

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Fourth Session
March 23, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 11:56 a.m., on Friday, March 23, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: 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 David R. Parks
Assemblyman James Settelmeyer

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Assembly District 24

STAFF MEMBERS PRESENT:

Brenda Erdoes, Committee Counsel
Dave Ziegler, Committee Policy Analyst

Minutes ID: 650



Earlene Miller, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Susan L. Fisher, representing Nevada State Board of Podiatric Medical
Examiners
James Oscarson, President, State Board of Podiatry
Ron Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada
Phil Galeoto, Director, Department of Public Safety
Susan Dunt, Risk Manager, Risk Management Division
Bill Uffelman, President and CEO, Nevada Bankers Association
Steven Kondrup, Acting Commissioner, Division of Financial Institutions
Barry Gold, representing AARP, Nevada

[Roll called and a quorum was present.]

Chairman Ocegüera:

We have a work session today, and generally we do not take testimony. If we have a question for you, we may call on you for clarification.

Assembly Bill 2: Revises provisions relating to automotive repairs. (BDR 52-92)

David Ziegler, Legislative Counsel Bureau, Committee Policy Analyst:

[Distributed Work Session Document ([Exhibit C](#)).]

Assembly Bill 2 was sponsored by Assemblyman Anderson and was heard on February 7, 2007 and at the February 28, 2007 work session. It requires a garage or body shop that accepts a vehicle for repairs to perform those repairs in accordance with a written estimate provided by the garage, shop, or person authorizing the repairs. If the garage or body shop is not able to do this, it may not perform any repairs without the consent of the person authorizing the repairs. There have been a couple of mock-up amendments on this bill. The most recent one was received on March 22, 2007. It represents a consensus among the interested parties. The proponents were Assemblyman Anderson, Mr. Compan, and Mr. Craigie representing Farmers Insurance.

Chairman Ocegüera:

Are there any comments?

Assemblyman Anderson:

The owner of the vehicle and the person who authorized the repair are both going to be covered in terms of notification. A compromise has been worked out between the interested parties, so the technical question about the

standards are those that are most commonly used by the shop owners and the dealers, without preference to the dealers.

Chairman Oceguela:

Are there any comments, questions, or concerns from the Committee members?

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 2.

ASSEMBLYMAN ARBERRY SECONDED THE MOTION.

Is there discussion on the motion?

THE MOTION PASSED UNANIMOUSLY.

Mr. Anderson will take care of the bill and the amendments on the floor.

**Assembly Bill 34: Revises provisions governing unemployment compensation.
(BDR 53-610)**

David Ziegler:

[Distributed Work Session Document ([Exhibit D](#)).]

Assembly Bill 34 relates to unemployment compensation. It authorizes the Administrator of the Employment Security Division (ESD) to appoint impartial appeals tribunals and adopt regulations covering appeals. That authority now rests with the Board of Review. It also removes the option of a three-member tribunal, and adds the option of the ESD entering into an inter-local agreement with another public agency for the appointment of a hearing officer.

The bill also clarifies a business' right, if it were a claimant's next to last employer, to protest the charging of benefits against its experience rating. The experience rating is the primary determinant of an employer's contribution rate to the system of unemployment insurance. No amendments were proposed. The proponent on February 12, 2007, was Cindy Jones, Administrator of ESD. There was also testimony from Mr. Ostrovsky representing the Nevada Resort Association, and Mr. Thompson of the Nevada State AFL-CIO.

Chairman Oceguela:

Are there questions from the Committee? [There were none.]

ASSEMBLYMAN ANDERSON MOVED TO DO PASS ASSEMBLY BILL 34.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mrs. Kirkpatrick will present the bill to the Assembly.

**Assembly Bill 41: Revises provisions governing licenses to practice podiatry.
(BDR 54-631)**

David Ziegler:

[Distributed Work Session Document ([Exhibit E](#)).]

Assembly Bill 41 was sponsored by the Committee on behalf of the State Board of Podiatry and was heard on February 14, 2007. James Oscarson of the Board of Podiatry was the proponent, and we heard no other testimony. The bill makes changes to the licensing of persons to practice podiatry. In general, it replaces the State examination with a National Board of Podiatric Medical Examiners (NBPME) examination, and adjusts other provisions accordingly.

