

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

**Seventy-third Session  
March 21, 2005**

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair John Lee at 10:11 a.m. on Monday, March 21, 2005, in Room 2135 of the Legislative Building, Carson City, 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 John Lee, Chair  
Senator Randolph J. Townsend  
Senator Warren B. Hardy II

**GUEST LEGISLATORS PRESENT:**

Senator Bob Beers, Clark County Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Kelly S. Gregory, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Scott Young, Committee Policy Analyst  
Shirley Parks, Committee Secretary

**OTHERS PRESENT:**

James Jackson, Consumer Data Industry Association  
Joseph Guild, State Farm Insurance Company  
William R. Uffelman, Nevada Bankers Association  
Cheryl Blomstrom, Nevada Consumer Finance Association

CHAIR LEE:

SENATE BILL (S.B.) 80 was referred to the Senate Committee on Commerce and Labor. Senator Beers introduced the bill to the Senate Committee on Commerce and Labor meeting on Wednesday, February 23, 2005. It was then referred to this subcommittee which is now meeting a second time. In the first subcommittee meeting, it was pointed out by Eric Ellman, Consumer Data

Industry Association, that federal law has preempted sections 2 through 8 of this bill.

**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)

This bill has received support from Kenneth Scruggs who has indicated his organization, Household Finance Corporation, has been impacted negatively by identity-theft issues. The Consumer's Union, the publisher of *Consumer Reports*, West Coast Office sent a letter of support expressing their concerns ([Exhibit C](#)). California has already passed similar legislation. This subcommittee has been given a copy of a publication from the California Office of Privacy Protection describing briefly how the law works in California ([Exhibit D](#)). Alternatives to this proposal, allowing consumers to "file freeze" their credit reports is not as acceptable to credit bureaus, but is liked by some of the users of credit reports who are concerned with having credit access restricted. This proposal will have the consumer-reporting agencies essentially provide access to anyone who asks, but they would notify the consumer when a hard request for credit is made, that is, when an offer is requested to extend credit.

CHAIR LEE:

I know the basic concepts for "hard request" and "soft request." Do we need to clarify this terminology?

SENATOR BEERS:

The credit bureau would have the best definition, but my understanding of the "hard request" would be associated with the customer asking for credit to purchase items. A "soft request" would be an inquiry or request for a credit report but not a specific application for credit.

CHAIR LEE:

This is how I understood it from previous testimony.

JAMES JACKSON (Consumer Data Industry Association):

We are opposed to this bill. We have had dialogue with Senator Beers and a number of others who have concerns about this bill. Unfortunately, our position has not changed. We do not view credit-file freezing as an advantage to the

consumer. The bill goes too far. Another concern is the statutory prescribing of an amount that can be charged by the consumer data bureaus. Establishing these reporting bureaus will be costly. These costs will need to be recovered with reasonable fees. There are only four states that have file freezing: California, Louisiana, Texas and Vermont. There are two separate models to follow regarding this concept. We would like to continue dialogue with Senator Beers.

CHAIR LEE:

In previous testimony, it was suggested that Nevada would be the only state to change the credit-application forms based upon the proposed idea of the Personal Identification Number (PIN).

MR. JACKSON:

Yes. As we understand the operational aspects of S.B. 80, the other states have uniform applications and would need to revise their forms. This bill would create a whole new scheme that would be unique even to the other four states.

CHAIR LEE:

Other states have uniform application forms. This is my recollection of the previous testimony.

JOSEPH GUILD (State Farm Insurance Company):

State Farm Insurance Company is not opposed to this bill. There are some concerns relative to preemption that exist.

CHAIR LEE:

We have amended out sections 2 through 8 of the bill.

MR. GUILD:

This takes care of our concerns.

WILLIAM R. UFFELMAN (Nevada Bankers Association):

Our concern has to do with the technical aspects of the bill. I will call it an "ease of operation of the system." When someone comes in to set up a bank account or apply for credit, how difficult is it going to be for the bank to verify a customer's credit information so the transaction can proceed? Is there a way to streamline the system's operation when there is a hard request? We understand the issues of the preapproved credit card and the assurance of credit

verification. We want the banking system to operate as efficiently as possible. We discussed the cost of performing these requests briefly; this means cumulative fees, needing to be paid by someone. The cost of identity theft is another huge obstacle. The banking industry is looking for the middle road. As for the consumer, this information has the potential to create credit roadblocks. This is what we are trying to avoid.

CHAIR LEE:

When I need a loan, it is my responsibility to get the bank my credit information. We would both understand what is required.

MR. UFFELMAN:

Yes. A person brings in the current tax return, the last two months' pay stubs, and all the other information needed to verify income, supplementing what the banker also has to know through the credit bureau reports regarding past credit history. This bill in its final draft should have a mechanism in place to ease the process for loan application.

CHAIR LEE:

Not everyone will use the file freeze on their credit information. There are consumers who will use this tool as a way to possibly clean up a credit problem.

SENATOR HARDY:

It seems we have made no progress on this bill. We are where we were when we first had the hearing on S.B. 80. We are hearing the same concerns. We need to find solutions for these problems. Senator Beers has expressed a willingness to work with everyone. We all have work to do here. With regard to the credit agencies, they will adjust. They are the bank's customers. They will cooperate. Unsolicited credit cards come in the mail constantly. These companies are privy to our credit information. We need to address this issue at some point.

MR. UFFELMAN:

There is a vehicle available for anyone who wants to stop unsolicited credit cards. You notify them that you no longer want to be on their mailing list.

