

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

**Seventy-third Session
April 1, 2005**

The Senate Committee on Commerce and Labor was called to order by Vice Chair Warren B. Hardy II at 7:03 a.m. on Friday, April 1, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Bob Beers, Clark County Senatorial District No. 6

STAFF MEMBERS PRESENT:

Shirley Parks, Committee Secretary
Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Donna Winter, Committee Secretary

OTHERS PRESENT:

Ronald L. Lynn, Clark County
Michael E. Buckley, Commission for Common-Interest Communities
Shari O'Donnell, Commission for Common-Interest Communities

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William Magrath, Caughlin Ranch Homeowners Association
Pamela Scott, Howard Hughes Corporation
Karen D. Dennison, Lake at Las Vegas Joint Venture
Ellen Rosenbaum, Director, Lamplight Management; Carina Homes
Jan Porter
Robert A. Ostrovsky, Nevada Resort Association
Donna Toussaint, West Sahara Community Association
Renny Ashleman, Southern Nevada Home Builders Association
Dan Musgrove, Clark County

VICE CHAIR HARDY:

I will open the hearing on Senate Bill (S.B.) 323.

SENATE BILL 323: Requires governing body of city or county to provide for certain sales and leases of real property. (BDR 22-778)

SENATOR SCHNEIDER:

This bill was brought to my attention by a developer of high-rise buildings in Las Vegas. This developer would like legislation so they can redo the subdivision map qualifications with the City of Las Vegas. Currently, if he changes a wall inside a tower, he has to file a whole new subdivision map. The developer's attorney was in flight to Australia when the Legislative Counsel Bureau (LCB) contacted him about this language. If possible, I want to make sure Jan Needham, Legal Division, LCB, has talked with the developer's attorney and obtained the specific language. The developer indicated the city was sympathetic to the problem and a change is needed. I know it affects your industry, Senator Hardy. I do not know all the specifics at this time.

VICE CHAIR HARDY:

I question the limitation to high-rise buildings as it seems it is a good concept.

SENATOR LEE:

After hearing the introduction from the sponsor, I was going over section 1 of this bill and trying to determine what the bill was saying.

SENATOR SCHNEIDER:

Overseas, when they put up a high-rise building and construction is underway, they move people in on the lower floors while they are still building on the higher floors. This continues as they go up. Therefore, you have more lease

space at the bottom floors while still building on the top. The City of Las Vegas requires the developers to do different subdivision maps for each floor as they build. The developers want to do just one subdivision map for the whole structure.

SENATOR CARLTON:

The large hotels in downtown Las Vegas are just finishing the base work on the top floors when the bottom floors are already completely furnished. They have managed to keep the workers safe. How do we ensure that we can keep people who are not professionals on a work site safe? Are there going to be safety provisions?

SENATOR SCHNEIDER:

I believe they do have safety provisions and this is done overseas. The construction overseas is normally concrete buildings and they do a floor a day.

VICE CHAIR HARDY:

These types of buildings are not just done overseas but elsewhere in the United States. I am sure the industry has standards to ensure safety.

RONALD L. LYNN (Clark County):

I do have some questions on the bill and to the intent because Las Vegas does build the largest private high-rises in the world. We have about 47 high-rises now under construction. When it is safe, people can occupy different floors at different times but there are some specific code provisions. My concern is if this is a subdivision provision, it may not be appropriate in chapter 278 of the *Nevada Revised Statutes* (NRS). Builders should be able to subdivide the property as needed, as long as they comply with the building codes. If a builder changes a subdivision, they have to file a remapping because that in effect tells where those property lines may or may not be. The caveat is to make these high-rises safe and I am not sure if S.B. 323 or this language is doing that. If it is a method by which a developer of a high-rise may, without need of any waiver or special authorization, complete and sell, special authorization is needed and the builder needs to complete or get a temporary certificate of occupancy for those areas to be occupied and used.