The bill requires a person to have a license from the Board of Podiatry before beginning to practice in Nevada. It requires an applicant for a license to have passed the NBPME exam within five years of his application and raises the fee for the application for a license, limited license, or temporary license to \$900 if the applicant has passed the NBPME exam within five years of his application and \$1,500 if he has not.

There was an amendment proposed on February 14, 2007. The intent is to provide that someone who is covered by insurance for treatment of an illness within the scope of a podiatrist's practice is entitled to reimbursement for treatment by a licensed podiatrist. The amendment is parallel to existing statutes that apply to licensed chiropractors.

There is a special note on this bill. Joint Standing Rule No. 18, "Criteria for reviewing bills that require policies of health insurance to provide coverage for certain treatment or services," applies to the proposed amendment. As requested, the Board of Podiatry has submitted an analysis of the criteria, which along with the amendment is in the packet for the Assembly Committee on Commerce and Labor's consideration.

Chairman Ocegüera:

Are there any questions?

Assemblyman Settelmeyer:

When a podiatrist graduates and takes the National Board of Podiatric Medical test, does the State of Nevada require them to retake the test or is it good for a period of time?

Chairman Ocegüera:

Someone from the Podiatry Board may be able to answer that.

Susan L. Fisher, representing State Board of Podiatric Medical Examiners:

I will have James Oscarson answer that.

James Oscarson, President, State Board of Podiatry:

The process has been that a new graduate who wanted to practice in the State of Nevada would have to retake that test. We are trying to streamline the process so if they have taken the test within the previous five years, we will accept those results as long as they are passing. It will reduce costs and attract more new graduate physicians to the State.

Assemblyman Mabey:

I reviewed the bill with the past president of the Podiatry Board, and he is in support of it. I feel comfortable that it should pass.

Assemblywoman Gansert:

You are passing the fees through to the National Board. If you set the threshold at the \$900 which is the current rate, you may have to come back and get legislative approval to raise that rate, or the State of Nevada will be losing funds.

Susan Fisher:

We are not at the cap for the licensure fee. We are raising the cap for that so we will have a buffer. We are currently not charging the full cap for the license.

Assemblywoman Gansert:

Is the expense greater than the current cap?

Susan Fisher:

It is for the test. We are paying more than we are allowed by law to charge the potential licensees. We could raise the license fees if we need.

Assemblywoman Gansert:

My concern is the "catch-up" if we get in that position again. Is that something you want to pass through, or do you want the podiatrists to be responsible for paying the fee?

James Oscarson:

That is true and this is a work in progress. I am going to take your ideas to pass it through to the Board and make the applicant take some of the

responsibility. I have talked with the people who do the testing, and they do not expect big increases in those testing fees. If we have to come back in two years, we will.

Chairman Oceguela:

Are there more comments or questions for the witnesses?

Assemblywoman Buckley:

My question is about the new language concerning insurance covering treatment for an illness that is within the scope of practice of a podiatrist. Could there be services provided that could be performed by someone who is not a doctor?

James Oscarson:

I do not see anything that is done by a podiatric physician within their scope of practice that could be done by a lay person.

Assemblywoman Buckley:

Did the insurance companies have an opportunity to review this?

James Oscarson:

We did not present it to any insurance companies. We attempted to get fee schedules from them. There was no one at the last hearing who spoke on it.

Susan Fisher:

That language is almost the same as the language for acupuncturists, psychologists, licensed marriage and family therapists, social workers, clinical social workers, chiropractors, registered nurses, and medical transporters. They all have similar language in statute in Nevada.

Chairman Oceguela:

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 41.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

Is there discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Dr. Mabey will take the bill to the floor.

Assembly Bill 56: Provides for the suspension or revocation of a contractor's license for certain offenses. (BDR 54-880)

David Ziegler:

[Distributed Work Session Document ([Exhibit F](#)).]

