certain entity rather than from a public school may receive a grant of money in an amount equal to a certain percentage of the statewide average basic support per-pupil. (BDR 34-567)

My hope is that the Legislature would approve the proposed final regulations of this bill, specifically the regulation stating that children of active military families as well as children between the ages of 5 and 7 would be exempt from having to obtain the 100 consecutive days of public school attendance. This would allow these families to be eligible and enroll in the school of their choice right from the start, rather than having to first enroll in a public or charter school to become eligible. If these families are not eligible from the start, this would contradict the spirit of S.B. 302 and negatively affect the continuity and quality of their children's educational experience.

Rabbi Mendy Levine (Executive Director, Yeshiva Day School of Las Vegas):
We appreciate Nevada being on the cutting edge of school choice with S.B. 302. The spirit of this bill was to be as inclusive as possible. We encourage this and support the regulation R061-15 that includes our kindergarteners and children of active military.

Chair Settelmeyer:
I will close public comment and open Agenda Item III, review of administrative regulations. Traditionally with this Subcommittee, we ask members if there are any regulations that need more discussion or examination. If not, we ask for a motion to pass all regulations on the Agenda that are not problematic.

Senator Aaron D. Ford (Senatorial District No. 11):
I would like to pull two regulations for consideration—R061-15 and R009-15.

Chair Settelmeyer:
We will pull those two regulations out of the voting for further discussion.

SENATOR GOICOECHEA MOVED TO PASS REGULATIONS R021-15, R022-15, R023-15 AND R024-15 FROM THE BOARD OF MEDICAL EXAMINERS AND R077-15 FROM THE STATE FIRE MARSHAL.

ASSEMBLYWOMAN BUSTAMANTE ADAMS SECONDED THE MOTION.

Assemblyman Tyrone Thompson (Assembly District No. 17):
On the Board of Medical Examiners regulations, there is a small business impact statement. I looked at the list of all the chambers of commerce asked to comment on that and wondered why the Asian Chamber of Commerce, the Urban Chamber of Commerce and the Latin Chamber of Commerce were not included. Is it up to the Board of Medical Examiners to determine who to send this information to for small business impact assessment? We are missing the boat if we do not include these chambers of commerce when surveying small businesses.

Chair Settelmeyer:
I am not familiar with their selection processes. Traditionally, most chambers contact these boards and ask to be put on their mailing lists and then they respond accordingly. We can gladly send a letter to the Board of Medical Examiners, or pull one of those regulations to ensure someone comes forth to answer that question.

Assemblyman Thompson:
I am just saying that as a blanketed statement. When we receive a small business impact statement, it is important to make sure those groups are included for their input.

Chair Settelmeyer:
Would it be acceptable to have the Board of Medical Examiners contact you offline and tell you how they select input for that data?

Assemblyman Thompson:
Yes, that would be fine.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Settelmeyer:
I will open discussion on the first regulation from Senator Ford's request for review: R061-15 from the Office of the State Treasurer.

Grant Hewitt (Chief of Staff, Office of the State Treasurer):
The regulations we are reviewing today arose from the passage of S.B. 302, the most expansive educational choice program ever passed in the U.S. It is a nearly universal educational choice program that creates Nevada's Education Savings Account (ESA).

In August, the Office of the State Treasurer started receiving early applications for those ESAs. To date, we have received just over 4,100 applications. We have held one workshop and three hearings to review the regulations. Our first workshop was a 6-hour meeting primarily discussing the 100-day requirement in section 7 of the bill. This requires students to attend a Nevada public school for 100 consecutive days before receiving their ESA. That aspect of the bill has been the single largest point of contention with S.B. 302.

As we went through the reviewing process, we became aware of the Interstate Compact on Educational Opportunity for Military Children, which was passed by the 70th Session of the Legislature in 1999 to help children of active military families move more easily through our education system. Since S.B. 302 was not around in 1999, we felt we should adhere to the principles of that Compact and create an exemption of the 100-day requirement for active duty military families. We also concluded that the bill was vague on how to treat children allowed to attend public schools but not required to under compulsory attendance laws, which includes children between the ages of 5 and 7.

Our Office's viewpoint was that a regulation was needed to clarify these issues. We did that with the bill's author, reviewing the interpretation of the legislative intent of the bill. That was put firmly on the record during the 29th Special Session of the Legislature in December with Senate Concurrent Resolution (S.C.R.) 1 which clearly outlined the intent of the Legislature to exempt those two groups from the 100-day requirement.

