

## MINUTES OF THE MEETING

### ASSEMBLY COMMITTEE ON COMMERCE AND LABOR

Seventy-Fourth Session

May 14, 2007

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:30 p.m., on Monday, May 14, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

#### **COMMITTEE MEMBERS PRESENT:**

Assemblyman John Ocegüera, Chair  
Assemblyman Marcus Conklin, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman Bernie Anderson  
Assemblyman Morse Arberry Jr.  
Assemblywoman Barbara E. Buckley  
Assemblyman Chad Christensen  
Assemblywoman Heidi S. Gansert  
Assemblyman William Horne  
Assemblywoman Marilyn Kirkpatrick  
Assemblyman Garn Mabey  
Assemblyman Mark Manendo  
Assemblyman James Settlemeyer

#### **COMMITTEE MEMBERS ABSENT:**

Assemblyman David R. Parks (Excused)



**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Committee Counsel  
David Ziegler, Committee Policy Analyst  
Earlene Miller, Committee Secretary  
Gillis Colgan, Committee Assistant

**OTHERS PRESENT:**

Barry Gold, Director of Government Relations, AARP  
Lawrence P. Matheis, Executive Director, Nevada State Medical  
Association  
Keith L. Lee, representing the Board of Medical Examiners  
Denise Selleck Davis, representing the Nevada Osteopathic Medical  
Association

**Chair Oceguela:**

[Rolled was called and a quorum was present.]

We are in a work session today. We will start with Senate Bill 3 (1st Reprint).

**Senate Bill 3 (1st Reprint): Revises various provisions relating to the death benefits payable to surviving spouses of certain police officers and firefighters. (BDR 53-244)**

**David Ziegler, Committee Policy Analyst:**

[Distributed Work Session Document ([Exhibit C](#)).] Senate Bill 3 (1st Reprint) was introduced by Senator Townsend. He and Ron Dreher of the Peace Officers Research Association of Nevada presented the bill on May 2, 2007.

**Chair Oceguela:**

Mr. Conklin, do you have some amendments?

**Assemblyman Conklin:**

I have some amendments ([Exhibit D](#)). I met with Senator Townsend and he asked that I work with Senator Heck on this bill. A blanket statement that the remarriage penalty is a bad thing is not practical at this time. We considered how to deal with the spouses of people who try to save our lives and who die on the job. Should their families be subject to the remarriage penalty? The original bill stipulated that the officer's death must occur in the line of duty and that the heart and lung benefits did not apply. Heart and lung benefits are already part of the coverage for police officers and firefighters. I considered those issues to be covered by "killed in the line of duty." We agreed to take out the phrase "in the line of duty" and replace it with "actively employed." If a person has a workers' compensation injury and subsequently dies after being retired due to that injury, his surviving spouse would not be subject to the remarriage penalty. That means a firefighter riding on a truck who was in an accident but not acting in the line of duty, would be covered. If a person is retired due to lung cancer as the result of exposure on the job, and subsequently dies, he would also be covered. We have broadened it to make it as fair as we can. .

**Chair Ocegura:**

Are there comments from the Committee?

**Assemblyman Settlemeyer:**

Are we saying that if an individual is on vacation and is in a car accident, he is covered?

**Assemblyman Conklin:**

No, this is a workers' compensation statute so you have to be actively employed. You have to be working when the accident takes place.

**Chair Ocegura:**

You could also die of heart or lung disease.

**Assemblyman Conklin:**

That is correct. *Nevada Revised Statutes* (NRS) 617, dealing with heart and lung diseases, is a presumptive statute due to the risks taken on the job.

**Assemblyman Settlemeyer:**

I was in favor of the original bill, but I have some reservations about the expansion.

**Assemblyman Horne:**

My concerns remain the same. This bill sends the message that this spouse's loss is greater than another spouse's loss. All widowed spouses should have this benefit.

**Chair Ocegüera:**

There is a minimal fiscal impact with this proposal. If we expand it, we go to a much higher fiscal note.

**Assemblyman Mabey:**

I agree with Assemblyman Horne. I was willing to support the original bill, but will not support the broader version.