Assembly Bill 56 was introduced by this Committee on February 14, 2007. It relates to disciplinary actions against licensed contractors. If a licensee knowingly enters into a contract with an unlicensed contractor, or bids on or enters into a contract for work beyond his limit or the scope of his license, his license will be suspended for six months for the first offense, one year for the second offense, and revocation for the third offense.

There were amendments on February 14, 2007 from James Sala, Southwest Regional Council of Carpenters, and Keith L. Lee, representing the Nevada State Contractors' Board. I have those if you wish to see them. On March 21, 2007, the Assembly Committee on Commerce and Labor received a subsequent proposed amendment from Mr. Sala which is in the work session packet. Other testimony heard on February 14, 2007, was from the State Contractors' Board, the Southern Nevada Home Builders, the Builder's Association of Northwest Nevada, the Associated General Contractors of America, and some others.

Chairman Ocegura:

Mr. Conklin, can you give us a report?

Assemblyman Conklin:

I spoke with the Carpenters' Union yesterday afternoon and it was my impression that they had worked with as many parties as they could to find some balance to what they were doing without selling-out the concept. This looks similar to where we had left it at the last meeting with the only opposition coming from the homebuilders. Their opposition was that this was too stringent and the courts would never allow it because it was too onerous. Mr. Ziegler was asked to clarify if that was true. He said there was no case law to support it. I think this is a good compromise.

Chairman Ocegura:

Are there questions or comments?

Assemblyman Horne:

Was there a particular provision they did not think the courts would uphold?

David Ziegler:

We asked the State Contractors' Board how many revocation and suspension cases in the last several years have gone to judicial review and how many have

been reversed. The answer was 25 revocations and suspension cases had gone to judicial review and none had been reversed.

Assemblywoman Gansert:

I have a concern about someone losing his business if he is suspended for six months or a year. I will vote no if we get a motion.

Assemblyman Horne:

We are talking about people in violation of this statute, and the first violation is a "may". It gives the Board discretion depending on the facts and circumstances of the first violation. The second violation calls for increased penalty and a suspension. There is not a revocation until the third violation.

Assemblyman Settlemeyer:

Are the offenses all stemming from the same action? What if they did something one time, could it be perceived as multiple offenses? Could offenses stack up with one wrongful action? I like the three strikes as long as they are all separate.

Assemblyman Conklin:

If a contractor has sub-contractors, he would be responsible for the contract which he makes to his sub-contractor. If the sub-contractor subcontracts to someone else, it is his violation. I do not think stacking applies.

Brenda Erdoes, Legislative Counsel Bureau Committee Counsel:

There is nothing in this language that would keep it from stacking. It is how the Board decides to structure the offenses. If there are enough grounds for several offenses to come out of the same situation, you could get stacking and it is not specified.

Assemblywoman Buckley:

Does that beg the question of what is stacking? Part of the amendment under paragraph 3 in Section 2 is that first you have to knowingly enter into a contract. If you enter a contract with someone who then enters into a contract with another subcontractor, then you did not knowingly enter into a contract. The contractor must have entered into the contract. You cannot be liable for subcontracting if it was done without your knowledge. You must have some knowledge that they do not have a license.

Brenda Erdoes:

I believe you understand that correctly.

Assemblywoman Gansert:

If you enter into a contract with someone with a license and they lose the license, are you still not in violation because it is not knowingly?

Assemblywoman Buckley:

The Contractors' Board gets to determine what is "knowingly." There is also judicial review. "Knowingly" is a tough standard. It means you would have to check and know they are unlicensed, but enter into the contract anyway. We use that often in statutes.

Assemblywoman Allen:

The bill has the proper intent, but I am not sure the way it will be executed is good. While this is in court, there is no business or income for the contractor.

Assemblyman Mabey:

I am concerned that there is no top limit for the fines.

Chairman Oceguela:

Are there further questions, comments, or concerns?

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 56.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

Is there discussion on the motion?

Assemblyman Christensen:

I will vote no and would like to reserve my right to change my vote for the floor.

Chairman Oceguela:

Is there further discussion on the motion?

THE MOTION PASSED. (ASSEMBLYMEN ALLEN, CHRISTENSEN,
GANSERT, MABEY, AND SETTELMAYER VOTED NO.)