SENATOR SCHNEIDER:

I agree with you that we need better language in the bill and better language is to come. Ms. Needham in the Legal Division had enough information to get us a

bill before the deadline a week and a half ago. We will be getting better language. The person who requested the bill could possibly meet with you and go over some of the language they would like to provide.

VICE CHAIR HARDY:

Mr. Lynn, do you understand the concept of what Senator Schneider is trying to accomplish? We would be very appreciative of and interested in your comments on how we might achieve his goal. We would still take care of all the concerns you have about the bill. Does the building code currently deal in any level with the situation of having someone moving into a building while construction is ongoing?

MR. LYNN:

Yes, I do understand the concept. The code certainly does deal with someone moving in while construction is ongoing. There is a temporary certificate of occupancy which allows occupancy of one floor as long as the basic structure is completely done and structurally safe. The floors above and below would have full-life safety systems in place. All exiting has to be provided, including pressurized stairways.

SENATOR SCHNEIDER:

We will hold the bill until we get better language and then bring it back to the Committee. We will make sure Mr. Lynn and the City of Las Vegas are notified about the language.

KEVIN POWERS (Committee Counsel):

"There is another component to the bill that discusses the proxies that deals with common-interest communities."

VICE CHAIR HARDY:

This bill has the proxy language in it as well. Senator Schneider, will you speak to that?

SENATOR SCHNEIDER:

Yes, we will take that as well.

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VICE CHAIR HARDY:

I will then turn the proceedings over to Senator Schneider. Yesterday, he had a working committee for several hours on the rest of these bills. Can you tell the Committee what is your pleasure on these bills?

SENATOR SCHNEIDER:

I would like to thank the working group that has created a good solid base for the homeowners associations over the last several years. The Office of the Governor called me and said S.B. 325 is part of the Commission for Common-Interest Communities' bill that was submitted. I had some ideas and the Governor's Office wanted me to carry the Commission's bill.

SENATE BILL 325: Makes various changes concerning common-interest communities. (BDR 10-20)

For the last 18 months, I have been calling Mr. Young on a monthly basis with ideas. Some of these ideas made it into the bill and others did not.

VICE CHAIR HARDY:

Rather than addressing an individual bill, do you want to take it issue-by-issue?

SENATOR SCHNEIDER:

Mr. Buckley headed up the committee yesterday. We can have him start going over some of the ideas they had on S.B. 325.

VICE CHAIR HARDY:

What bills can we deal with collectively? The primary bills that were looked at by the committee were S.B. 325 and S.B. 258.

SENATE BILL 258: Makes various changes to provisions relating to common-interest communities. (BDR 10-129)

Have you considered the additional comments by Senator Schneider ([Exhibit C](#))?

MICHAEL E. BUCKLEY (Commission for Common-Interest Communities):
Mr. Chairman, we were just handed that.

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VICE CHAIR HARDY:

Let us start with everyone at the table introducing yourself for the record, your title and who you are representing.

SHARI O'DONNELL (Commission for Common-Interest Communities):

I am with the Commission for Common-Interest Communities, Developer Representative.

WILLIAM MAGRATH (Caughlin Ranch Homeowners Association):

I am President of the Caughlin Ranch Homeowners Association In Reno.

PAMELA SCOTT (Howard Hughes Corporation):

I am with the Howard Hughes Corporation in Las Vegas.

MR. BUCKLEY:

I am the attorney member of the Commission for Common-Interest Communities.

KAREN D. DENNISON (Lake at Las Vegas Joint Venture):

I am a lawyer with Hale Lane Peek Dennison and Howard. I am here representing Lake of Las Vegas Joint Venture which is the developer of Lake Las Vegas.

ELLEN ROSENBAUM (Director, Lamplight Management; Carina Homes):

I am representing Carina Homes.

VICE CHAIR HARDY:

Mr. Buckley will walk us through the progress of the committee.

MR. BUCKLEY:

We had a meeting yesterday with representatives from the Southern Nevada Water Authority and Clark County. We also had some initial contact with the Community Associations Institute (CAI).