SENATOR BEERS:

This bill may never get everyone's approval. Clearly, it will help with identity theft. The question is the cost it will bring to the credit system. Are we as a society willing to bear these costs to afford this level of protection? The California fees are \$10 per each of the three agencies. This is a onetime fee. It costs to unfreeze records for a period of time as needed for a purchase. This will restrict the actions of credit bureaus and may or may not restrict the users of the information. The choice to freeze credit files is up to the individual credit card holder.

SENATOR TOWNSEND:

To opt out of these solicitations, call 1-888-5-OPT OUT. No one seemed to know about this tool until we began work on this bill. Many have been able to use this phone number, but it is only as good as one's knowledge of it. This would be important information for everyone. I have noted the California version of the bill allows the applicant to contact the credit agency directly.

SENATOR BEERS:

The Nevada version on page 8, lines 1 through 5, is identical to California's bill.

KEVIN POWERS (Committee Counsel):

For the record, it might be helpful to know that S.B. 80 was modeled in large part after the California legislation.

SENATOR TOWNSEND:

The purpose of identifying this issue is to help bring an understanding to how large purchases may be made even though there is a freeze on the credit files. Could this credit process slow down an impulse purchase? Can they call in and give the PIN and have the credit report released or will the process take three days? How do the mechanics of this system operate?

SENATOR BEERS:

This credit process can take up to three days. The mechanics of the software is essentially a "yes" or "no" flag added to the records at each of these three credit data bureaus. If the flag is "yes," then the customer opted for a freeze. This means the credit information will not be disclosed except to people with whom there is a relationship. This would slow down an impulse buy.

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SENATOR TOWNSEND:

Another question that the subcommittee might address is the crisis that occurred in southern Nevada. The Department of Motor Vehicles (DMV) discovered a breach of data within their system. There was a lengthy period before the customers were notified.

SENATOR BEERS:

After the breach, there was a time lag while the DMV considered how to approach the public.

SENATOR TOWNSEND:

This subcommittee will need to identify a way to communicate a breach in the data base and quickly transfer the information to the consumer so they may protect themselves. I understand the file-freeze concept will ensure customer protection.

SENATOR BEERS:

Yes. When a freeze is in place, no credit can be issued under the social security number in that file.

SENATOR TOWNSEND:

How is California dealing with these freeze laws?

SENATOR BEERS:

To make a purchase, a customer contacts the three credit agencies and pays the fee to have credit records unfrozen. There would be specific dates for the files to remain open. This enables the customer to find, purchase an item and complete a transaction. Then, the customer would again request the freeze option on their credit file.

SENATOR TOWNSEND:

Is there an additional fee for reinstituting the file freeze?

SENATOR BEERS:

There is apparently no additional fee.

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SENATOR TOWNSEND:  
How was the \$8 fee determined?

SENATOR BEERS:  
It was an arbitrary number that was decided during the first draft.

SENATOR HARDY:  
I want to explore further the concept of consumer notification when access has been made to an account. Is it the reporting agencies that have a problem with the concept because of fees and notification?

SENATOR BEERS:  
Yes. Mandating fees to access information is a problem. The other issue is how affordable this will be. There is an ongoing cost with notification, whether e-mail or postage, to be considered.

SENATOR HARDY:  
Usually a hard copy of the quarterly report is sent to the consumer. I agree legitimate businesses do, from time to time, need to access credit history. However, there are others that are profiteering on credit information that is none of their business. The consumer, at a minimum, needs to know when their credit file has been accessed.

SENATOR BEERS:  
Another service that is familiar to the credit cardholder is the third-party provider acting as a service to the cardholder, accessing the three reporting agencies as needed. There is a fee involved. The notification process is similar. I am not sure how this would translate to an approach for a law toward preventing identity theft.

CHERYL BLOMSTROM (Nevada Consumer Finance Association):  
There is another piece of information this subcommittee may want to consider as it moves forward on S.B. 80. As I understand it, on page 7, line 39 of the bill, there is a PIN or other identifying number that would be supplied to the consumer. There is a concern this would be, perhaps, a subsequent data breach to the first data breach, where someone has access to not only the consumer's PIN or other identifying number, but essentially an open door to their life. It is not clear if this problem will be solved with this bill. The consumer needs to have access to their credit and a right to know what is happening with their

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data. We support a notification process as suggested by Senator Hardy. Careful attention must be given to the consumer's rights and ability to access their credit.

CHAIR LEE:

We are looking at three basic items of concern within this bill. The first item is preemployment screening, the second item is the PIN and the third item is a new application form. The hard-money lender's issues and banking-industry concerns may be resolved with negotiation. Is there a way to address these concerns and move this bill forward?

SENATOR BEERS:

If this subcommittee is willing to meet again to follow up on this bill, then I will meet with Mr. Jackson and any other interested parties to begin a final dialogue and process these details.

CHAIR LEE:

We need to move this on as quickly as possible. This subcommittee meets tomorrow at 10 a.m.

SENATOR TOWNSEND:

We want to deal with this bill on its merits, but there are other bills available, if needed, to which we could attach this major concern of identity theft.

SENATOR BEERS:

This is an important issue in Nevada. We are the second-highest state for victimization.

CHAIR LEE:

Is the PIN a part of California law? What is the expense, more or less?

SENATOR BEERS:

The expense is less but I am not sure about the PIN.

MR. POWERS:

California has a PIN requirement.



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CHAIR LEE:

There is no other business. This meeting of the subcommittee of the Senate Committee on Commerce and Labor is adjourned at 10:49 a.m.

RESPECTFULLY SUBMITTED:

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Shirley Parks,  
Committee Secretary

APPROVED BY:

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Senator John Lee, Chair

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