Mr. Conklin will take the bill and the amendment to the floor session.

We will not hear Assembly Bill 84 at this time.

Assembly Bill 89: Revises provisions regarding industrial injuries and occupational diseases to include certain park rangers as police officers. (BDR 53-849)

David Ziegler:

[Distributed Work Session Document ([Exhibit G](#)).]

Assembly Bill 89 was sponsored by Assemblywoman Parnell and was heard on February 23, 2007. The proponents were Assemblywoman Parnell, Ron Dreher representing the Peace Officers Research Association of Nevada (PORAN), and the Park Ranger Association of Nevada. There was testimony from Sue Dunt, Risk Manager, State of Nevada. The bill relates to workers' compensation and the Nevada Occupational Diseases Act. Certain diseases of police officers, including lung disease, heart disease, and hepatitis, are compensable under the Act under certain circumstances. This bill adds rangers and employees of the Division of State Parks who have powers of a peace officer to the definition of "police officer" in the Act. The bill also makes an appropriation.

The Assembly Committee on Commerce and Labor has received proposed amendments dated March 1, 2007, (attached) from the interested parties.

Chairman Ocegura:

The part that you promised, Mr. Dreher, is in your position paper, but I do not recall subsections 11, 12, 13, and 14 under Section 1.

Ron Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

[Submitted Position Paper and Amendment ([Exhibit H](#)).]

After we heard this bill on February 23, 2007 and told this Committee that we believed all of the Category I peace officers were part of the coverage under *Nevada Revised Statutes* 617.135, Captain P. K. O'Neil in the Department of Public Safety told us that in 2005, there were different divisions created under the Department of Public Safety, and 11 positions that were previously covered were mistakenly left out of the coverage. The way NRS 617.135 is drafted is the reason for this. When a new division is created, under Section 1 of the bill, they are not covered. Captain O'Neil had been covered, but he was moved and promoted when a new division was created. He was then left out of the coverage. Nine of the people that this affected had already had the coverage and the tests, but the tests do not continue each year. They asked Assemblywoman Parnell and PORAN if they could be covered again.

Chairman Ocegura:

Mr. Galeoto, would you come forward.

Phil Galeoto, Director, Department of Public Safety:

Mr. Dreher has done an excellent job of explaining the problem. As the Director of Public Safety, I am responsible for state level investigation and police response under certain state divisions. At any moment, I may call any officer

who is not usually a uniformed officer, and order him to the field. If a catastrophic event were to occur, all the basic operations we do get pushed aside and everybody becomes an active police officer. Jobs such as that of Captain O'Neil's are very stressful. This was a terrible error and I ask for your assistance.

Assemblyman Anderson:

Are the training officers Category I police officers who are qualified field officers?

Phil Galeoto:

These are Category I trained police officers that have come from field assignments and are rotated as a collateral responsibility. They are qualified to teach anyone who comes to the academy at the highest level of police officer training requirements.

Assemblyman Anderson:

You take the best, experienced people, make them trainers, and they lose their heart and lung benefits.

Phil Galeoto:

That is correct. I would also add that it is a position of professional responsibility. I cannot imagine a position in law enforcement in America that has a higher level of cumulative stress than a position in internal affairs at any level. We have the training officers, the internal affairs investigators, and the people who deal with our technology.

Assemblyman Horne:

I agree with the amendment, but I was under the impression that when you have five years of service, you qualified for the benefits.

Susan Dunt, Risk Manager, Risk Management Division:

There has been legal precedence set in the courts in regard to coverage passed when a person is in an eligible position. The current Supreme Court extended coverage into retirement, but there is still ambiguity because it does not clarify how far into retirement. There could still be legal challenges to that. It was inferred that if someone had the five years, they were vested, but it has not been tested in court as to how far that may go. Of the 11 who are not currently identified and defined as being covered, 9 are vested. Should they have a claim, they most likely would get coverage, provided all the rules were followed during the time they were covered. The two new people in that division would not have the same benefit. If we had a new insurance company or new people in our office who did not understand the historical perspective,

they would go strictly by statute. It would create a lot of confusion. The intent of this program is that these officers do not have to fight for this coverage. It does not clearly define what happens when you make these changes within a division's organization. For clarification purposes and the ease of administration, it is better if it is clearly identified.

