

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session  
February 23, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:01 a.m. on Wednesday, February 23, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Joe Heck  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator John Lee

**COMMITTEE MEMBERS ABSENT:**

Senator Sandra Tiffany (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Bob Beers, Clark County Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Scott Young, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Jeanine Wittenburg, Committee Secretary  
Jane Tetherton, Committee Secretary

**OTHERS PRESENT:**

James Jackson, Consumer Data Industry Association

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Eric J. Ellman, Director and Counsel, Government Relations, Consumer Data Industry Association

Kathleen E. Delaney, Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General

Sheree Goessman

Robert A. Ostrovsky, Employers Insurance Company of Nevada, A Mutual Company

Danny L. Thompson, Nevada State American Federation of Labor-Congress of Industrial Organizations

John (Jack) E. Jeffrey, Southern Nevada Building and Construction Trades

Donna M. Sweger, Deputy Attorney, Nevada Attorney for Injured Workers, Department of Business and Industry

CHAIR TOWNSEND:

We will open the discussion with Senate Bill (S.B.) 80.

**SENATE BILL 80**: Establishes requirements and procedures for consumers to place security alerts and security freezes in certain files maintained by credit reporting agencies. (BDR 52-284)

SENATOR BOB BEERS (Clark County Senatorial District No. 6):

I would like to give some background to the proposal in S.B. 80. I personally have been a victim of identity theft. Please reference an article from the *Las Vegas Review-Journal* in which the computer data company, ChoicePoint, announced that a criminal security breach had resulted in the leak of clients' personal information ([Exhibit C](#)).

In speaking with your Committee Counsel, sections 2 through 8 of S.B. 80 have been preempted by recent federal legislation. The proposal in section 9 would allow the consumer to put a freeze on their credit history account. The consumer with a freeze on their account can always contact the credit reporting agency and request a release of their information to a specific company if, for example, they are purchasing a home.

But there are potential problems that might arise. Do we allow everyone the option to put a freeze on their account, or just the consumer who is a victim of identity theft? This bill would allow everyone to do it if they paid a fee. Another potential problem is in the handling of the consumer's request for release of

their credit information. Due to these potential problems, I would like the opportunity to discuss this further in a subcommittee hearing.

SENATOR CARLTON:

What is the fee for a consumer to freeze an account? Is there an additional cost if the request is sent by certified mail?

SENATOR BEERS:

The fee would be \$8 and certification is extra.

SENATOR CARLTON:

You stated that there are three large credit reporting agencies. Are there any other reporting agencies?

SENATOR BEERS:

There are smaller credit reporting agencies, but the mass consumer marketing effort seems to be focused on Equifax Incorporated; Experian Information Solutions, Incorporated; and TransUnion, LLC.

SENATOR CARLTON:

If a consumer did not put a freeze on their account, would they be liable for costs associated with identity fraud or would the credit reporting agency be liable? Is it possible that this could happen to a consumer?

SENATOR BEERS:

Yes, it is possible and we should take that into consideration.

SENATOR LEE:

What happens if a credit reporting agency does not follow through on a consumer's request to put a freeze on their account? Is there a penalty? What happens if a freeze is put on the wrong account?

SENATOR BEERS:

No, I do not believe there is a penalty in S.B. 80 at this time. If a freeze is put on the wrong account and a consumer applies for credit, that company would be notified that there is a freeze on the account. The consumer in turn would need to contact the credit reporting agency and let them know that they did not put the freeze on their account. The agency would then lift the freeze.

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CHAIR TOWNSEND:

We will have a subcommittee on S.B. 80. Senator Lee will Chair and Senator Hardy and I will attend. Are there any more questions regarding this bill?

JAMES JACKSON (Consumer Data Industry Association):

I have provided the Committee with an introductory letter ([Exhibit D](#)) regarding S.B. 80. The file freezing issue was considered, but not adopted in the 72nd Legislative Session.

ERIC J. ELLMAN (Director and Counsel, Government Relations, Consumer Data Industry Association):

We represent the consumer reporting industry. Our clients include Equifax, Experian and TransUnion, as well as hundreds of other local and regional reporting agencies throughout the country.

File freezing is a real issue and we strongly support identity fraud prevention. Consumer protection measures should be about meeting consumer expectations and S.B. 80 does not. Several changes to the federal Fair Credit Reporting Act (FCRA) went into effect December 2004. The consumer is now able to get a free credit report each year. Consumer advocates are recommending to consumers to call a different credit bureau every four months to get a free credit report so that they can monitor their credit history. There are a number of fraud-prevention measures to help consumers. Studies relating to fraud prevention are also being reviewed at the federal level.

CHAIR TOWNSEND:

We will take federal issues into consideration.

MR. JACKSON:

The document that Mr. Ellman was referring to is entitled, "Summary of ID Theft Solutions," which was included with my introductory letter as part of [Exhibit D](#).

KATHLEEN E. DELANEY (Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

We support S.B. 80 and agree there is a problem with identity theft. In recent changes in federal law we understand that free credit reports are only given once a year, so I do not think that this is adequate help for consumers who are

victims of identity theft. We would like to have breach-of-security issues addressed. California is the only state that notifies the consumer when there has been a breach of their personal information. We recommend an amendment to this bill so the consumer can be notified of possible identity theft and take steps to protect themselves. I am available to participate in the subcommittee.

