

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

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

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:04 p.m. on Wednesday, February 23, 2005, in Room 2149 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 Warren B. Hardy II, Chair  
Senator William J. Raggio  
Senator Randolph J. Townsend  
Senator Terry Care  
Senator John Lee

**COMMITTEE MEMBERS ABSENT:**

Senator Sandra J. Tiffany, Vice Chair (Excused)  
Senator Dina Titus (Excused)

**STAFF MEMBERS PRESENT:**

Kim Guinasso, Committee Counsel  
Michael Stewart, Committee Policy Analyst  
Susan Hult, Committee Secretary

**OTHERS PRESENT:**

Kathy Augustine, State Controller  
Christi L. Thompson, Chief Accountant, Debt Collection, Office of the State Controller  
Ronald. L. Lynn, Building Services Director, Building Division, Development Services, Clark County,  
Nicole J. Lambole, City of Reno  
Joe Henry, Code Enforcement Division, City of Reno

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James Sohns, President, Nevada Car Owners Association  
Richard Carmack, Nevada Car Owners Association  
William Fouts, Nevada Car Owners Association  
Lucille Lusk, Nevada Concerned Citizens

CHAIR HARDY:

We will open the meeting with Senate Bill (S.B.) 48.

**SENATE BILL 48**: Makes various changes relating to collection of debts owed to State. (BDR 31-165)

KATHY AUGUSTINE (State Controller):

I come before you today to provide a brief overview of the history and accomplishments of the State Controller's Office Debt Collection Program. Overdue receivables amount to more than \$20 million owed to 23 State agencies and \$2 million owed to other boards. I have provided a breakdown of the accounts and costs ([Exhibit C](#)).

CHRISTI THOMPSON (Chief Accountant, Debt Collection, Office of the State Controller):

The State Controller's Office, through S.B. 48, is requesting three changes to *Nevada Revised Statutes* (NRS) 353C, which governs the statewide debt-collection program. First, we are asking that the \$200 million restriction for reimbursement of costs and fees be lowered to \$100 for collection of certain debt, and that the maximum charge that can be passed on to the debtor be increased to \$50,000. There are certain costs to recover any debt, regardless of the amount, the State pays to the outside debt-collection agency. In the packet you received, you will find a spreadsheet detailing the number of accounts under \$200 in collections and the costs to process them ([Exhibit D](#)). There are more than 4,000 accounts owed to the State that are less than \$200. We estimate we can collect up to \$48,000 in revenue owed the State if that \$200 minimum was reduced. Also, if we increased the maximum charge for fees that can be passed to a debtor to \$50,000, the State can save up to \$25,000 on large settlements. Nevada has lost \$25,000 in collections, to date, because of the maximum charge cap.

Second, we would like to include a provision allowing a recalculation of the debt with additional fees if the debtor defaults on a payment plan for debt collection.

The provision would provide an incentive for debtors to adhere to their agreed-upon plans because recalculations would end up costing them more.

Lastly, we ask for removal of the language that does not allow fees to be charged on interest accrued before an agency turns debt over to the Controller's Office for collection. This has reduced collections to date by \$5,000.

SENATOR CARE:

Ms. Thompson, does the Controller's Office have the discretion to negotiate down the amount of a debt?

MS. THOMPSON:

If somebody wants to negotiate, it is referred back to the agency to which the debt is owed.

MS. AUGUSTINE:

On a payroll debt, I have the discretion, as the hearing officer, on things like a past-due or overpayment on a payroll or other discrepancies, to negotiate the debt and negotiate a payment structure.

SENATOR CARE:

What are the factors you consider? Do you consider the likelihood of recovery of the full amount? What about having this person living out of state? What do you consider when you enter into negotiations?

CONTROLLER AUGUSTINE:

It could be a pending retirement, or someone already retired and living out of state. We did have a lot of problems when we changed over to the new payroll system some years back; specifically, the anticipated pay week caused some problems in the payroll division. These are some of the factors.

CHAIR HARDY:

At this time, you do not collect on debts under \$200?