Assemblyman Anderson:

Could we be sure that these positions are filled with Category I peace officers?

Susan Dunt:

Worker's Compensation would look specifically at the person's history in the job description that is in NRS 617.135. The coverage would be by the position title, not as a Category I peace officer, and they would have to have five years in a position before they qualified.

Chairman Oceguela:

Are there further questions or comments from the Committee?

ASSEMBLYMAN CHRISTENSEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 89.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MABEY VOTED NO.
ASSEMBLYMAN ARBERRY WAS ABSENT FOR THE VOTE.)

Assemblywoman Parnell will present the bill and Assemblyman Conklin will present the amendments at the floor session.

**Assembly Bill 128: Revises provisions relating to prescription drugs.
(BDR 18-108)**

David Ziegler:

[Distributed Work Session Document ([Exhibit I](#)).]

Assembly Bill 128 was sponsored by Assemblyman Conklin and others. It was heard on March 12, 2007. The bill requires a licensed wholesaler or manufacturer of prescription drugs to file an annual report with the Attorney General. The report will include the value, nature, and purpose of any economic benefit which means gift, fee, payment, or subsidy, provided to a practitioner, pharmacist, administrator of a health care facility or plan, or other person who is authorized to purchase wholesale, prescribe, or dispense prescription drugs. The economic benefit must not be a direct benefit to a patient and must exceed

\$100. If the aggregate benefit to a person is over \$1,000 during the reporting period, the report must state the person's name.

There was testimony on March 12, 2007, from: AARP, the League of Women Voters, the Washoe County Senior Law Project, the Nevada Women's Lobby, the Nevada Alliance for Retired Americans, the Pharmaceutical Research and Manufacturers of America (PhRMA), Wolters Kluwer Health, the Retail Association of Nevada (RAN), and the Nevada State Medical Association.

There are three amendments in your packet. They are from RAN, NSMA, and AARP. There is also a conceptual amendment that has not been put in writing to clarify that no report is required if no economic benefit is provided during the reporting period.

Chairman Ocegüera:

Mr. Conklin, will you give us an update?

Assemblyman Conklin:

There were four groups that had interest in this bill. Wolters Kluwer represents the third party administrators of the information once it comes from the pharmacy to the pharmaceutical company. NSMA has offered their amendment which I am willing to accept. RAN had some concerns on their amendment; I am fine with Section 1, subsection 8b to read as they deem it. They also asked to delete changes on lines 17 and 18 of Section 2, which I accept. RAN said they will submit additional language. It is my understanding that there is a bill in the Senate and rather than have two of them, I think we will delete Section 2 and continue with the detailing portion of this bill. I think that will be acceptable with RAN and Wolters Kluwer. I feel we have most parties in agreement in terms of keeping the sanctity of the bill and have addressed the concerns. AARP and I have worked with PhRMA. We are not in total agreement, and I am certain they would say they are opposed, but I have pledged to continue to work with them.

Chairman Ocegüera:

Are there any questions?

Assemblyman Settlemeyer:

I talked to my doctor and some pharmacists, and they said this follows some of the federal regulations that are already in place.

Assemblyman Conklin:

There is one additional amendment which removes this from the Attorney General's Office and places it in the Pharmacy Board. It streamlines the process

by using websites that are already in place. It reduces any fiscal note. Additionally, the Attorney General had concerns about its being in their office when they have no investigative power. I believe this would be acceptable to them.

Chairman Oceguela:

Are there any more comments or concerns?

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 128.

When we have a mock-up, I will bring it back to the Committee to be reviewed.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

Assemblyman Settlemeyer:

I am in favor of the bill. Do we reserve our right to change our vote later?

Chairman Oceguela:

That is correct.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT FOR THE VOTE.)

Assembly Bill 178 was not heard.

Assembly Bill 215: Limits interstate banking by certain entities that open branch offices in this State pursuant to certain statutory provisions. (BDR 55-1125)

David Ziegler:

[Distributed Work Session Document ([Exhibit J](#)).]