SENATE CONCURRENT RESOLUTION 1: Declares and expresses the Legislature's purpose and intent in enacting Senate Bill No. 302 of the 78th Session of the Legislature. (BDR R-11)

We have vetted these regulations thoroughly through an open and public process. We had good attendance at our hearings—from 50 at our smallest hearing and 500 at our largest.

Senator Ford:
It is important for us to be clear that this is a voucher program. It is a form of educational choice and proponents of the bill and the regulations have done a great job of co-opting the phrase "educational choice" as if vouchers are the only form of choice. They are not.

Choice includes magnet schools, career and technical education and open enrollment in charter schools to name a few.

In the waning minutes of the recent 29th Special Session of the Nevada Legislature, Senator Roberson introduced a resolution he sponsored that purported to declare legislative intent regarding this voucher program. At that time, I voiced my displeasure with resolutions by ambush but I nonetheless offered a qualified yes because I knew I would have the opportunity to consider this matter again in the regulatory process.

Between passage of S.C.R. 1 and today's hearing, I have had our Legal Division do research on whether any mention of the exceptions to the 100-day requirement ever occurred. Specifically, I asked if there was discussion surrounding kindergarten students or children of military families during the hearings associated with the adoption of S.B. 302. There was none.

To summarize, in reviewing the minutes and videos from the meetings associated with S.B. 302, while there was a 100-day requirement present in the bill's language during each of the following hearings, limited discussion of the 100-day requirement took place. There was no specific discussion of military families and limited discussion of kindergarten students. Obviously, following passage of this Legislation, there has been substantial public discussion and testimony surrounding the 100-day requirement. Specifically, these discussions occurred at public hearings conducted by the Office of the State Treasurer.

For the April 3, 2015 Senate Committee on Education hearing on S.B. 302 and the work session on the bill, held April 10, 2015, there was no specific discussion of the 100-day requirement. However, Senator Hammond's opening remarks during testimony at the April 3 meeting included a statement that "private school grants would introduce a dynamic kindergarten through grade 12 education."

During the May 14, 2015, Senate Committee on Finance meeting, Senator Hammond did mention the 100-day requirement and he and Adam Peshek, the Policy Director of Choice and Impact at the Foundation for Excellence in Education, answered questions from Senators Kieckhefer and Goicoechea which resulted in a discussion of the 100-day requirement, primarily related to homeschool students. The exceptions we are considering today were not addressed.

In response to homeschooling concerns, Senator Hammond said that one of the provisions of the bill is that the student must attend public school for 100 days prior to establishing an ESA. Many families who homeschool do not want to be part of the public school system whatsoever. There was no exception to the 100-day requirement

at that time. Comparably, in the Assembly, there was no discussion of exceptions to the 100-day requirement.

At the end of the day, I believe these regulations are ultra vires—what has been presented to us exceeds the scope of the authority that the Legislature has granted to the Office of the State Treasurer. I understand S.C.R. 1 was presented to kind of back into an opportunity to declare that sort of legislative intent, but I think the courts will see straight through that. In fact, before S.C.R. 1 was passed, it was made clear to the Office of the State Treasurer by legal counsel from the Legislative Counsel Bureau that the efforts to insert exceptions were ultra vires.

I understand the jurisdictional authority of this Subcommittee. I also believe that given the import of this voucher program, these regulations should have been considered by the entire 2015-2016 Interim Legislative Commission. They were not, and the reason being is that they probably would die immediately with these exceptions in there.

Finally, my position in no way represents a disdain or disfavor of our military. My brother is in the U.S. Army Reserves, and Senator Pat Spearman offered several pieces of veteran-oriented legislation that were killed by my colleagues on the other side of the aisle. My position here is purely constitutional; one that most of my colleagues want to say should drive everything we do here. This Subcommittee cannot endorse regulations that exceed the authority given it in an enacting statute; that is beyond our ability.

The proposed exceptions do have merit as a policy proposal, I agree with them. But this is not the right forum to enact these exceptions. It has to be done in a Legislative Session, either special or regular, but not in a regulatory context.

Mr. Hewitt:
I do not want to argue about whether this is an educational choice versus a voucher program. We can agree to disagree on that. I believe S.C.R. 1 does outline the legislative intent and I believe the regulatory process is to help clarify confusing pieces of the law. Ultimately, how to treat children between the ages of 5 and 7 was left undiscussed in S.B. 302. It was a clear oversight. We believe the regulatory process is cleaning that up.

I am aware of the letter from the Legislative Counsel Bureau that you referenced. The Office of the State Treasurer did respond and has had no response or communication since then on that topic.