MS. THOMPSON:

No. We do collect on debts under \$200, but the fees for the collection of the debts are not passed on to the debtors. See the chart in [Exhibit D](#). Our office would like to lower the fee threshold to \$100 or below.

CHAIR HARDY:

Seeing no one else wishing to testify in support of or in opposition to S.B. 48, we will close the hearing on S.B. 48.

CHAIR HARDY:

We will open the hearing on S.B. 53. Mr. Lynn, what are we trying to resolve or fix with this legislation?

**SENATE BILL 53**: Requires building officials to review and approve certain certificates pertaining to subdivision of certain buildings. (BDR 22-841)

RONALD L. LYNN (Building Services Director, Building Division, Development Services, Clark County):

The problem resulted in an oversight when S.B. 53 was originally composed. It provides for a certificate by a professional engineer or registered architect certifying compliance with the applicable building codes. It stopped there; it did not say where it went. The intent was to send it to the building official. This is one of those rare occasions where people are trying to be proactive. If you subdivide a commercial property, you establish new property lines. It is important to ensure the building code, at least the intent if not the literal application, is being adhered to. An example would be if the new property lines cut off exits, which cuts off the ability to disconnect power or access to shut-off valves. There is one case in front of the Department of Justice now. By cutting the property line through a building which is a combination office and warehouse, the back portion, which was all warehouses, was no longer accessible. If this had come before the building official first, it could have been a simple, rudimentary fix. A corridor could have been put in place.

CHAIR HARDY:

Is this on parcels or applications originally submitted? Is there a requirement that a state-licensed engineer verifies all codes adhered to? Is this on completion of the building?

MR. LYNN:

This is for existing buildings. For instance, if owners decide, for financing reasons, that they are going to segment off portions of a building, some of the large hotels do this, and they establish new property lines, both horizontal and vertical, working together with a design professional, we are able to get reasonable accommodations using reciprocal easement agreements.

CHAIR HARDY:

Is this for property line maps and not for making changes for tenant improvements?

MR. LYNN:

No, it is not for tenant improvements.

SENATOR LEE:

If my partner and I split our property, and he owns one part and I own the other part, would you require we come to you? If we need to upgrade handicapped bathrooms, fire escapes or the beauty of the property, would I lose all property rights under the old building codes?

MR. LYNN:

No. It does not apply to any of those components whatsoever. You are establishing a property line. If you had done this under the original construction permit, there would be certain impositions placed upon you. With an after-the-fact application, we want to make sure of conformance. With design professionals, we want to ensure this is meeting the minimum standards for the protection of life, limb and property.

SENATOR LEE:

If one building had a handicapped bathroom and the other building did not, we would need to pull a building permit which would allow all new building changes and codes to now take place. This would bring me into new compliance with the new building codes. I know this to be true.

MR. LYNN:

That is not true. You would not have new compliance with new building codes. For example, if you were to get a permit, and you completely gutted and modified the structural framework of your building, then we would bring you up to code. Your building is allowed to continue to exist, indefinitely, unless there is a legislative retrofit standard, such as, with what happened after the MGM Grand Hotel fire. Any new construction going into your building is going to be in compliance with the new codes. However, the building codes provide for modifications. If it is impossible to comply with the new code, under modifications there are acceptable alternatives that may be implemented. Handicapped accessibility is outside our purview. If the federal government

comes in and deems it a civil rights violation, whether you subdivided or not, you have to comply with those handicapped issues.

CHAIR HARDY:  
How does this bill fix these problems?

MR. LYNN:  
In the existing statute, NRS 278.325, section 4, regarding a boundary line created within an existing industrial or commercial building, it says, "A certificate by a professional engineer or registered architect which certifies compliance with the applicable building code must be attached ... ." That is existing law.

The new section 5 says a proposal:

... to subdivide an existing industrial or commercial building must have attached thereto a certificate stating that the proposed subdivision of the building complies with the applicable building code. The certificate must be: (a) Prepared by a professional engineer or registered architect; and (b) Reviewed and approved as to its accuracy by the building official having jurisdiction over the area within which the building is situated.