The bill was heard on March 5, 2007, and the proponent was John P. Sande III representing the Nevada Bankers Association. The bill provides that a depository institution from out-of-state that establishes or acquires a branch office in a county with a population less than 100,000 is still considered an out-of-state depository institution with regard to regulation of bank holding companies and interstate banking. There was an amendment proposed on March 5, 2007, from Mr. Bill Uffelman of the Nevada Bankers Association. It has to do with the effective date. Legislative Counsel suggested an amendment to the summary at the top of the bill based on the testimony, to read, "Clarifies limitations on interstate banking by certain entities that open branch offices in this State pursuant to certain statutory provisions."

There was testimony at the hearing from the Acting Commissioner of Financial Institutions who supported the measure. There is a new amendment from the Nevada Bankers Association.

Chairman Ocegüera:

There were some issues. Mr. Uffelman, would you like to talk about the amendment?

Bill Uffelman, President and CEO, Nevada Bankers Association:

[Presented a proposed amendment to A.B. 215 ([Exhibit K](#)).]

This amendment resolves the issues that were raised by the Division of Financial Institutions and an applicant. This "grandfathers-in" two banks that are doing business in the State of Nevada under the rural exception and a third bank that has an application pending with the Division of Financial Services to allow it to enter Nevada in a rural county and then expand into Washoe or Clark County. Anyone who comes later would be subject to the law as we understood it. This resolves all of the current issues.

Assemblyman Manendo:

Which banks are they?

Bill Uffelman:

They are El Dorado Savings and Imperial Capital. The third bank is a bank from Texas, and I am not sure what name they intend to use. They have an application pending with the Division of Financial Services.

Assemblyman Anderson:

Why would the new bank feel they were entitled to this?

Bill Uffelman:

That bank has applied on more than one occasion. The reason for bringing this bill in the first place was an attempt to clarify what everyone had thought the law was since 1995. This amendment attempts to resolve this issue.

Assemblyman Anderson:

Can you tell them they need to meet this requirement?

Steven Kondrup, Acting Commissioner, Division of Financial Institutions:

The institution from the State of Texas approached the Division of Financial Institutions over a year ago in regard to bringing banking to Nevada in the Amargosa Valley with the intention of eventually branching into Clark County. Based on legal counsel appointed to the Division of Financial Institutions by the Attorney General's Office, it was our understanding that they could come

into a county of less than 100,000, establish a branch, and that would be as far as they could go. It was determined that if this Institution came into the State of Nevada, that once a banking center was opened, they would be allowed to branch into counties with a population over 100,000.

Assemblyman Anderson:

If I want to open a bank here, would I go to one of the counties with a population of less than 100,000 and establish a branch?

Steven Kondrup:

Currently our statutes do allow for that. The intent of this bill is to close that door. Banks will be allowed to come into a county with a population under 100,000, but they will not be able to branch into larger counties.

Bill Uffelman:

Assembly Bill 215 as introduced closed the door and said what we thought we had said in 1995. Because of the issues that have been raised, we decided that it would be appropriate that he who raised the issue would be allowed into the rural county and allowed to expand. Because two other banks had already come into the rural counties and not been allowed to expand, we decided to allow them to expand if they desire. In the future, banks are subject to that 100,000 population limit.

Assemblyman Anderson:

I am uncomfortable with this.

Assemblywoman Kirkpatrick:

With the March 31, 2007, deadline, there is time for more banks to apply and be "grandfathered-in." It has taken over a year to go through the process. What is the hold up?

Bill Uffelman:

It would be difficult for anyone to submit an application before the deadline, but I would be happy with any date.

Assemblywoman Kirkpatrick:

I think January 1, 2007, would be good.

Bill Uffelman:

We need to have it in the month of March. Moving the date back in March would be fine with me.

Steven Kondrup:

The institution in Texas has submitted three applications with the Division of Financial Institutions. The last application requested the institution to go into Nye County and was received in my office on March 16, 2007. The state banking commission from the State of Texas submitted that application on their behalf with a cover letter that was dated March 13, 2007.

Chairman Ocegüera:

Is there any more discussion? I will hold this bill for a couple of days.