VICE CHAIR HARDY:

Are there any members of the working committee in Las Vegas that we should bring to the table?

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MR. BUCKLEY:

I am not aware of any. The committee basically walked through S.B. 325.

VICE CHAIR HARDY:

I presume we will go through S.B. 325 and reference S.B. 258 where appropriate, or will it suffice to deal with issues of S.B. 325 so we will know what to do with S.B. 258?

MR. BUCKLEY:

Yes, that is correct.

VICE CHAIR HARDY:

We will set aside S.B. 258 and deal exclusively with S.B. 325. We will have an understanding that the issues are the same on both bills and once we resolve the issues of S.B. 325, we will have resolved the issues in S.B. 258.

SENATOR SCHNEIDER:

I wanted to mention in S.B. 323 where it deals with the proxies for the high-rise buildings in Las Vegas, the developers said most of the owners of those units live out of country, or at least out of town. That was the proxy issue and we can take it up later in the bill.

VICE CHAIR HARDY:

The proxy in S.B. 323 involves high-rise buildings and not the general common-interest community.

SENATOR SCHNEIDER:

It is something we have to look at closely. It would affect all types of units but maybe we can state that the proxy issue refers to high-rise buildings.

MR. BUCKLEY:

I will discuss section 3 of S.B. 325.

SENATOR CARLTON:

I would like to ask a question on section 2 of the bill before we go to section 3. What are the major differences between what is listed as "major component of the common elements" here compared to what is already defined as "major component of common elements" or are we trying to give the term a different description?

MR. BUCKLEY:

The purpose of section 2 of the bill was to identify particular types of common elements. These common elements would normally last a long time but might require repair or replacement in that 30-year period. The section is not creating new common elements but just stating that there are certain common elements that require a reserve.

SENATOR CARLTON:

I did not state that clearly enough. Are we changing the definition? Is this definition someplace else and if it is, is it the same or is this a new definition?

MR. BUCKLEY:

This is a new definition for chapter 116 of NRS. It identifies certain kinds of common elements. There is no change in the definition of common elements.

Our committee thought most of section 3 of the bill was okay except for subsection 3 that would require associations to remove 70 percent of their traditional landscaping. One of the problems identified when we met with the representative of the Southern Nevada Water Authority was some associations have common elements that are parks. Some associations use reclaimed water or storm water to irrigate these areas. Some attorneys believe if you change the landscaping on a common element from turf to drought-tolerant landscaping, that might be changing the use of the common elements and require approval of the owners. We are proposing to replace the existing subsection 3 with the proposed language in [Exhibit C](#).

MR. POWERS:

Mr. Vice Chairman, for point of clarification let me proceed.

Mr. Buckley referenced the term "drought-tolerant" but the rest of the section uses the term "xeriscaping." Are we talking about different terms?

MR. BUCKLEY:

We did delete the reference to "xeriscaping" and replaced it with "drought-tolerant."

SENATOR HARDY:

I would like to work through these handouts. Your written testimony ([Exhibit D](#)) is not included.

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MR. BUCKLEY:

That is correct, unless you want to hear that testimony.

SENATOR HARDY:

I want to get specifically to the amendments you submitted. Mr. Magrath, you have comments that appear to be amendments ([Exhibit E](#)).

MR. MAGRATH:

My comments in [Exhibit E](#) came before I heard Mr. Buckley's comments. I have adopted the comments Mr. Buckley is talking about.

SENATOR HARDY:

Can we set [Exhibit E](#) aside?

MR. MAGRATH:

The only other exception would be the final section that deals with NRS 116.4109; I would like to address only it. Mr. Buckley and the committee have done a good job and I adopt their proposals.

SENATOR HARDY:

We have written comments ([Exhibit F](#)) from Peccole Ranch.

MR. BUCKLEY:

The committee did read those comments yesterday. They primarily addressed section 3, subsection 3 of the bill that I just spoke about.