If a building were to be subdivided and not come to the building department first, and there was a life-safety violation incorporated, and a fire or collapse should occur, maybe an architect on site was not in agreement. There are all kinds of complexities. This bill aims to give some assurance to the public, to the architect and engineer and to the owner of the property that at least they are in compliance with the laws.

CHAIR HARDY:  
Based upon your testimony, it sounds like this bill would not require any new regulatory mechanism or any additional burden upon the property owner.

MR. LYNN:  
Yes, Chair Hardy, that is correct.

CHAIR HARDY:

There is no new requirement on the owner. This just provides that it will be reviewed and approved as to its accuracy by the building official in that jurisdiction.

MR. LYNN:

Yes, Chair Hardy, that is correct.

CHAIR HARDY:

Anyone else wishing to testify in support of S.B. 53? Anyone wishing to testify in opposition of S.B. 53? The hearing is closed on S.B. 53.

We will now open the hearing on Senate Bill 52. Senator Townsend, this is your bill, so let us proceed.

SENATE BILL 52: Revises provisions relating to adoption and enforcement of certain ordinances by local governments. (BDR 14-369)

SENATOR TOWNSEND:

Thank you, Mr. Chair. There will be people testifying on S.B. 52. This could easily be titled, The Community Pride and Personal Responsibility Act Extension. This is a result of things that occurred inside the City of Reno. We have dealt with many of the buildings that we had, that were not open. I will not say they were abandoned, but they were not necessarily open. The City of Reno was having a rough time getting the property owners to reinvest in them or reopen the buildings, adding value to the property and, ultimately, to the tax rolls in the City of Reno. This has to do with adding individuals to the people already authorized to enforce the ordinances inside a community and increasing the penalties. It also adds to the things for which a property owner is responsible, not only clearing debris, rubbish and refuse, but also litter, garbage and abandoned or junked vehicles and junked appliances. That is the essence of this bill. Ms. Lamboley is here and will speak directly as to the implementation, and what they have run into in the City of Reno.

CHAIR HARDY:

Thank you, Senator Townsend. Ms. Lamboley, welcome.

NICOLE J. LAMBOLEY (City of Reno):

I am joined by Joe Henry, Code Enforcement Officer. Mr. Henry is the expert because he is on the streets and in the community every day. I want to let the Committee know our council is committed to city beautification. For three years now, the city council has made code enforcement one of its top priorities, both in the downtown core, as we try and improve the property values in our redevelopment areas, but also the neighborhoods and the surrounding community. I will let Mr. Henry talk to you about what we faced and why we are seeking these changes in the law and the extensions, as Senator Townsend has referenced.

CHAIR HARDY:

Mr. Henry, we have about 20 minutes left before we are going to lose our feed to Las Vegas, so we can accommodate another committee. I am going to ask you to go through and explain the problem to the Committee and what we are trying to fix here. Please give us a quick review of how this bill fixes that. Then, we will go immediately to Las Vegas to get these folks on record. Mr. Henry, please identify yourself for the record and proceed.

JOE HENRY (Code Enforcement Division, City of Reno):

Currently, state law provides for certain officials to issue misdemeanor citations for violations of city ordinances. The title of code enforcement officer was never added to that, since it is a fairly new title. Although, we do zoning enforcement, building enforcement, housing and business licenses. Senate Bill 52 would change that by adding designated city official to that list; so, no matter what title code enforcement officers are given, they will have the authority to issue misdemeanor citations when we exhaust our administrative processes.

CHAIR HARDY:

Mr. Henry, sorry to interrupt you, I understand this was a recommendation of statutory construction made by the staff here, is that correct?

MR. HENRY:

Yes. That is correct.

The second item is increasing the amount for the civil penalty. Originally, in state law, is an alternative civil penalty for violation in the amount of \$500 per day. It was written back in 1966, I believe. We want to bring this to a current level, same as a misdemeanor at \$1,000. Not for the issuance of your average



citizen or homeowner, but when you are dealing with a business or a corporation where a cost to the business of \$500 a day would not impact them. We are hoping to increase this, so that at least, we could use this as an administrative tool.