**Assembly Bill 235: Revises provisions relating to prescription drugs.
(BDR 54-980)**

David Ziegler:

[Distributed Work Session Document ([Exhibit L](#)).]

This bill was sponsored by Assemblyman Bobzien and others. It was heard on March 12, 2007. The bill authorizes a practitioner to ask a patient whether he wants to have the symptom or purpose for a prescription included on the label. If the patient requests it, the practitioner must include it on the prescription, and the pharmacy must include it on the label. The bill also authorizes a practitioner to prohibit a pharmacist from including "substituted for [brand name]" after the name of a generic drug on a label.

On March 12, 2007, the Assembly Committee on Commerce and Labor received proposed amendments from the State Board of Pharmacy, the Retail Association of Nevada (RAN), and John P. Sande III. The Research Division prepared a mock-up of the combined amendments. There was also testimony on March 12, 2007, from AARP, RAN, the State Board of Pharmacy, the Nevada Diabetes Association, the Nevada State Medical Association, the Nevada Women's Lobby, and the Nevada Alliance for Retired Americans.

Assemblyman David P. Bobzien, Assembly District No. 24:

The amendment from the State Board of Pharmacy is a clarification of Section 4, subsection 2 and states, "Unless prohibited by the practitioner, may indicate the substitution by writing or typing on the label..." They wanted us to be more specific. I agree with that. Mr. Sande's amendment deals with Section 2, subsection 2 and appears to be good. The amendment from the Retail Association of Nevada is also good.

Assemblyman Mabey:

Why do you have the amendment in Section 4, subsection 2?

Barry Gold, AARP, Nevada:

It is important because some pharmacies include it as a courtesy and others do not so we would like to encourage that practice. The reason we put in the language "unless prohibited by a practitioner" is that there may be specific times when a physician may not want a patient to know there are two potential names for their drug because it may confuse the patient. We wanted to have control in that situation so the physician could say I want only the name of what is actually in the bottle to be on the label. We added the language "by writing or typing" because there was a question whether it would be confusing on the Clinical Practice Act about generic substitutions. This does not interfere with the fact that they can substitute generics when allowable. This is only about what is going to be written on the label.

Assemblyman Mabey:

I am still confused.

Assemblyman Anderson:

There may be various properties of certain drugs which the doctor understands, but they are not the usual reason for its being prescribed.

Assemblyman Mabey:

I will support the bill.

Assemblyman Settlemeyer:

We need to have the diagnosis and the date on the bottle.

Vice Chair Conklin:

Are there additional questions? Mr. Bobzien, would you like to comment?

Assemblyman Bobzien:

I understand the concern. It points to the limitation of how much benefit we can expect from this. This is no substitute for good medical practice. There is no way to put all of the necessary information on a label. I want to keep this as achievable as possible.

Assemblyman Conklin:

Any prescription has other consequences. A person has to use some discretion when it is no longer necessary to take the prescription.

Chairman Ocegura:

We will end the discussion.

ASSEMBLYMAN MABEY MOVED TO AMEND AND DO PASS

ASSEMBLY BILL 235.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT FOR THE VOTE.)

Assemblyman Bobzien will take the bill and the amendments on the floor session.

The meeting is adjourned [at 1:18 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman John Ocegüera, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 23, 2007

Time of Meeting: 11:56 a.m.

| Bill | Exhibit | Witness / Agency | Description |
|-----------------|----------------|--|------------------------------|
| | A | | Agenda |
| | B | | Attendance Roster |
| <u>A.B. 2</u> | C | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 34</u> | D | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 41</u> | E | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 56</u> | F | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 89</u> | G | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 89</u> | H | Ron Dreher, Government Affairs Director, Peace Officers Research Association of Nevada (PORAN) | Position Paper and Amendment |
| <u>A.B. 128</u> | I | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 215</u> | J | David Ziegler, Committee Policy Analyst | Work Session Document |
| <u>A.B. 215</u> | K | Bill Uffelman, President and CEO, Nevada Bankers Association | Proposed Amendment |
| <u>A.B. 235</u> | L | David Ziegler, Committee Policy Analyst | Work Session Document |