SENATOR HARDY:

Do we have hard copies of the recommendations you are making?

MR. BUCKLEY:

We have inserts and we were working with a double-spaced, 50-page copy of the bill ([Exhibit G](#), original is on file at the Research Library).

SENATOR LEE:

Are we going to go a section at a time? If we have a question to ask on a section of the bill, do you want us to write them down and ask them at the end of the discussion?

SENATOR HARDY:

If we are going through the bill section-by-section, Mr. Buckley, let us spend a little bit of time on each section. That way we can address any questions the Committee may have. We then can move on to where you have suggestions or changes.

SENATOR LEE:

I applaud section 3 of the bill. I have seen koi ponds, serpentine streams and waterfalls in common-element areas. I do not see anything in the bill addressing these. Can they still be used or are you now eliminating them with the xeriscape idea?

MR. BUCKLEY:

Our group is proposing to delete the existing section 3, subsection 3 of the bill and replace it with the language in [Exhibit C](#), I just read to allow an association to do that on their own and encourage drought-tolerant landscaping.

SENATOR SCHNEIDER:

I will bring the Committee up to speed on this one. This is a very contentious part, to convert 70 percent of landscaping to xeriscaping by 2008, but it had to be brought to the Committee. Last year at the height of the drought, I was at the Southern Nevada Water Authority and the General Manager, Pat Mulrow said if the homeowners association do not start converting these high water-usage areas in the common-element areas, she was going to turn off their water. We do live in the Mojave Desert and are experiencing the worse drought in 1,200 years so that is why I put this language in section 3, subsection 3 of the bill. The drought is so bad in Seattle, Washington, that they are passing an ordinance to convert to xeriscape. We have to address this problem and it may be burdensome to some homeowners associations but they will have to step up and do it.

SENATOR CARLTON:

I have some concerns about section 3, subsection 1 of S.B. 325 where it reads, "The Legislature hereby finds and declares." The committees I have worked on in the Legislature pertain to natural resources and water. I have learned when the Legislature gets involved in stating certain things like this, there will be a lawyer that interprets it one way and another lawyer that will interpret it another way. I want to make sure the language we put in this bill does not end up causing more problems in the future with respect to laws about water.

I understand what you are trying to do. You are trying to say because we have this problem we need to fix it. When we start declaring certain things, we could end up impacting other things.

Ms. SCOTT:

This language did not come from us. The committee looked at the language as more of a preamble to the reasons for water conservation. No one on the committee would have a problem with eliminating section 3, subsection 1 if you feel it would cause a problem.

MR. POWERS:

May I follow up, Mr. Chairman? Senator Carlton raises an important point. This is why this office generally discourages statements of the legislative intent when we can expressly set forth in the statute the goals, as that statement of legislative intent can create ambiguities in otherwise clear statute. Removing subsection 1 from section 3 would not harm the bill at all.

MR. MAGRATH:

In response to Senator Carlton's comment, I have concerns about section 3, subsection 1, paragraph (g) of the bill to the extent that the State or the Legislature of the State is declaring traditional landscaping may be against the public good of the State. As a lawyer, my fear would be that somebody would next follow up on that and argue that everybody who has a traditional lawn at their home, not common-element areas, must be xeriscaped. The committee did not think it was critical to delete this section but I think it would be a good idea to delete it. You do not need this to make the good changes that are in the balance of the bill.

CHAIR TOWNSEND:

These bills are a good-faith effort by the sponsors to address serious issues. We have to make sure the bills apply appropriately. The sponsor of S.B. 325 has been more than willing to try to accommodate concerns, particularly the ones about a preamble creating ambiguity with the actual proposals in the statute. We need to accept the subcommittee report so that gives staff time to begin their work on the bill. Staff will remain in the Committee room to be helpful to you Mr. Magrath as your committee works through this. Are we getting a new S.B. 325?

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MR. BUCKLEY:

Existing S.B. 325 in [Exhibit G](#) is what we are working off because it was double spaced.