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Assemblywoman Irene Bustamante Adams (Assembly District No. 42):
I appreciated Ms. Wood who spoke in public comment about this issue from a military family's point of view. Being a military spouse myself, I am proud of what this body did during the last Session, passing the most comprehensive military legislation for the State. Every year we have made progress on that issue. I am proud to be part of that team to support our military families.

I am personally grateful that I have had choices through several deployments where we have rearranged our lives to ensure our children continue to get a good education. I feel like we already have choices through some of the mechanisms Senator Ford mentioned.

I believe the military should have that flexibility, which is what we voted on in Special Session with S.C.R. 1. I agree that it was a blindsided approach as a way to back into legislative intent and I did not appreciate that as a Legislator. I will vote no because I do not believe in the voucher system. I know there are several lawsuits pertaining to this issue right now so I will not comment further. I am appreciative of the military families who serve here in Nevada and throughout the U.S.

Assemblyman Thompson:
I want to echo what my colleagues have said. The vote on S.C.R. 1 was a last minute push in our recent Special Session. As a Legislator, I like to properly vet any law or regulation I vote on. I was concerned and disappointed in that process.

In section 9, subsection 2, the regulation R061-15 references an open enrollment process. Because we are using the term "choice" and we know that 4,100 applications have come into your office, what is the notification process going to be for the open enrollment? When we speak of choice, we need to look everywhere to make sure people know this program is available. We need to cover every inch of our community to ensure that parents know about this program.

Mr. Hewitt:
The Interim Finance Committee (IFC) recently approved a new Public Information Officer (PIO) for the Treasurer's Office. Through public notices to media outlets and e-mail notices to our e-mail database of people already interested in educational choice, we send out regular updates relating to the ESA program, including the open enrollment period. We will work tirelessly through public media. There has been a lot of interest in the program, so getting coverage from local media sources has not been a challenge.

One thing S.B. 302 failed to do when it was passed was to provide any start-up funding. We lack a formalized education and outreach process. It will likely be a topic our Office

will revisit with the Legislature down the road. We want to be able to reach the Urban Chamber of Commerce, the Asian Chamber of Commerce or any groups that represent all Nevadans. Today, we are using our new PIO to reach out to mainstream media and publications.

Assemblyman Thompson:
I would like to see that. In this situation, you would have to dig even deeper into the community than the Urban and Asian chambers. In section 9, subsection 3 of R061-15, there is mention that the Office of the State Treasurer can approve or reject applications for the program. How does that work? Where is the quality assurance on the back end? I know there will be quarterly reports, but that may be too late. How can we ensure this is a fair and equitable selection process?

Mr. Hewitt:
When we deal with applicants, we are very thorough about checking qualifications. What sets S.B. 302 apart from every other educational choice program in the country is that it is nearly universal. If you have the 100 days and can verify it, you are automatically in the program.

We go through many steps in the process of verification. We look at the application and make sure the parent indicates that the 100 days have been met. We then go to the Nevada Department of Education (NDE) with the student identification number and the school that was attended. The NDE then flags or confirms whether the requirement has been met. If the data from NDE shows a discrepancy, we give the benefit of the doubt to the parents that they know their child has been in the public school for 100 days.

We then reach out to the parents through physical mail and e-mail and inform them of the discrepancy from NDE. We ask for supporting documentation from the parents. In more than 80 percent of these instances, the parents can easily find verifying documents to prove their child has met the 100-day requirement. The only way a student would not qualify for an ESA is if he or she lacked the 100 days in the public school system or did not fall into the aforementioned military or kindergarten exemption.

Assemblyman Thompson:
Are you saying the applications are dated and timestamped and then once you do your vetting to ensure the application meets the requirements, they are automatically entered into the ESA system?

Mr. Hewitt:
That is correct. The date we care the most about is the day the application is submitted. We look at that date, timestamp it onto a digital database and then we back up

100 days from when we receive the application to verify the 100 days. We work with the NDE to double verify the 100 days. We are only as good as the data we have, though, and over the summer and fall we have been working on perfecting this.

In the coming months, we hope to have a real time check through web services and application program interface calls between our online enrollment process and digital database so there is no delay. This way, a parent types in a student identification number, clicks on "verify" and it automatically checks the data.

Chair Settelmeyer:
I appreciate the clarification of S.C.R. 1 because I know, at least for myself, that it was never intended to disenfranchise the military.

Assemblywoman Bustamante Adams:
To clarify, we approved additional staff through IFC so your Office can handle the database backlog. Are you saying that it will not be fully functional until next summer?

Mr. Hewitt:
It is a phase-in program with the digital database. We are ahead of schedule today, but we anticipate improvements. When you get a beta test out there and start running on it, you find improvements and work to improve the system. My hope is that in less than a year we will have a perfect system.