The third item is granting authority to the governing body to abate certain conditions; this would bring this section of the state law together with the abatement-of-chronic-nuisances and the abatement-of-abandoned-buildings sections. We have some language in there which allows us to abate those situations and, also, adds language of maintenance. If people have junk in their yards or overgrown vegetation to a point where it causes a nuisance, we do not want to simply levy fines. If they are on limited incomes, fining them is not going to solve the problem; it will hamper the problem even more. We would like to have the ability to abate the violation, and then, the violation is cleared. In a situation like that, it is a minor fee for abating some vegetation that could be placed as a lien, and when the property is sold, it could be recovered by us.

The fourth item is removing abandoned vehicles from public property. For a long time, code enforcement officers for the City of Reno did abate abandoned vehicles on public property. Then, we took a closer look at the NRS and saw that code enforcement officers were not in there, only police officers. Police officers are tied up with a lot of other calls, and we lack the ability for the police to go around and take care of these vehicles. What we need is for code enforcement officers to be entitled to do that.

CHAIR HARDY:

I would like to point out for the Committee that we have a letter from the Reno Police Department in support of this legislation ([Exhibit E](#)). I think this is somewhat germane to southern Nevada, as well. We are going to be faced with a question here when we are asked to authorize local governments to increase sales tax for new police officers. Probably, doing things other than towing abandoned vehicles might be a good use of their time.

CHAIR HARDY:

Does the Committee have any questions of Mr. Henry?

SENATOR CARE:

Is it the intent of the Chair to go to southern Nevada now or can we still ask questions?

CHAIR HARDY:

Yes. Let us get southern Nevada on record, and then, we can come back to Mr. Henry.

JAMES SOHNS (President, Nevada Car Owners Association):

I have been a member of the Nevada Car Owners Association (NCOA) for 14 years and represent the classic car community. I am retired from law enforcement. Our association is opposed to S.B. 52. Our problem here is the county does not honor state laws; and they will tell you, we do not obey state laws, let alone constitutional laws. Four years ago, we received input from Principal Deputy Legislative Counsel Scott McKenna. The code enforcers apparently do not know the difference between a classic car and a junk car. Our point is, a junk or abandoned vehicle on private property is not junked or abandoned, unless the owner deems it as such.

In Clark County, they issue citations based on the county's definition of solid waste. Solid waste is not solid waste unless the owner deems it as such.

The county code enforcers should not be given any more power, and I will explain why in some case laws. If you have a health problem, you have the health division; if you have a fire hazard, you have the fire department. I, as a police officer, can not just run on to anybody's property, nor can a code enforcer. Down here, they show their badges and say "I can do anything; this is my badge; and I can go anyplace." With NRS 487.230, you are putting code enforcers, who are not peace officers, into the peace officers' area. More restrictions are on peace officers because they need a warrant to enter private property unless exigent circumstances exist. We were asked to give seminars for the county for all the code enforcers in the Las Vegas Valley, which we did. The code enforcers down here have been to the code enforcement seminar and were told they can not do what they do. The biggest gripe from Clark County is "we do not have to obey state law." So, I do not know why, in making a change, they will start obeying the law.

I put a packet together to give to the district attorney, Attorney General, the justice department, county commission, metropolitan police and others. Like the

gentleman said earlier, I would hate to see this go to the feds. Until someone can do something about this down here, the trust is in the code enforcement. I put together this Racketeer Influenced and Corrupt Organization case, very solid. We have current and past county commissioners, developers and realtors who have used code enforcers to get peoples' properties away from them. I am talking about property and classic vehicles that have not been found yet. They have completely disappeared. There are companies that have taken peoples' classic collections. One person is now settling with the county; the county has been forced to settle with him due to a lawsuit against them. They have been way out of control, and it upsets me.

