

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

**Seventy-Fourth Session
March 26, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:11 p.m., on Monday, March 26, 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:

Senator Maggie Carlton, Senate District No. 2
Assemblywoman Sheila Leslie, Assembly District No. 27
Assemblyman Mo Denis, Assembly District No. 28



Assemblyman John Carpenter, Assembly District No. 33

STAFF MEMBERS PRESENT:

Brenda Erdoes, Committee Counsel
Dave Ziegler, Committee Policy Analyst
Patricia Blackburn, Committee Secretary
Gillis Colgan, Committee Assistant

OTHERS PRESENT:

Lyn Barnett, President St. Joseph Community Homes & Land, Nevada
Joe Guild, representing Newmont Mining, Nevada
Leo M. Drozdoff, Administrator, Nevada Division of Environmental Protection
Russ Fields, President, Nevada Mining Association
Kyle Davis, Policy Director, Nevada Conservation League
Steve Robinson, Deputy Chief of Staff, Governor Jim Gibbons
Jeff Fontaine, Executive Director, Nevada Association of Counties
Dan Randolph, Executive Director, Great Basin Mine Watch, Nevada
Leonard Bruce Hawk, Private Citizen, Battle Mountain, Nevada
John Mauldin, Private Citizen, Battle Mountain, Nevada
Warren Russell, Commissioner, Elko County Commission, Nevada
Fred Hillerby, representing American Council of Life Insurers
John Mangan, Regional Vice President, American Council of Life Insurers
John Fudenberg, Assistant Coroner, Clark County Coroner's Office, Nevada
Brian O'Callaghan, Detective, Office Intergovernmental Services, Las Vegas Metropolitan Police Department, representing Nevada Sheriffs' and Chiefs' Association
Oran McMichael, American Federation of State, County and Municipal Employees (AFSCME), Nevada
Elaine Barkdull Spencer, Executive Director, Elko County Economic Diversification Authority, Nevada

[The roll was called and a quorum was present.]

Chair Oceguela:

We will hear the bills out of order, in deference to Senator Carlton. We will open the hearing on Assembly Bill 423.

Assembly Bill 423: Exempts certain community land trusts from prohibitions on the use of "trust" in the corporate name. (BDR 55-173)

Assemblywoman Sheila Leslie, Assembly District No. 27:

This bill creates a narrow exception in *Nevada Revised Statutes* (NRS) 669.095 for specified nonprofit land trusts. Chapter 78 of NRS has restricted the use of the word "trust" since the early 1900s. The prohibition against using the word "trust" for any entity except a bank came along in 1983, but it is rarely enforced unless the person or organization attempts to incorporate. According to the committee minutes from the 1983 session, the intent of the Legislature at that time was to insure that businesses with "trust" in their name come under State banking regulators.

This issue was brought to my attention by John Singlaub, Executive Director of the Tahoe Regional Planning Agency in the context of the St. Joseph Community Land Trust, a 501(c)3 nonprofit corporation operating in South Lake Tahoe that provides affordable housing options for low-income residents. We have a representative here today who can describe that issue for you. In 2003 the Community Land Trust wanted to expand its activities to the Nevada side of Lake Tahoe and they tried to incorporate in Nevada. They were prevented from doing so because of the statute. They have since incorporated under a different name, but would really rather operate under one name on both sides of the state line in the Tahoe Basin.

I understand the restriction of the word "trust" in a corporate name is intended to prevent unregulated financial or investment companies from misleading the public. However, I do believe a narrow exception for nonprofit land trusts could be created without interfering with that intent. That is what this bill tries to do. Senator Carlton sits on the oversight committee and this issue came up during the Interim and she is here today to support the bill.

Senator Maggie Carlton, Senate District Clark 2:

I do sit on the Lake Tahoe oversight committee and this issue was brought to our attention. The St. Joseph's Land Trust is doing a wonderful job in Lake Tahoe. I am very impressed on what they have been able to accomplish. I look forward to their continued success with the work they are doing and I think they are establishing a model that we could use in southern Nevada. I am trying to learn about community land trusts so that we can start to understand them a little better. I would ask for your support in this legislation.

Chair Ocegüera:

Are there any questions for Senator Carlton? I do not see any. Thank you, Senator for coming to testify.

Lyn Barnett, President St. Joseph Community Homes & Land, Nevada:

St. Joseph Community Homes & Land is the name we use in Nevada since we are prohibited from using the word "trust." St. Joseph Community Land Trust and St. Joseph Community Homes & Land is one of about 130 community land trusts now in the United States. We operate in California and in Nevada at Lake Tahoe and our mission is to provide affordable housing and moderate-income housing for the residents in the Lake Tahoe Basin. Using dual names is very confusing to some of our members and organizations that we try to work with.

I would like to thank Assemblywoman Leslie and Senator Carlton for speaking in favor of the bill. I ask for your support because this bill will go a long way to help us establish a single identity at Lake Tahoe. I would like to mention that we are the first community land trust operating in the State of Nevada and I suspect that you will see more of those in the future. This bill will help those organizations in this State.

Chair Ocegüera:

Are there questions from the Committee?

Assemblywoman Gansert:

Assemblywoman Leslie, during your testimony you mentioned that this bill is for nonprofit organizations. I do not see that in the definition of the community land trust.

Assemblywoman Leslie:

I was referring to this particular nonprofit. They are a 501(c)3 organization.

Assemblywoman Gansert:

So this is not solely for nonprofits? I do not see it in this language.

Assemblywoman Leslie:

That was the intent.

Chair Ocegüera:

I do not see that either. Could we get clarification? It is in the digest.

Brenda Erdoes:

The reference is in NRS 82.106 which states it applies to nonprofit organizations.

Chair Ocegüera:

Okay. Thank you.