CHAIR TOWNSEND:

Senator Schneider chairs the subcommittee on common-interest communities. Senator Carlton and Senator Lee sit on this subcommittee. Depending on what the subcommittee chair wants to do, we will do some more work to get a clean version of all the bills.

We will recess this Committee, go to the floor session then come back here and finish our work. At 11 a.m., most of us will go to the Senate Committee on Government Affairs while the subcommittee will remain and continue to work on S.B. 325.

We will recess the hearing on S.B. 325.

We will start the work session on S.B. 153.

SENATE BILL 153: Prohibits community manager who imposes fine against certain persons from soliciting or accepting any percentage of fine or any fee for collecting fine. (BDR 10-830)

SENATOR HARDY:

There was a work session scheduled for S.B. 153. I worked with Ms. Scott and others and we are close to a document that we can bring back to this Committee to formally adopt. Perhaps, in the interest of time for anyone waiting to testify on S.B. 153, the Chair will indulge us to pull it off work session today and give us a couple of more days to work through those issues. We can then focus on S.B. 153 instead of the property tax bill and put S.B. 153 together in relatively short order.

CHAIR TOWNSEND:

We will put S.B. 153 into subcommittee where it will continue to be worked on until unsettled issues are resolved.

Senator Carlton, do you have the Title 54 subcommittee report?

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SENATOR CARLTON:

Yes, I do have Title 54 subcommittee report ([Exhibit H](#)). The subcommittee recommends on S.B. 152 to amend and do pass with the amendment on the attached color mock-up in [Exhibit H](#).

SENATE BILL 152: Revises provisions relating to physical therapists.
(BDR 54-471)

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 152.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CARLTON:

The subcommittee recommends on S.B. 315 to amend and do pass with the amendment on the attached color mock-up in [Exhibit H](#).

SENATE BILL 315: Provides for regulation of business brokers. (BDR 54-1135)

SENATOR CARLTON MOVED TO AMEND AND DO PASS S.B. 315.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

Is there anything else before we recess for the floor?

MR. YOUNG:

Did you want to act on the amendment of S.B. 111 from Terry Johnson? I have some language ([Exhibit I](#)) if you want to look at it quickly.

SENATE BILL 111: Revises requirements for submission to Employment Security Division of Department of Employment, Training and Rehabilitation evidence related to claims for unemployment compensation. (BDR 53-320)

CHAIR TOWNSEND:

I will look at the amendment. Is Ms. Porter in southern Nevada?

JAN PORTER:

Mr. Chairman, I am Jan Porter.

CHAIR TOWNSEND:

On behalf of this Committee, we wanted to thank you for serving on the Commission for Common-Interest Communities. The Committee will hear testimony from southern Nevada when we get back from the floor.

Mr. Young, would you like to address the proposed amendment for S.B. 111?

MR. YOUNG:

Essentially, what Mr. Johnson has indicated is that if we use the new language that the employers are required to submit to the division all relevant facts when they respond to the notice of application for benefits that that would be sufficient for the division to acquire the information they feel they need to do the hearings properly. The most important thing is they have deleted the provision in the original bill which would have prohibited an employer from bringing additional information forward on appeal.

ROBERT A. OSTROVSKY (Nevada Resort Association):

I worked with Mr. Johnson on these amendments. In section 1, subsection 2 of the bill we struck the words "and may contain." It is the intent of the Employment Security Division of the Department of Employment, Training and Rehabilitation to require when a person applies for unemployment compensation for the person to give all the facts and reasons that they believe they were terminated. The claimant only had to apply and did not have to give any indication of the reason why they were terminated under the old bill. The language would allow employers to bring facts in support of the relevant information they gave at the time of the original claim. Employers can now introduce evidence but it has to support the relevant facts that were previously

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submitted. This will help the Division make better decisions at the initial-claim stage rather than have so many appeals.

SENATOR CARLTON:

There will be more of a burden on the employee to make sure they cover every instance about why they were fired so when the company responds the two sources of information will correspond with each other.