I am sick now because of what happened to me in the military. I was sent to the Veterans Administration Hospital in New Jersey for an evaluation for a problem which no one can help. I received a present when I got home, a notice of violation. I am going to be issued a citation on my cars I have in my driveway. This citation said, "Storage of inoperable vehicles, storage of more than two unregistered vehicles; action to be taken: Remove all unlicensed vehicles and inoperable junk vehicles, two unregistered vehicles may be stored if they are operable. Remove all unregistered vehicles." Then, I get a final notice. All of my vehicles are covered. They are licensed and insured for big dollars. The code enforcers make accusations. When I called them up and asked what cars are unlicensed and uninsured and which ones are junk, he said one had a flat tire, and that made it a junk vehicle, in their opinion. I said this is crazy. They are out of control and not obeying the laws. Joe Botello, head of code enforcement made a statement, "cars that sit for awhile tend to be dangerous because they collect spiders and rodents." He has seven cars, he admits to this; they are all licensed, but if they sit, they still will collect spiders and rodents. There is such discrimination, such civil rights violations and then Steven Sweikert, deputy district attorney, is working with Cindy Lucas, who is doing these illegal warrants, administrative warrants which, technically, do not exist. Mr. Sweikert wrote to Jim Spinello, "for example; an ordinance or city or county prohibited a person from keeping certain vehicles that are infested with vermin or rusted to such a degree that such laws could not conflict."

If you are restoring a car and you do not have a garage, and not everybody does, the people in our association put car covers on them. We have helped the Cities of Las Vegas and North Las Vegas write their ordinances into law. Clark County refuses to come into law. Mr. Botello says the district attorney says there is a merit to the opinion, but the district attorney thinks they might have

missed the mark with respect to what to do. I do not know what district attorney Mr. Botello was talking about. Here is a letter dated December 21, 2004, to me. While we agree classic cars in the process of restoration need not be registered pursuant to Nevada statutes, the county ordinance that issue deals with this, the storage of vehicles in the front yard is another matter, I agree with that. The code enforcers have to know the laws and know something about county ordinances, state law and constitutional law. We have seven pages from Mr. McKenna dealing with local versus state issues. We met with Terry Lamuraglia, former lobbyist for Clark County. We met with Mr. Lamuraglia on December 7 and helped rewrite the county ordinances. Last week, Mr. Lamuraglia was removed from office.

CHAIR HARDY:

Does anybody else in Las Vegas, not associated with NCOA, wish to testify on this bill?

MR. SOHNS:

I have submitted to you seven pages ([Exhibit F](#)) of current case law, and I have a lot of judges who are members of the association look over it and they love it. You need to look at this, for example, *Overton v. Ohio*, 151 L.Ed 317 (October 2001), this case makes it clear that for probable cause, there shall be no anonymous complaints and the duty of the court is to interpose a neutral and detached judicial officer between the complaining parties to see if there is an offense. Another case is the *People v. Camacho*, 23 Cal.4th 824; 98 Cal. Rptr.2d 232; 3 P.3d 878 (2000).

The county is liable for Fourth Amendment violations and has no immunity when its employees trespass upon areas that members of the public can not be said to have implicit invitation to. No such invitation exists in a side yard, backyard, neighbor's yard for county employees or anybody to conduct a search without probable cause to inventory livestock or other property by peeking over or through fences, even chain link, which are there to exclude the eyes of strangers. The code enforcers have no authority on private property. I hope the Committee will read this, because there are lawsuits going on right now due to the civil rights violations by these code enforcers. We have tried to work with them. They do not seem to go by the laws, so it has led us to file lawsuits against them. These lawsuits go against each and everybody for their personal bank accounts, homes, cars and everything they own. The case law says they

are not immune. I would now like to give someone else an opportunity to testify.

CHAIR HARDY:

We will not be processing this bill today to give more time to review S.B. 52.

MR. SOHNS:

There are other people who wish to be contacted by the committee.

CHAIR HARDY:

If you will leave contact names with us, we will make sure everybody is contacted when we process this bill.

MR. SOHNS:

I have already faxed the seven pages of case law to Mr. McKenna.

RICHARD CARMACK (Nevada Car Owners Association):

I am a long-time resident of Nevada, Clark County for over 26 years, with 20 years, in my present residence. I have had run-ins in the code enforcement. Over the years, I have had a few different "love letters" from code enforcement about my cars, which they call junk cars. I am a racer, and I restore older cars. I am waiting for the rains to stop to weed my front yard. The code enforcers came and said, "Now your front yard looks great; let's address the backyard." I have parts for my race car in the backyard, neatly stacked. So, I had to go and move everything out of my place.

