

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

**Seventy-third Session  
March 8, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:00 a.m. on Tuesday, March 8, 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 Sandra Tiffany  
Senator Joe Heck  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator John Lee

**GUEST LEGISLATORS PRESENT:**

Senator Bernice Mathews, Washoe County Senatorial District No. 1

**STAFF MEMBERS PRESENT:**

Kevin Powers, Committee Counsel  
Jane Tetherton, Committee Secretary  
Scott Young, Committee Policy Analyst  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Karen Yates  
Constance E. Anderson, Social Services Chief, Division of Health Care Financing  
and Policy, Department of Human Resources  
Gary W. Olsen  
Lindsey Nunn  
Danell L. Fanning

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Kevin W. Daniel  
Kari Gallagher  
Linda Raymond  
Sarah Cale  
Caroline Preston Bass  
Gina Spaulding, Executive Director, State Board of Architecture, Interior Design  
and Residential Design  
Suzanne Johnson

CHAIR TOWNSEND:  
We will open the hearing on Senate Bill (S.B.) 134.

**SENATE BILL 134**: Requires providers of Communication Access Realtime Translation to be qualified. (BDR 54-142)

SENATOR BERNICE MATHEWS (Washoe County Senatorial District No. 1):  
This bill and the existing law recognize sign language interpretation as a learned profession subject to regulation to protect the public from unqualified interpreters. Existing law requires certification of interpreters and penalties for unqualified interpreters, but it does not require realtime caption providers to meet any qualifications or be certified to practice in the State.

KAREN YATES:  
I am on the board of directors of the National Court Reporters Association. I have been a court reporter for 34 years and a realtime captioner for 8 years. We have provided a Communication Access Realtime Translation (CART) provider and two sign-language interpreters for today's meeting; the CART provider is Denise Phipps, and our interpreters are Gerianne Hummel and Kelly DeRiemer. I have written testimony ([Exhibit C](#)).

This bill is needed because there are unqualified CART providers in Nevada who provide inaccurate translations. Since realtime captioning is most often provided to a single person, that person has no way to check the accuracy of the translation. Judicial court reporters are certified; CART providers need to be certified as well. Our profession suffers when consumers give up on the service because providers are unqualified. [Exhibit C](#) includes letters of support for this concept from the Nevada Court Reporters Association and the National Court Reporters Association.

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CHAIR TOWNSEND:

How long does it take to reach a level of proficiency as a CART provider?

MS. YATES:

It takes two to three years in court reporting school to become proficient enough to pass the certification test. To pass the general test, a candidate must reach 225 words per minute with 98-percent accuracy. There are also specialty tests after that for broadcast reporting and realtime captioning.

SENATOR CARLTON:

How much does it cost to become certified?

MS. YATES:

The exam given by the National Court Reporters Association costs \$160, and the Nevada test costs \$50.

SENATOR CARLTON:

Will CART providers need to pass the court reporter certification first?

MS. YATES:

They will need to have either the Nevada court reporter's license or one of the national licenses listed in the bill in section 5, subsection 4, paragraph (b).

SENATOR CARLTON:

Does this mean a CART provider could practice in Nevada without a Nevada court reporter's license?

MS. YATES:

Yes. The Certified Court Reporters' Board of Nevada does not choose to recognize these licenses. We want to accept the other licenses because we feel they are equivalent to the Nevada license. We do not wish to dictate what licenses the Board will accept. Under this bill, the Board will not have jurisdiction over CART providers unless they have a Nevada court reporter's license.

CONSTANCE E. ANDERSON (Social Services Chief, Division of Health Care Financing and Policy, Department of Human Resources):

I support this bill. I have written testimony ([Exhibit D](#)).

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GARY W. OLSEN:

I support this bill. I have written testimony ([Exhibit E](#)).

LINDSEY NUNN:

I support this bill. I have written testimony ([Exhibit F](#)).

DANELL L. FANNING:

I support this bill. I am one of the proponents of S.B. No. 245 of the 71st Session, which resulted in *Nevada Revised Statute* (NRS) 656A regarding sign language interpreters. Since that time, CART providers have become much more common at conferences and in college classrooms. Many people need CART providers who would not be able to use sign language interpreters, such as our aging population who are losing their hearing. It is important that the deaf community not be used as a training ground by novice court reporters.

KEVIN W. DANIEL:

I am a Nevada-certified court reporter, certified realtime reporter, and a certified broadcast captioner. I support this bill.

KARI GALLAGHER:

I am the mother of five hearing children and two deaf children. My son Drake lost his hearing in his sophomore year of high school. He was taking physics, statistics, an honors class in world literature and other difficult classes. Because of his hearing loss, he only got about 50 percent of the class material and started to fail. In his junior year, the school district provided a realtime captioner. He is now making As and Bs in his classes and was just accepted to the California State University at Northridge. Realtime captioning gives him access to everything that happens in the classroom, including what the other students say.