**Assemblywoman Allen:**

Are you considering all Category I law enforcement officers for this benefit?

**Assemblyman Conklin:**

I would ask our counsel to determine how that would be applied.

**Brenda Erdoes, Committee Counsel:**

Yes, that is the test. If a person covered in NRS 617 is a firefighter, then this would apply.

**Chair Ocegüera:**

Are there other questions, comments, or concerns?

**Assemblyman Anderson:**

I support the amendment. Are we establishing a new benefit for anybody who is a police officer or a firefighter in any way?

**Assemblyman Conklin:**

These benefits are for people who are retired because of their injury. It would be costly to do away with the marriage penalty altogether. We already have a standard for police and firefighters. The thought behind this is that we will apply it to this standard first and see how it works. It can be readdressed in the next session.

**Chair Ocegueda:**

If the person dies as the result of the original injury, he would be covered. If he dies as the result of something unrelated, he would not be covered.

**Assemblyman Horne:**

One of the differences is that there are multiple risks to firefighters and law enforcement officers, but that is different than the broader issue of a spouse who died on the job. The workers' compensation benefit that they receive is an income replacement. Once you remarry, that supplement is not going to be there. I suggested in the initial hearing that if the death benefit were suspended, it could be reinstated if the survivor was widowed again or divorced. I think the difference is that we have set a different standard for law enforcement officers and firefighters regarding the heart and lung coverage, which is very specific to those occupations. It is also different from death on the job.

**Brenda Erdoes:**

There is a definition in NRS 616A that applies to NRS 616C, but then it refers back to NRS 617.135, which is the definition of police officer.

**Chair Ocegueda:**

I would like a sense of how the Committee feels on this bill. The only expansion is the addition of the heart and lung provision. The sponsor of the bill accepts that. I think the bill will meet its demise if we broaden it further.

**Assemblyman Settlemeyer:**

I am torn with the expansion on this bill. It comes down to buying life insurance sometimes.

**Chair Ocegüera:**

We will move to Senate Bill 95 (1st Reprint).

**Senate Bill 95 (1st Reprint):** Revises provisions governing public utilities.  
(BDR 58-552)

**David Ziegler, Committee Policy Analyst:**

[Distributed Work Session Document ([Exhibit E](#)).] Senate Bill 95 (1st Reprint) was introduced by the Senate Committee on Commerce and Labor on behalf of the Public Utilities Commission of Nevada (PUCN). The bill was presented by David Noble of the PUCN on April 18, 2007. [Mr. Ziegler read from the Work Session Document ([Exhibit E](#)).]

**Chair Ocegüera:**

Is there any discussion on S.B. 95 (R1)?

ASSEMBLYMAN SETTELMAYER MOVED TO AMEND AND DO  
PASS SENATE BILL 95 (1st REPRINT).

ASSEMBLYMAN CHRISTENSEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, BUCKLEY,  
KIRKPATRICK, MABEY, AND PARKS WERE ABSENT FOR THE  
VOTE.)

Mr. Settelmeyer will take the bill to the Floor. We will go to Senate Bill 99.

**Senate Bill 99:** Revises provisions concerning consolidated insurance programs.  
(BDR 53-1010)

**David Ziegler, Committee Policy Analyst:**

[Distributed and read from his Work Session Document ([Exhibit F](#)).]

**Assemblyman Conklin:**

I have a question about the terms used on line 3, "owner or principal contractor" and then the terms on line 5, "contractor or subcontractor." I want to make sure there is not a situation where the owner is the employer and that person is not covered because he is not the principal contractor.

**Brenda Erdoes, Committee Counsel:**

That is the change that the sponsor intended. This changes the law so the contractor or subcontractor would be responsible for their own employees on the site.

**Assemblyman Conklin:**

I want to make sure that the person who purchases the insurance policy has responsibility, but not necessarily control over the property. Traditionally, a recordable injury is assigned to the facility, not the employer. This looks like it is changing the responsibility to the person who is responsible for the employee.

**Brenda Erdoes:**

This does not define the responsibility for covering the insurance because the insurance covers the employee. It has to do with the workers' compensation loss experience rating. The responsibility will be assigned to the contractor's or subcontractor's loss experience rating, but the incident is still covered by the overall insurance policy.