My partner, whom I race with, and I purchased a piece of property, which was zoned for manufacturing, M1, for the cars. We were putting up a shop on the property, because of problems with thieves. While we are getting ready to build the shop, the code enforcement officers had come down to my partner's place and we had a run-in with them. Dave Pollocks of code enforcement flashed his badge and said "I can do as I please" and "get out of the way, and stop griping at me." He said this to a 74-year-old man, who is a retired, 34-year veteran of the Las Vegas Fire Department and a former battalion chief. Remember, M1 is zoned for light manufacturing and storage of outside vehicles and equipment. We probably have crushed about 50 cars. We have had people come and vandalize cars. After they have been vandalized, the cars look like junk cars. We also had someone rent some of our space who left stuff there. Well, we got the shop up and the building going for the race cars, then we got a "love letter"

from the health department saying that we had a health hazard going with the recycling, and we had rubbish. We then had to, with our attorney, give them proof we were not recycling or tearing down for profit. We have three trailers, and when one is loaded, we take it to the proper place. I even keep the dump receipts to prove that we do not dump in the desert.

Personally, I have seen code enforcement officers here in Clark County going over fences that were locked or closed to take pictures. They approached me about my backyard with pictures taken from my neighbor's yard, and at that time, no one was living in my neighbor's house because it was not yet sold. They went onto private property to take pictures over the fence. They are badge-happy here in Clark County. I do not know how they are in Reno. Here, they abuse their power above and beyond what they should be doing. If they wanted to be officers so much, they should have gone to the academy. They think their badges give them the right to trespass at any time here. To give them more power, when they are already drunk with power, would allow them to abuse their authority even more.

CHAIR HARDY:

It would be our intention to ask the proponents of this bill to meet with the representatives of Clark County to bring some of these issues to their attention. We will continue to work with the proponents of the bill, as well as the representatives of Clark County, to address some of the things you have brought up.

MR. SOHNS:

We had meetings, and commissioners would not call us back. We took an attorney to meet with the county manager, and met with Chuck Pulsifer, the planning manager, who holds kangaroo court and condones the trespassing. I wish someone, from the county, in good faith, would work with the classic car community.

CHAIR HARDY:

You have our word that we will endeavor to do that. Thank you for your time.

WILLIAM FOUTS (Nevada Car Owners Association):

I am one of the victims of the Clark County organization. Chair Hardy, you have been to my home and know my hobby. My fences were cut by Clark County and my vehicles were removed without a warrant. County agents have

trespassed on my property and have littered my property with film casings taking pictures of my classic cars. I have been under continued harassment. I love cars and love working on cars. I do not run an automobile repair shop. I have helped a lot of people, and I am kind and good to my neighbors. My neighbors are not the ones complaining. My neighbors have had their properties trespassed upon, against their wishes, by code enforcers to photograph my property. It is a nightmare down here. This is extremely hard on me. I have researched the law, and I have asked the code enforcement officials to produce the law I am in violation of. They can not produce a law, just an opinion. In their opinion, I am in violation of something. When I researched the law, NRS 487.290 says I am supported in what I do.

I am supposed to be exempt from the vehicle storage law. Clark County does not agree with this.

CHAIR HARDY:

Thank you, Mr. Fouts, we will be in touch with you. Please leave all contact information with the secretary. Anybody else?

MR. SOHNS:

We want to work with everyone. We put on a car show every year. To make unfounded allegations is criminal. These code enforcers need to be prosecuted. They know the law, but they refuse to follow the law.

SENATOR LEE:

I sponsored A.B. 512 of the 69th Session. We had this kind of situation in Las Vegas, and we worked with this abatement problem. Mr. Henry, do you have marshals, marshal programs, in your area?

MR. HENRY:

No.

SENATOR LEE:

From what I understand, the Las Vegas Metropolitan Police Department has a cadet program. Do you have a cadet program in the Reno Police Department?

MR. HENRY:

No, not that I know of.