LINDA RAYMOND:

I am the Coordinator of Deaf and Hard of Hearing Services in the Clark County School District. We are the fifth largest school district in the nation, and I am the only deaf administrator for a school district in Nevada. I was born deaf and use both sign language interpreters and CART providers in my work. Having a certified CART provider is very important for clarity, accuracy and full access to information. If CART providers are qualified for the job, captioning opens up a world of communication and equal access for the deaf community.

SARAH CALE:

I am a student at Truckee Meadows Community College taking classes to enter the X-ray technician program. My classes are highly technical and require a highly specific vocabulary. I have been using CART providers for the last two and a half years and have found them to be invaluable in helping me maintain a 3.6 grade-point average. This bill will make a huge difference in the caliber of captioners I am provided with and in the quality of life of many in the deaf community.

CAROLINE PRESTON BASS:

I am a certified sign language interpreter and the president of the Nevada Registry of Interpreters for the Deaf. I am on the faculty at the Community College of Southern Nevada in the State's only interpreter training program. I support this bill.

SENATOR CARLTON:

I just wanted to make sure we have on the record that if they do get certified through one of these alternate organizations, the Board still has authority to be able to discipline them or refer them to the appropriate authority, so that if they do misbehave in this State, we have an avenue of protecting the deaf community from those folks.

MS. YATES:

The Board has authority over those they have licensed. The Board does not have the authority to discipline those certified by one of the other agencies under NRS 656A. We are in the process of setting up a board with that authority for interpreters. The National Court Reporters Association has a code of professional ethics, and those they license are answerable to them.

CHAIR TOWNSEND:

Please work with Senator Carlton in the interim to figure out a way to do this. In the meantime, any problems encountered might be broadly covered under NRS 598 regarding deceptive trade practices. This would require an affirmative filing with the Office of the Attorney General, however.

MS. FANNING:

We discussed this possibility in the 71st Session. However, since NRS 656A includes a sunset clause postponing the penalty phase till July 2005, we have

not filed charges against those not meeting the minimum standards or practicing under a false pretext.

SENATOR CARLTON:

I will write a letter to the Board to say citizens with a complaint about someone certified by one of the alternate associations should be given contact information for that group so a complaint can be filed with the appropriate body. We want to make sure consumers know where to register a complaint if they have a problem.

CHAIR TOWNSEND:

Senator Heck, how do you handle the need for a sign language interpreter in the emergency room or other medical settings?

SENATOR HECK:

Unfortunately, the situation is universally handled very poorly. When a deaf person comes into an emergency room without an interpreter, the usual method of communication is to pass handwritten notes back and forth. Some hospitals may have one or two sign language interpreters for the entire facility, in which case the physician must wait in line for their services.

CHAIR TOWNSEND:

I would recommend those testifying here today make this same presentation when this bill is heard in the Assembly. Your testimony today was not just moving and compelling; it is extremely important for many reasons.

I will close the hearing on S.B. 134.

SENATOR CARLTON MOVED TO DO PASS S.B. 134.

SENATOR SCHNEIDER SECONDED THE MOTION.

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

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CHAIR TOWNSEND:

I will open the hearing on S.B. 135.

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**SENATE BILL 135**: Revises provisions governing certification of registered interior designers. (BDR 54-744)

GINA SPAULDING (Executive Director, State Board of Architecture, Interior Design and Residential Design):

I have written testimony ([Exhibit G](#)). Under NRS 623.192, the licensing requirement for an interior designer in Nevada includes completion of a program of education accredited by the Foundation for Interior Design Education Research (FIDER). We have recently received applications for licensure from interior designers who received their education before FIDER was established. This bill would allow the Board to consider those applicants, some of whom have been in practice as interior designers for 20 or 30 years.

SENATOR CARLTON:

This bill would require applicants to have a bachelor's degree. Is that the requirement now?

MS. SPAULDING:

No. There used to be a two-year program accredited by FIDER. It is an unintended consequence of the language in this bill that it would exclude these degrees from consideration. When we met with interior designers across the State to discuss the bill, educators in southern Nevada indicated they would not oppose the bill provided it required a bachelor's degree or higher.

SENATOR CARLTON:

What was the reasoning behind requiring a bachelor's degree for interior designers?

MS. SPAULDING:

All I can say is all FIDER degrees are bachelor's degrees or higher, with the exception of the two-year degrees that no longer exist.

SENATOR CARLTON:

Are we eliminating the experience factor?

MS. SPAULDING:

The intent was not to eliminate the experience factor, but to allow interior designers with broad experience to supplement gaps in their education with work experience. We want to look beyond the educational component, which

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the current law does not allow us to do. The bill does not change the experience requirement.

SENATOR HECK:

Are there currently any institutions offering the two-year program that would be adversely impacted by this bill?

MS. SPAULDING:

No. There are no two-year programs accredited by FIDER being offered in Nevada.