Our request to IFC for staff funding was to help us dig out of the paper backlog of applications. We are proud to say we have them all in the digital system now. We had two digital systems—a temporary system created by our IT department and the system approved by IFC and the State Board of Examiners (BOE) that is a more robust digital database, still in development. That system is being rolled out piece by piece. This week we rolled out the participating entity enrollment portal. Parents are being funneled in to establish their accounts in the coming weeks so they can fund in February. I am happy to provide you with a timeline for what this rollout and development implementation looks like.

Assemblyman Thompson:
Section 11 of the regulation, R061-15, references the creation of a seven-member Committee to Review Payments (Review Committee). It looks like the Review Committee consists of all the stakeholders who are recipients of the funds. Whenever you have a review committee, there should be an outside person or a neutral third party, but it looks like this Review Committee is made up of parents of children who are recipients of ESA money. It also looks like two nonvoting members are educators or administrators. How did this come about?

Mr. Hewitt:
We looked at existing ESA programs in other states, including Arizona and Florida. We also looked ESA programs in development in both Tennessee and Mississippi. One thing that rang true in every discussion was that parents of children in the program are the most defensive of the program. They are protective that it is not misused and that procedures are followed.

We created the Review Committee so that if there was a questionable expense or request for reimbursement, the Office of the State Treasurer would not just arbitrarily make that assessment.

Regarding the two nonvoting members, through our regulatory hearing process and the workshops, many groups said there needed to be an educational component on the Review Committee. When we asked if this educational component should be a voting member or not, it was pretty unanimous that these members should not be voting members but instead be present to offer their expertise to parents.

Ultimately, the creation of this Review Committee came from our research to find who would protect the program the most. We know the Legislature could decide next Session to eliminate this program, so it is the parents already in the program who really do not want to see it abused.

The Review Committee will only be used for questionable expenses. In the first year it will probably be used a lot more than in the second year as we write rules to adjudicate and walk through every scenario we get. We do not yet know what questions or issues about expenses will arise as we go through this ESA process. We have a process where a recipient can ask for a pre-approval for an expense, so perhaps this will head off some of the questionable ones before money is ever spent.

Senator Ford:
I am dismayed with this process. It is precisely why judges oftentimes do not look at legislative intent or legislative history, but rather look at the plain language of a statute to ascertain whether a regulation is going to be appropriately upheld or ruled ultra vires.

This resolution, S.C.R. 1, is being misused in that now you are able to promulgate regulations that go well beyond the scope and authority of the statute that gave the authorization in the first place. This is exactly why a lot of judges are only going to look at the plain language of that statute to ascertain whether your regulations are within the scope and authority of the statute.

Chair Settelmeyer:
Seeing no further discussion, I am looking for a motion to pass R061-15.

Senator Pete Goicoechea (Senatorial District No. 19):
I believe S.C.R. 1 was an effort to establish the legislative intent, whether it was an ambush or not, the bottom line was it was a vote on the Senate Floor in a Special Session.

> SENATOR GOICOECHEA MOVED TO PASS REGULATION R061-15 FROM THE OFFICE OF THE STATE TREASURER.
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> ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.
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> THE MOTION CARRIED. (SENATOR FORD, ASSEMBLYWOMAN BUSTAMANTE ADAMS AND ASSEMBLYMAN THOMPSON VOTED NO.)

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Chair Settelmeyer:
I will open discussion on R009-15 from the State Contractors' Board.

Margi Grein (Executive Officer, State Contractors' Board):
The Nevada State Contractors' Board is seeking a new regulation that would create a license classification B-6 to allow for limited commercial remodeling work. The Board has come across several instances where a contractor holding a B-2 license, which allows him or her to perform residential and small commercial work in structures not exceeding three stories high and one below ground, is not qualified for the full B general building license due to a lack of experience, skills or knowledge.

While many of the existing B-2 contractors are not looking to become general building contractors, they are looking to perform tenant improvements and very limited remodel work in high-rise structures. Currently, there is no other mechanism in place to allow such work to be performed unless the contractor holds a full B license or a specialty license required for the project.

After much discussion with the industry, the Board moved to create a temporary regulation in 2014. We held regulation workshops and hearings, during which there were language recommendations provided that are now in R009-15. To date, there has been no opposition during any of our workshops, hearings or public meetings. This new classification will provide an outlet for B-2 contractors to expand their tenant improvements and very limited remodeling in high-rise buildings.

Senator Goicoechea:
I need to understand. We have B licenses 1 through 5 which say a person cannot work more than one story underground or three stories above ground, correct?