MR. OSTROVSKY:

The statute will now say the notice of the filing claim must contain the claimant's name, social security number and reason for separation. The old statute stated "and may contain" the reason for separation. The employee will have to give a reason for why they were terminated. If the claimant does not know why he was terminated, that could be a reason. However, if that was the only reason, the termination could end up in an appeal.

SENATOR CARLTON:

My second concern was in the original hearing, the fact that upon appeal an employer could show up with a whole personnel file, lay it out there and go through everything that has happened from day one.

MR. OSTROVSKY:

The changes we are making in this proposed amendment do not make it any better or worse concerning an employer's right to bring a personnel file and lay it on the table. Employers can do it now and under this new change they can do it again. The problem has not been solved with this amendment.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS S.B. 111
WITH THE AMENDMENT PROPOSED BY TERRY JOHNSON.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR TOWNSEND:

This meeting will go into recess at 7:57 a.m.

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CHAIR TOWNSEND:

The meeting is called back to order at 8:57 a.m.

CHAIR TOWNSEND:

Mr. Powers, if the working group came back to us with a consensus amendment for S.B. 325 on Tuesday, April 5, 2005, would that give you enough lead time to get an amendment drafted?

MR. POWERS:

"That would, Mr. Chairman, for the following week I could have a proposed amendment together for the Committee."

SENATOR LEE:

I agree with you, Chair Townsend. We need one bill that encompasses everything to send to the Assembly. I sent a message to Assemblyman Chad Christensen that we would try to put his bill, A.B. 71, into this bill and give him whatever credit possible. I would like to have that added.

ASSEMBLY BILL 71: Requires association of common-interest community to provide copy of declaration of covenants, conditions and restrictions to unit's owner upon request. (BDR 10-441)

CHAIR TOWNSEND:

We cannot deal with S.B. 325 as it is now. There are multiple concerns by the public but in order for them to understand what they are going to testify on behalf of, they must have something in a final form. If we cannot deal with this paper, the public will not be able to either. The working group is to bring something back to Committee that is more organized and condensed on Tuesday, April 5, 2005. A week later, they will give us a mock-up that we could actually walk through. I will set aside the appropriate amount of time. I will close the hearing on S.B. 325.

I will open the hearing on S.B. 359.

SENATE BILL 359: Prohibits use of delegates or representatives to exercise voting rights of units' owners in certain common-interest communities. (BDR 10-1115)

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

I am a member of the Summerlin North Community Association. In our last election, our tract voted one of our residents as the delegate. The delegates then got together and voted for the board members. Half of the tracts actually fielded delegates and the other half did not. The president of the board then exercised control of the votes for which there were no elected representatives. This bill would prohibit this from happening and place a reasonable method of governance in place.

CHAIR TOWNSEND:

Have you offered this change ([Exhibit J](#))?

SENATOR BEERS:

Originally, as it came out the Legal Division, it did not apply to my homeowner's association because my association was created prior to 1992. The proposed amendment in [Exhibit J](#) would make this apply to all homeowners associations. As a matter of policy, the concept of somebody getting to exercise the voting rights of association members is probably something we all want to fix.

CHAIR TOWNSEND:

So are you saying of the 52 to 54 percent of the population who were eligible to vote but chose not to in the last Presidential election, would have had their votes pass to the President's control?

SENATOR BEERS:

Yes, President Bush would have been able to cast votes for them.

CHAIR TOWNSEND:

That is an interesting concept.

SENATOR SCHNEIDER:

We have changed the balloting for homeowners association. It used to be a secret ballot where the board would count the votes in the back room and let the association know the results the next day. Now, that has changed and the votes have to be opened and counted in public. I have received a lot of calls from Summerlin North residents.