**Assemblyman Conklin:**

I agree, but the experience modification rate dictates the price. The contractor will accept the liability of a higher price because his people are working in an environment over which he has no control.

**Chair Ocegüera:**

Are there other concerns, comments, or questions? I will accept a motion.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 99.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, KIRKPATRICK, MABEY, AND PARKS WERE ABSENT FOR THE VOTE. ASSEMBLYMAN ANDERSON VOTED NO.)

Assemblywoman Gansert will take the bill to the Floor.

We will hear Senate Bill 403 (1st Reprint).

**Senate Bill 403 (1st Reprint): Revises provisions relating to group health insurance. (BDR 57-778)**

**David Ziegler, Committee Policy Analyst:**

[Distributed and read from his Work Session Document ([Exhibit G](#)).]

**Chair Oceguela:**

Assemblywoman Buckley spoke about this bill regarding a statewide association with the realtors.

**Assemblywoman Buckley:**

I think we should take that language out. This is enabling legislation only and there are going to be a lot of groups besides realtors who may want to take advantage of it. It should be as broad as possible in order to use it most effectively. I think we could change the number to 200 and still get competitive rates.

**Chair Oceguela:**

Are there other comments on the bill?

**Assemblywoman Gansert:**

I had a concern about the smaller areas of the State. If we dropped to 200, the individuals in Reno will probably be able to put groups together. Is that why we are going with 200?

**Assemblywoman Buckley:**

The more options you give, the more effective it will be throughout the State for rural counties and small associations.

**Chair Oceguela:**

Are there other comments? I am willing to accept a motion as stated by Assemblywoman Buckley, changing the number from 500 to 200 for the number of members without the proposed amendment.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS  
SENATE BILL 403 (1st REPRINT).

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY,  
KIRKPATRICK, MABEY AND PARKS WERE ABSENT FOR THE  
VOTE.)

Assemblyman Manendo will take the bill to the Floor.

We discussed combining Senate Bill 361 and Senate Bill 432 (1st Reprint). I know the Committee had problems with the Nevada Institutional Review Board (NIRB), so I think we would want to have that in S.B. 361. I think we could take the remainder of the bill and add it to S.B. 432 (R1).

**Senate Bill 361: Authorizes the Nevada Institutional Review Board to engage in various activities related to nonembryonic stem cells. (BDR 54-710)**

**Senate Bill 432 (1st Reprint): Directs the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board. (BDR S-694)**

**Assemblywoman Buckley:**

Do you have a sense of where Senator Schneider wants to go with this?

**Chair Oceguela:**

The proposal I made would be acceptable to him.

**Assemblyman Settlemeyer:**

I like the idea of combining the two bills. Where would lines 20 to 22 on page 2 of S.B. 432 (R1) go?

**Chair Oceguela:**

The details will be worked out later. I would guess that when the Legislative Committee on Health Care appoints their subcommittee, they would establish how to do that. I think they will know that this Committee does not favor the Nevada Institutional Review Board.

**Assemblyman Settlemeyer:**

I was wondering if we should eliminate all references to the NIRB in this statute and add your amendment.

**Chair Ocegueda:**

I would leave drafting it up to the Legislative Counsel. I think our intent is clear. Are there other comments?

**Assemblywoman Allen:**

I liked Senator Schneider's bill other than the reference to the NIRB. Is the study bill going to allow for the activities to take place?

**Chair Ocegueda:**

We can do that however you want it. I did not get a sense that people had any problem with the nonembryonic stem cells.

**Assemblywoman Buckley:**

I am not sure who would oversee the research if the NIRB were not in existence. I support going forward and looking at these ideas. My concern has been the complete dysfunction of the people involved. The ideas are definitely worthy of some examination. Maybe we could have it be more than a study and put together some of the interested parties. I have heard the Nevada Development Authority is interested. We could put together a committee or working group to explore an Institutional Review Board, but not the same as the entity we have. We would do one bill and ask them over the interim to do a subcommittee to examine all of these issues to see if they could develop a working model. I do not know how we would proceed with a nonfunctioning entity. Everyone wants to see if a functioning entity could be put together. That is the way we should proceed.