Ms. Grein:
That is correct, with B-2 classification.

Senator Goicoechea:
With the B-6 classification, it is the same parameters, but it allows the licensee to work in buildings above three floors, right?

Ms. Grein:
Yes, very limited remodel work.

Senator Goicoechea:
I am more concerned about what a worker does to the first floor than to the fifth floor, so to me it makes sense that someone could do the same work on the fourth floor that he or she is doing on the third floor. In this building here in Las Vegas today, if a contractor came in, he could work on the first three floors but not on the fourth floor where we are right now. Is that correct?

Ms. Grein:
Yes, that is correct.

Senator Goicoechea:
I am struggling to see what I am missing, but again, I am a lot more concerned about what a contractor does to the foundation than what he does to the roof.

Chair Settelmeyer:
It looks like this regulation is trying to narrowly limit the scope of what these individuals can do. Can you elaborate on what these B-6 licensees would be able to do?

Nancy Mathias (State Contractors' Board):
Our goal with this regulation is to accommodate those businesses that limit their practice to commercial remodeling. These are typically companies that perform tenant improvement work. Many companies perform that type of work for franchises throughout the country. They may be doing tenant improvements for a restaurant or a store in a high-rise building. Companies who remodel for office buildings would also be affected by this licensing.

DRAFT

The work is usually very limited in scope. Sometimes it is just work for a larger hotel or gaming property where they are doing a refresher or remodel of the rooms or common areas. We often have companies seeking licensure who have limited their scope of practice to remodel, so they do not qualify for the full B license and we then have nothing viable to offer them in terms of licensure. Many of these companies either seek not to practice in Nevada or they limit their practice here.

Senator Ford:
What about the concerns raised by Mr. Daly?

Ms. Mathias:
I know he is concerned that there will be confusion about the scope of work allowed. We feel there is already confusion about who can and cannot do certain tasks. Our hope with the language in R009-15 is to address that confusion and carve out an area for companies truly performing remodel work in high-rise buildings. We worked closely with the industry to craft the language which would accurately cover the scope of practice we are trying to address while still addressing public safety concerns.

Assemblyman Thompson:
Mr. Daly brought up the issue of safety representing the laborer's union. Can you address that? By adopting this B-6 licensing, do we create more safety concerns?

Ms. Mathias:
We worked closely with the industry and there were concerns about safety, especially when performing work in a high-rise structure. We modified the language several times, which is why there is restrictive language preventing licensees from making structural modifications to a building or modifying any of the life safety systems.

Assemblywoman Bustamante Adams:
I gather the intent is not for the contractor to be the prime on a project?

Ms. Mathias:
This contractor may be the prime contractor on a remodel project, depending on the scope of the work under the contract. It is intended to be very limited in scope.

Assemblywoman Bustamante Adams:
It seems confusing that if the B-6 contractor is going to be the prime contractor, why not just get the full B license?

DRAFT

Ms. Mathias:
Many of these applicants have not constructed a high-rise building, so they do not have the experience necessary to obtain the full general building license. These individuals have limited their practice to remodel work and do not qualify for the full license.

Assemblywoman Bustamante Adams:
How will monitoring take place to ensure these licensees are not working outside of their scope?

Ms. Mathias:
Monitoring would be similar to what we do today through our enforcement process. This includes complaints filed through the State Contractors' Board or through our proactive enforcement efforts as we visit jobsites.

Assemblywoman Bustamante Adams:
I thought I remembered for the record that your office was short of staff and would have difficulty with enforcement.

Chair Settelmeyer:
How many people have already taken the test for this new category? How many have failed?

Ms. Mathias:
Since we adopted this as a temporary regulation, we have had 10 companies apply for licensure. Four companies have completed the exam requirement and passed.

SENATOR GOICOECHEA MOVED TO PASS REGULATION R009-15 FROM THE STATE CONTRACTORS' BOARD.

ASSEMBLYMAN NELSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR FORD, ASSEMBLYWOMAN BUSTAMANTE ADAMS AND ASSEMBLYMAN THOMPSON VOTED NO.)

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DRAFT

Chair Settelmeyer:
Seeing no one wanting to make public comment, I will adjourn this meeting at 11:09 a.m.

RESPECTFULLY SUBMITTED:

_____
Linda Hiller, Interim Secretary

APPROVED BY:

_____
James A. Settelmeyer, Chair

Date:_____

DRAFT

Exhibit	Witness / Agency	Description
A		Agenda
B		Attendance Roster
C	Juanita Clark, Charleston Neighborhood Preservation	Submitted Letter of Support for R061-15

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