CHAIR TOWNSEND:

Ms. Delaney, we will call you back to participate in the subcommittee. Could you look into the possibility of creating a public service announcement on a priority basis for consumers regarding identity theft? It might help consumers protect themselves.

MS. DELANEY:

I will advise the southern Nevada office to do so.

CHAIR TOWNSEND:

Are there any other questions concerning S.B. 80? This hearing is now closed.

We now have before us Bill Draft Request (BDR) 58-238.

**BILL DRAFT REQUEST 58-238**: Revises provisions governing energy assistance.  
(Later introduced as [Senate Bill 123](#).)

SENATOR SCHNEIDER MOVED TO INTRODUCE BDR 58-238.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

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Chair Townsend:

The hearing is now open for discussion of S.B. 66.

**SENATE BILL 66**: Authorizes injured employee who lives in Nevada to receive vocational rehabilitation services outside of Nevada under certain circumstances. (BDR 53-254)

SENATOR WARREN B. HARDY II (Clark County Senatorial District No.12):

I am here on behalf of a constituent from Mesquite. The issue relates to vocational rehabilitation. A problem was created when changes were made to the *Nevada Revised Statutes* (NRS) 616C, which came from discussions of S.B. No. 316 of the 67th Session. Out-of-state rehabilitation was abolished. A nonresident injured worker was, however, permitted to negotiate a lump-sum buyout payment. Under S.B. No. 37 of the 70th Session, restrictions were eased by the 50-mile rule where an injured worker could receive rehabilitative services in their home.

In the case of my constituent, Mr. Goessman, who was injured on the job in Henderson, he was required to travel back to Henderson to receive vocational rehabilitation services. He logged over 25,000 miles traveling when he could have gone less than 40 miles to St. George, Utah, to receive the same services.

The third-party administrator indicated in a letter that the State does not allow out-of-state training, and I quote, "Training in Utah is not an option." According to the Legislative Counsel Bureau, the employee has a right to an appeal. My constituent filed an appeal with the employer's insurance company and the employer found that the statute does not allow out-of-state training. The response from the insurance company stated, "While the statutes are unfair to people who live in Mesquite or Panaca, ... the only way to change the statute to regulations is through our legislator in Carson City." That is why I am here today. Mrs. Goessman is in the Las Vegas office today on behalf of her husband and is available to answer any questions. Also Mr. Ostrovsky from the Employers Insurance Company of Nevada has come up with an amendment that I support and I think helps clarify this matter.

CHAIR TOWNSEND:

Mrs. Goessman, would you like to address the Committee?

SHEREE GOESSMAN:

Senator Hardy has answered most of my questions. I will continue to listen to the discussion and if I have any further questions, I will let you know.

CHAIR TOWNSEND:

Are there any other questions?

ROBERT A. OSTROVSKY (Employers Insurance Company of Nevada, A Mutual Company):

Once the law was changed to permit buyout provisions, the number of cases related to vocational rehabilitation dropped. The language in S.B. 66 is confusing. We would agree to this bill with a proposed amendment stating, "The insurer cannot unreasonably deny this benefit." This would give the injured worker the right to rehabilitative services within a 50-mile radius of their home. We want the word "unreasonably" in the amendment so we can negotiate with the individuals involved about what type of rehabilitation program will work.

SENATOR LEE:

If you change your residence outside the 50-mile radius, would you still be able to receive services in your immediate area?

MR. OSTROVSKY:

A person can move, but if it brings them under a different statute then that statute would have to be applied.

SENATOR HECK:

I have a concern about the proposed amendment. While it may be more cost-effective for the insurer to contract with a particular business to provide vocational training, I am not sure that it would be a financial benefit to the injured worker. It could result in an appeals process and that would just complicate the issue.

MR. OSTROVSKY:

I agree and I am open to suggestions. Although I do not think there are very many of these types of cases.

SENATOR HARDY:

It was not my intention to create a presumptive benefit. The proposed amendment provides for standards that a judge can consider and are reasonable.

DANNY L. THOMPSON (Nevada State American Federation of Labor-Congress of Industrial Organizations):

We do support S.B. 66. The rural areas were incorporated because of these types of issues.

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JOHN (JACK) E. JEFFREY (Southern Nevada Building and Construction Trades):  
We support S.B. 66 and the amendment. Yes, there is a problem with out-of-state vocational rehabilitation.

CHAIR TOWNSEND:

There are two points to be made here. I had the opportunity to attend an appeals process relating to vocational rehabilitation and it would be beneficial for the Committee to attend and see how the process works. The other point is that we need to make this a similar process for the injured worker so they can get on with their lives. Are there any other questions regarding S.B. 66?

DONNA M. SWEGER (Deputy Attorney, Nevada Attorney for Injured Workers, Department of Business and Industry):  
We are in support of S.B. 66 and the amendment.

CHAIR TOWNSEND:

The Committee would be interested as to what is put into statutes regarding this bill. Ms. Sweger, can you monitor that process?

Ms. SWEGER:

I will advise the southern Nevada Office of the Attorney General staff.

SENATOR HARDY:

Are there any other questions? We are now willing to accept a motion.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 66.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE AND TIFFANY WERE ABSENT FOR THE VOTE.)

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SENATOR HARDY:

There being no other issues before the Committee today, the meeting is adjourned at 9:07 a.m.

RESPECTFULLY SUBMITTED:

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Jane Tetherton,  
Committee Secretary

APPROVED BY:

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Senator Randolph J. Townsend, Chair

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