**Chair Ocegueda:**

That is the way I was envisioning it.

**Assemblywoman Buckley:**

I just got an email from Senator Schneider and he thinks that is a good resolution.

I will propose an amendment to Senate Bill 432 (1st Reprint) which directs the Legislative Committee on Health Care to put together a working group that would study issues of complementary integrative medicine, and nonembryonic stem cells and research in that area. The language would be pulled from the two bills. They will report to the Legislature on the appropriate mechanism needed to look further into this area.

**Brenda Erdoes, Committee Counsel:**

Would you also repeal the NIRB as it stands?

**Assemblywoman Buckley:**

We passed one measure that included the repeal and we should include the repeal again in this bill, so that the repeal and the plan for moving forward are in the same measure.

**Chair Ocegüera:**

Before I accept the motion, we will hear from Mr. Gold.

**Barry Gold, Director of Government Relations, AARP:**

Senate Bill 361 deals with the important issue of stem cells. The promise of stem cell research cannot be realized unless the supply of stem cells is adequate. The AARP believes the policymakers should make adequate support available for basic science and stem cell and genetic research. Therefore, AARP supports S.B. 361 as a means to further research, treat serious diseases, and improve the health and quality of life for families in Nevada.

**Lawrence P. Matheis, Executive Director, Nevada State Medical Association:**

I agree with the direction you are going. I would suggest that the issue of encouraging stem cell research in the State should not be limited to the study of complementary and integrative medicine. It is a broader issue. Given the direction of the discussion of the two bills at the hearing, the bill should have clear direction so groups like the Alzheimer's Institute, the Nevada Cancer Institute, and the University of Nevada School of Medicine could all participate in encouraging stem cell research activities, as well as complementary and integrative medicine in Nevada.

**Chair Ocegüera:**

I think the motion proposed by Ms. Buckley will cover that.

**Larry Matheis:**

The testimony that was given on S.B. 432 (R1), and the expectations of it, focused on the issues relating to integrative complementary medicine. I think stem cell research is much broader than that and should be encouraged from the beginning.

**Chair Ocegüera:**

Are there any comments or concerns? It sounds like a fairly decent compromise.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS  
SENATE BILL 432 (1st REPRINT).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, MABEY, AND  
PARKS WERE ABSENT FOR THE VOTE.)

Mr. Conklin will take the bill to the Floor.

I would like to get a report from the two subcommittees on the bills which will come up for the work session on Wednesday.

**Assemblyman Anderson:**

The subcommittee on Senate Bill 279 (1st Reprint) met. After extensive testimony from both sides, the parties agreed that they would withdraw their amendments and support the bill. I am not sure if they really want us to resolve it. Our recommendation is to go with the bill as it is.

**Assemblyman Horne:**

The subcommittee on Senate Bill 412 (1st Reprint) met with the exception of one member. Mr. Ziegler has a mock-up of those proposals ([Exhibit H](#)). One of the issues was the nurses' compact, which was deleted from the bill in its entirety.

In regard to the eminent physician licensing, which was in Section 3 of S.B. 412(R1), it was proposed to delete subsection 2, lines 28 through 33 in that bill and replace it with subsections 2 and 3, lines 1 through 8 from Assembly Bill 385. The term for the license will be restricted in both bills. We propose to amend Section 24 by deleting subsection 2, lines 26 through 31 on page 20, and replacing the subsection with the same language as in Section 3.

The endorsement portion of the bill in Section 7, subsection 1, paragraph (b), subparagraph (2), lines 20 and 21, will be amended to decrease the number of look-back years to report to five years instead of ten years. A new subparagraph (6) was added. The amendment in Section 25, subsection 1, paragraph (b), subparagraph (2), changes the look-back years to five years and adds the same language as proposed in Section 7.

Regarding the Oriental Medical Doctor scope of practice, we added *Nevada Revised Statutes* (NRS) 634A into Section 30, so they are included with a specific reference. In Section 45, we included both NRS 630 and NRS 633 to cover both of those licensing boards.