DONNA TOUSSAINT (West Sahara Community Association):

It was probably good to use the delegate method with the original organizations of homeowners associations. The developer would only have to deal with a certain group of people rather than with all the homeowners. With our associations, as Senator Beers said, we can elect delegates and they do not have to vote the way the people in their delegate area vote. This creates a lot of apathy in our community. Even though there is a lot of support for delegates, it takes away the responsibility of the homeowner to get involved. The one-vote, one-person concept should apply to homeowners association the same way it does when you vote for our Assembly members and Senators. This delegate process is a problem. We have 2,134 homes and about the same amount in commercial property for a total of 4,200 voting units. It costs our association thousands of dollars to request delegates. First, a letter is sent explaining what a delegate is and why they are needed and asking people to please be a delegate. Second, a letter is sent out asking them to submit their name to be a candidate. Then a third letter is sent out with secret ballots. The cost is close to \$3,000 and we could put that into xeriscaping if we had it, but we cannot do that. People get upset and ask why we are spending our money sending out secret ballots. People do not come to the meetings because they think the delegates will be there. There is nothing that requires the delegates to vote the way the homeowners want them to vote. We only got 15 delegates for the current election and we need 80 delegates. What do we do? Do we not have a meeting; do we recall the meeting; do we keep recalling the meeting until we meet quorum and get enough delegates? It puts an undue burden on associations of my size which have been around since 1985. I hope you will consider this bill and vote in favor of it.

Ms. SCOTT:

I would like to make one clarification. Summerlin has three master associations, Summerlin North, Summerlin West and Summerlin South. Summerlin North is an older association and has a provision that if they do not elect a delegate, the board president serves as that delegate. This is for quorum purposes only. The president has never voted a ballot for anybody and that is a policy of the board. The delegate-voting rules for Summerlin West and Summerlin South do not have that provision because they are newer associations and that provision was taken away. The issue with delegate voting is very much a quorum issue. Summerlin North has 15,000 units and only a 25-percent quorum requirement. Associations are never going to meet the quorum requirements to have a legal annual meeting. The board president meets the quorum requirement.

MR. BUCKLEY:

Delegates are a representative form of government. If there are abuses, maybe the abuses should be targeted rather than doing away with something that works for the State of Nevada and our federal government as well. If there is mixed use and different groups representing different interests, the danger might be that one group would take over, but if you have delegates you make sure that group is represented.

SENATOR SCHNEIDER:

Mr. Buckley, is this something that could be addressed through the Commission?

MR. BUCKLEY:

Yes, if given the proper authority by statute.

MS. TOUSSAINT:

The real issue here is to redefine the meaning of quorum. Maybe the problem is saying we need delegates to get a quorum, but if you cannot get delegates you cannot achieve a quorum. If we have a community and 50 homeowners in one section send in their votes and they all vote for candidate A and section B has one homeowner who votes, section B that has a delegate whose 50 votes count. This makes our homeowners feel misrepresented.

RENNY ASHLEMAN (Southern Nevada Home Builders Association):

The compromise here is to allow the block voting to be used only for the purpose of a quorum and not to be used for any subsidy decision.

DAN MUSGROVE (CLARK COUNTY):

Clark County has come across a very important consumer-protection issue. We are looking for a vehicle to get this legislation into law and perhaps NRS 116 in the common-interest community bills you are working on in this Committee would be the proper vehicle. There is a product being built in Las Vegas right now that comes before us and our billing department and is mapped as a condominium project. It meets all the codes and applicable building standards but they are being sold as a town house.

MR. LYNN:

The proposed amendment with appropriate NRS sections referenced ([Exhibit K](#)) has been handed out to the Committee.

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CHAIR TOWNSEND:

Mr. Musgrove, you are on the record now. It is an important component and important consumer issue.

MR. POWERS:

"Mr. Chairman, may I add for the record that Scott Young will be the central clearing house for all these materials. If any materials have to be sent, please send them to Scott Young."

CHAIR TOWNSEND:

The meeting of the Senate Committee on Commerce and Labor is officially adjourned at 9:22 a.m.

RESPECTFULLY SUBMITTED:

Donna Winter,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____