SENATOR LEE:

What they are doing down there is they want to put in a bill that kind of mirrors this. The cadets in the program can go out and write a tickets on abandoned vehicles. I am against the code enforcement officers having this power. I was witness to code enforcement officers writing 300 violations. One person in violation was a man who had a small refrigerator on his porch for soda pop storage for children. I believe this destroys the property rights of property owners. Can you give me an idea of the abuse of the \$500- to \$1,000-criminal sanction or penalty? Is this a real problem in Reno? Are businesses thumbing their noses at you? I am in business and \$500 of profit is a lot of money to lose.

MR. HENRY:

Dealing with Wal-Mart Stores, Inc., for example, having cargo containers, we were fining them \$500 per day. Wal-Mart representatives said this was the cost of doing business. They will rent 20 storage containers and put them behind the stores there, and they do not care if we fine them \$500 per day.

SENATOR LEE:

Did Wal-Mart resolve this issue with you?

MR. HENRY:

No. This is under litigation, right now.

SENATOR LEE:

Is this one instance?

MR. HENRY:

There are other instances when you deal with major companies. In California, civil penalty is \$25,000 per day. When dealing with a corporation that does not want to accomplish anything, such as abatement or removing cargo containers or outside storage, the \$25,000 per day does get their attention. For storm water protection, we do have the Source Water Protection personnel who monitor storm water. If a contractor doing construction is dragging mud into the road, he can be fined up to \$25,000 per day. Contractors stopped doing this. Are we actually getting this money from them? Probably not. However, it is a "carrot on a stick," when you are trying to get enforcement.



SENATOR LEE:

I just noticed in section 3, lines 16 and 17 of S.B. 52 you have debris, rubbish, refuse, but now, you have added litter and garbage. What is the difference?

MR. HENRY:

This is the same exact language as in the abatement of chronic nuisances and the abatement of abandoned nuisances. Litter is something someone else throws in your yard. Garbage is your own household garbage.

SENATOR LEE:

I understand an abandoned vehicle left on a city street would become the responsibility of the local police department. What about an abandoned vehicle on private property? Would they just leave it there? I have a problem with what you consider an abandoned vehicle on private property and what you consider junk vehicles on private property.

MR. HENRY:

An abandoned vehicle is a vehicle that does not belong to anyone and has no registration, and the property owner has no idea who owns this vehicle. A junk vehicle is, by definition, rendered inoperative, missing required body parts, no wheels, no motor and no doors.

MS. LAMBOLEY:

The statute already provides for the property owner to remove an abandoned vehicle; we are only referring to removal of an abandoned vehicle on public property. That is the only authority we have. We can not go onto private property and say "We think this vehicle is abandoned, and we are going to remove it." The private property owners having abandoned vehicles on their properties have to call tow companies for removal. We are only talking about abandoned vehicles on public property.

SENATOR LEE:

We would now become one master, municipal homeowners association by passing this law that says code enforcement officers now become our homeowners' association police. I believe our police have the time to do their job. I am sure what these people told us here today is true. There is a problem in Clark County. I really question giving any more power to the Clark County code enforcement.

CHAIR HARDY:

Does the Committee have any more questions?

SENATOR CARE:

Ms. Lamboley, please see section 3, subsection 5. You have added more terms to existing law. "Welfare" is not just health, life and safety of the general public. Below that in subsection 5, paragraph (a), to minimum levels of health, you have added "maintenance." Those terms, it seems to me, are vague, I do not know if there are statutory definitions of welfare or maintenance. Maintenance could mean, maybe, the paint is faded on the outside of a building and the owner would say it is not, and somebody else might have a different point of view. My concern is, somehow, this statute could be used as a finding of blight for purposes of eminent domain, especially if the property was located in a redevelopment area. That may not be your intention, but I am wondering if you could address this for the Committee?

MS. LAMBOLEY:

This did not come into discussion with the city council. When we presented this, it was never a point of discussion that this could eventually be used for eminent domain. We are talking about abatement, not condemnation.

MR. HENRY:

Maintenance was added to be more corresponding with the international property maintenance code, which uses the term maintenance. Items such as overgrown shrubs blocking a sidewalk, this is maintenance. We could then go onto the property and trim the shrubs back, so the sidewalk would no longer be obstructed. We could not use this, for instance, if a house was painted pink and it was not an appropriate color, we could not use this for condemnation to take the property. We go by the standards of the international property maintenance code.