SENATOR HECK:

Is this a onetime registration, or are licenses renewed annually?

MS. SPAULDING:

Licenses are renewed annually with the payment of a fee.

SENATOR HECK:

How many registered interior designers do we currently have who went through the two-year program?

MS. SPAULDING:

There might be one or two. We also have applications on file from one or two people who have two-year, FIDER-accredited degrees.

SUZANNE JOHNSON:

I live in Gardnerville in a green-built solar home that was recently nominated for a national award. I had difficulty building this house in Nevada because I hired a very experienced architect from California, which we found was in conflict with NRS 623. I used a local builder and a local engineering firm, and they worked in collaboration to build the house. My concern is to make it easier for others to build energy- and resource-efficient homes. Other states are not so exclusive; a Nevada architect can design a home to be built in California, for example, without needing a California license.

SENATOR CARLTON:

It might be possible to address the licensing concerns by adding a provision to allow a mentor-type license. This would be a short-term license to allow someone to work in conjunction with a licensed architect.



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Ms. JOHNSON:

I would not want to add to the cost of building by requiring that two architects be hired. At this time, most of the expertise in this area is in places other than Nevada. Out-of-state firms should be allowed to at least submit a letter of interest on a project without being licensed in Nevada, with the understanding they will need to be licensed before they begin work.

SENATOR CARLTON:

We need to protect consumers against unscrupulous people who will try to take advantage of them. We need to set some sort of threshold so we know who is here and what they are working on.

Ms. JOHNSON:

The original legislation behind NRS 623 was designed to focus on large structures like casinos and hotels. It has little application for single-family residences.

SENATOR CARLTON:

I will meet with our legal staff to find a solution for these concerns.

Ms. SPAULDING:

There is a provision in NRS 623 for a temporary license. It does not require that someone answering a request for proposal or request for qualifications become registered. The temporary license is good for 90 days, and three extensions are allowed. Nevada is the only state in the country that regulates residential design.

CHAIR TOWNSEND:

We will let the subcommittee chaired by Senator Carlton work on this and get back to us.

I will close the hearing on S.B. 135 and open the hearing on S.B. 74.

**SENATE BILL 74**: Prohibits persons who appoint, employ or contract with producers of insurance from requiring certain noncompetition agreements.  
(BDR 57-226)

CHAIR TOWNSEND:

What is the subcommittee's report?

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SENATOR HECK:

The subcommittee recommends no further action on S.B. 74 at this time. Prior Nevada Supreme Court decisions have upheld the use of noncompete clauses containing appropriate limits on duration and geographic extent. The courts also provide remedies for unreasonable agreements. The current statute is permissive, not prescriptive, and employees who sign such a contract do so of their own volition. While some employers have committed reprehensible acts in the use of unreasonable noncompete agreements, the issue does not rise to the level of protecting the public and so does not require legislative action at this time. We want to ensure, however, that employers take notice of the disdain this body feels for the commission of such acts. The Committee will maintain an interest in the issue and not hesitate to revisit this legislation should these unsavory practices continue.

CHAIR TOWNSEND:

I will close the hearing on S.B. 74 and open the hearing on S.B. 116.

[SENATE BILL 116](#): Makes various changes to labor laws and powers and duties of Labor Commissioner. (BDR 28-231)

CHAIR TOWNSEND:

The subcommittee has an amendment to offer ([Exhibit H](#)). We recommend the Committee amend and do pass S.B. 116 with this amendment.

SENATOR HARDY:

I am concerned about the loss of the sliding scale of fines. The purpose of the sliding scale is to ensure companies of all sizes are hit with the same severity. Why was it eliminated?

SCOTT YOUNG (Committee Policy Analyst):

The sliding scale was eliminated at the request of the Labor Commissioner.

SENATOR HARDY:

I am meeting with him this afternoon; I will ask him about this and get back to the Committee.

CHAIR TOWNSEND:

I will close the hearing on S.B. 116 and open the hearing on Assembly Bill (A.B.) 34.

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**ASSEMBLY BILL 34**: Revises provisions governing Recovery Fund administered by State Contractors' Board. (BDR 54-834)

CHAIR TOWNSEND:

Senator Lee has an amendment to offer ([Exhibit I](#)) that was agreed to by the sponsor of the bill and the State Contractors' Board. Do we know if the change can be accomplished without raising membership fees?

MR. YOUNG:

Margi Grein of the State Contractors' Board indicates it can be done without raising fees.

CHAIR TOWNSEND:

I will close the hearing on A.B. 34.

SENATOR HARDY MOVED TO AMEND AND DO PASS A.B. 34 WITH THE AMENDMENT OFFERED BY SENATOR LEE.

SENATOR CARLTON SECONDED THE MOTION.

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

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CHAIR TOWNSEND:

Is there any further comment? Hearing none, I will adjourn the meeting at 9:40 a.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Randolph J. Townsend, Chair

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