**Chair Ocegueda:**

I appreciate Mr. Horne's and Mr. Anderson's hard work.

**Assemblyman Anderson:**

With the amendment, a physician with a restricted license may practice medicine in the State within the confines of that particular restriction. Once he is here, will he ever have to take a written examination to assess his qualifications? As long as he is under the restricted license, will he need to take an examination?

**Keith L. Lee, representing the Board of Medical Examiners:**

This language is intended to allow the Board of Medical Examiners to grant a restricted license to a foreign physician who is coming to Nevada to practice research and clinical medicine within a specific research center. By definition, the restriction on his license is that when he no longer works for that particular clinic, his license is expired. If he then wants to practice medicine in the State, he must meet all of the statutory qualifications.

**Assemblywoman Buckley:**

Is the rest of the bill still in or is this all that is left?

**David Ziegler, Committee Policy Analyst:**

The nurse licensure compact is deleted at the recommendation of the subcommittee.

**Keith L. Lee:**

The licensure by endorsement is still in the bill. We have added, on page 2 of the mock-up in the green language on lines 31 and 32, "Meets all statutory requirements for licensure to practice medicine in effect at the time ...." That satisfies the Board of Medical Examiners' concerns and addresses Dr. Heck's concerns, as well. There will still be licensure by reciprocity, but the Board feels comfortable with the safeguards that are included. We will still be able to review the qualifications of a physician while lowering the barrier for the admission and practice of those otherwise qualified physicians.

**Assemblywoman Buckley:**

Recently, I received communication from a doctor who wanted to apply for licensure by limited endorsement, but he had a one-year absence between his residency and his special residency. That appears to be a barrier to his entry. Does anything in this bill address that?

**Keith L. Lee:**

This bill does not address that. It is being addressed by regulation. There is a requirement in the Medical Practices Act that all phases of a particular examination must be passed by a physician within seven years. We have found that we need to expand that and we can do that by regulation. Regulations are now being considered that will allow leniency in situations similar to the one reported by that individual. To answer your question specifically, the answer is no. This reciprocity does not address that particular issue.

**Assemblywoman Buckley:**

Are there any other issues which are roadblocks at a time when we have a shortage of physicians? It does not make a lot of sense to deny someone licensure in that situation.

**Keith L. Lee:**

We are addressing, in regulation, the issue of a doctor who changes his specialty and is behind in his timing. I am not aware of any other such roadblocks, but that does not mean there are none. With this reciprocity, academic requirements will not necessarily be a detriment to one's admission into the practice of medicine. We want to make sure that we have these safeguards in place. The safeguards include a board specialty certification in the past ten years, an active practice in their specialty for the past five years, reports of all malpractice complaints, and meeting all statutory requirements for licensure to practice. We think that builds in the safeguards while lowering some of the barriers to admission into the practice of medicine by otherwise qualified physicians.

**Chair Ocegüera:**

Is there any other discussion?

**Denise Selleck Davis, representing the Nevada Osteopathic Medical Association:**

There is a reference on page 2, line 18 of the mock-up to the American Board of Medical Specialties. Osteopathic physicians are also board certified by the American Osteopathic Association and this eliminates any of our doctors who are board certified through that group. We are asking for the inclusion of the words "or the American Osteopathic Association."

**Chair Ocegüera:**

That will give us an idea of what we have to work with on this bill on Wednesday.

[The meeting is adjourned [at 2:28 P.M.]

RESPECTFULLY SUBMITTED:

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Earlene Miller  
Committee Secretary

APPROVED BY:

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Assemblyman John Ocegüera, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** May 14, 2007

**Time of Meeting:** 1:30 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 3(R1)	C	David Ziegler, Committee Policy Analyst	Work Session Document
S.B. 3(R1)	D	Assemblyman Conklin	Proposed Amendments
S.B. 95(R1)	E	David Ziegler, Committee Policy Analyst	Work Session Document
S.B. 99	F	David Ziegler, Committee Policy Analyst	Work Session Document
S.B. 403(R1)	G	David Ziegler, Committee Policy Analyst	Work Session Document
S.B. 412(R1)	H	Assemblyman Horne	Conceptual Amendment