SENATOR CARE:

What about the term welfare? I think it is probably likely you will find statutes that talk about safety and welfare, this one does not, unless we adopt this bill, and then we are adding it. What does this welfare mean to you?

MR. HENRY:

Welfare means the welfare of the general public. Where it is not just a safety issue, you have a person who has junk in the front yard with garbage and

rubbish and it is a harborage for rodents. That is not necessarily safety, unless someone is coming in contact with the rodent, but it is welfare. We had a situation like this, we had a property with garbage strewn everywhere and it was attracting rodents and the neighbors contacted us to say they were getting rodents, too. That is where the term welfare came in.

SENATOR CARE:

What kind of training do the code enforcement officers have? Do they issue citations? What happens if there is a confrontation? They are not armed. Do they have power of arrest? Who exactly are they?

MR. HENRY:

Code enforcement officer is a relatively new term. Code enforcement officers have been around for approximately 10 to 15 years. It is a growing field. There is a national association which is under the International Code Council, which certifies building officials and building inspectors. Through their arm called the American Association of Code Enforcement, they go through a certification process for code enforcement officers, building and housing inspectors, zoning inspectors and code enforcement administrators. There is also a Nevada Association of Code Enforcement. We meet annually. We have a certification process which goes through and tests us on our knowledge of state laws that are relative to code enforcement, along with jurisdiction. We do not condone violating Fourth Amendment rights, and do not enter a property or take property without a warrant. We have to go before a judge and have a judge say it was okay to take this property.

CHAIR HARDY:

Anyone else wishing to testify in opposition to S.B. 52?

LUCILLE LUSK (Nevada Concerned Citizens):

Most of the questions I had have been addressed here. Unfortunately, the answers have been answers of intent rather than as to what is actually in this bill. The maximum fine up to \$1,000 is intended to apply to major corporations, but there is nothing in this bill that prevents it from applying to homeowners as well. The inclusion of the welfare clause, which was mentioned, as to welfare of the general public or the occupant is a very broad term. The intent sounds acceptable, the bill does not. With regard to the minimal levels of maintenance, I understand the intent and honor the intent, but there is nothing that ties this bill to the international property maintenance code or prevents the application of

it to things like paint. So, while the questions are answered in terms of intent, they are not answered in terms of the bill actually saying that intent.

CHAIR HARDY:

Anyone else wishing to testify on this bill? Mr. Henry and Ms. Lamboley, please get in touch with the people in Las Vegas, Clark County, specifically; we will give you documentation that was provided. The points Ms. Lusk brought up here are extremely important. We can not pass legislation on the intent as described to this Committee. So, be mindful of these things. We can try and draft language that clarifies those things. I think the issue that has been brought before us is a legitimate one, an important one and one that we need to work on. It would be helpful if you specifically think in terms of classic car collectors. I have had classic cars that are both classic cars and ones I called classic cars because I did not want to call them abandoned or junk.

We will close the hearing on S.B. 52.

CHAIR HARDY:

We will look at Bill Draft Request (BDR) 19-608 and BDR 18-279.

**BILL DRAFT REQUEST 19-608**: Revises the provisions governing the organization and duties of the Department of Information Technology. (Later introduced as [Senate Bill 130](#).)

**BILL DRAFT REQUEST 18-279**: Adds a consumer of mental health services as a member of the Commission of Mental Health and Developmental Services. (Later introduced as [Senate Bill 131](#).)

SENATOR TOWNSEND MOVED TO INTRODUCE BDR 19-608.

SENATOR LEE SECONDED THE MOTION.

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

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SENATOR TOWNSEND MOVED TO INTRODUCE BDR 18-279.

SENATOR RAGGIO SECONDED THE MOTION.

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

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CHAIR HARDY:

With no further business before us today, the meeting is adjourned at 3:15 p.m.

RESPECTFULLY SUBMITTED:

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Susan Hult,  
Committee Secretary

APPROVED BY:

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Senator Warren B. Hardy II, Chair

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