Joe Guild, representing Newmont Mining, Nevada:

I am here in support of this bill. I represent an organization known in Nevada as Ranch Open Space of Nevada, Inc. There is a story behind that name. The problem I will be relating to you will not be solved by this bill as this definition only carves out a limited exception. But, it will help you understand why this is an interesting anomaly that needs correction.

When I was the president of the Nevada Cattlemen's Association many years ago, I was working with John Singlaub to create a land trust that the Cattlemen's Association would have to provide a vehicle for conservation easements to be purchased for estate planning for those ranchers and farmers that wanted to engage in that. I have taught seminars on conservation easements around the country, most recently in Nashville, Tennessee. I know about land trusts and what conservation easements are.

We were forming a 501(c)3 corporation to effectuate a land trust for the Cattlemen's Association and the Reno lawyer we hired called and told me that we could not use the name Nevada Cattlemen's Association Land Trust, because it was against the law in Nevada to use the word "trust" in a corporation if you are not a bank. We needed a name because of filing restrictions and I came up with Ranch Open Space of Nevada, Inc. which is the 501(c)3 corporation land trust that the Nevada Cattlemen's Association has an affiliation with.

I would urge your support of this bill and maybe in a year or so, we can change it so it will apply in another limited way to other organizations. I am not asking you to do that now. I do not want to impede the progress of this bill in any way.

Chair Ocegura:

Are there any questions for Mr. Guild? I see none. Are there others wishing to support the bill? I see none. Are there others wishing to speak in opposition of the bill? I see none. Are there any neutral comments? I see none. I will entertain a motion.

ASSEMBLYMAN CONKLIN MADE A MOTION TO DO PASS
ASSEMBLY BILL 423.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN BUCKLEY WAS NOT
PRESENT FOR THE VOTE.)

We will close the hearing on A.B. 423.

We will open the hearing on Assembly Bill 115.

Assembly Bill 115: Enacts provisions governing mines with the potential to emit mercury. (BDR 46-858)

Assemblywoman Sheila Leslie, Assembly District No. 27:

It has been about six weeks since this bill was introduced and there have been many conversations in this building about the State and the Nation and the bill's effects. These conversations have been very fruitful and have resulted in a major overhaul to the bill, which I will discuss in a moment. These discussions have led to a greater understanding of the various perspectives on this important issue, including the perspectives of our mining industry, the regulatory state body, and the environmental community. It is my hope that these discussions will continue over the next few years leading to an even greater understanding and a greater willingness to work together to offer additional protections for our citizens in terms of their health and safety.

Mercury emissions are a significant concern for many Nevadans. Those that live in close proximity to a mine in rural Nevada, fishermen who have been told that they should not eat the fish they catch in many of our northern Nevada rivers and lakes, and those Nevadans, like me, who recreate quite often in our high desert areas.

Mercury, like lead, is a neurotoxin and elevated blood mercury levels lead to retardation and deformities in children. Occupational exposure is a concern in Nevada's gold mining industry and you will hear today about a new program developed last year by our Nevada Division of Environmental Protection (NDEP) to govern the control of mercury emissions released from thermal processes used in Nevada's mining industry. The NDEP staff deserves much credit for developing a first of its kind program, in the absence of federal mercury standards. They have worked hard to implement this new program, which in February of this year issued its first enforcement action: five Notices of Alleged Violation and an enforcement order against the Queenstake Resources' Jerritt Canyon gold mine north of Elko. The alleged violations involve leaks in the mine's ore processing systems that prevent some particulate and mercury emissions from reaching the required pollution control devices.

Mercury in fish is also a concern. Fish have a natural tendency to concentrate mercury in their bodies, often in the form of methylmercury, a highly toxic organic compound of mercury. Mercury is stored in the muscle tissues of fish, and when a predatory fish eats another fish, it assumes the entire body burden

of mercury present in the consumed fish. Fish-tissue concentrations increase over time. Earlier this month, a warning was issued by our State health officials to avoid consuming fish in six Nevada waterways due to potential health problems associated with methylmercury levels. These warnings include popular fishing spots like the Rye Patch Reservoir in Pershing County, and Comins Lake in White Pine County.

After multiple meetings with interested parties, A.B. 115 has undergone a major transformation that is supported by the mining industry, conservationists, and our regulatory body. As amended, A.B. 115 augments Nevada's approach to mercury by establishing additional requirements for workers' health and safety for those employees who work in areas that may release mercury. The bill will now require that the Nevada Mine Safety and Training Section update their regulations to incorporate this change.

The amended bill also supports the Division of Environmental Protection's efforts by adding two additional inspectors that will be utilized to better ensure that mercury emissions are being controlled properly. The two additional inspectors will provide for an increased field presence. These inspectors will routinely make unannounced inspections to ensure that mercury controls are operating properly, that all required records are being maintained, and determine that the mining operations are in compliance with all mercury permit conditions. The addition of these inspectors will also broaden the program's capability for better ensuring that an inspector is present to witness mercury emissions testing at each of these facilities.

We have people here from the mining industry, NDEP, and the environmental community who can address the technicalities of these two issues.

I want to personally thank everyone who participated in these discussions over the past few weeks. They have not been easy. It has been obvious to me that everyone involved shares the same goal of protecting our citizens and our environment. It is my hope that A.B. 115 will serve as a vehicle to move the discussion forward and enact more safety measures that will give us all more confidence that the health and safety of Nevada workers and residents are adequately protected from this toxin.

I believe two amendments have been submitted, ([Exhibit C](#)) and ([Exhibit D](#)). One deals with the regulations for the Nevada Mine Safety people and the other is information about the two inspectors which the NDEP can review in detail with you. My suggestion to the Committee is that we put transitory language in the bill so that it goes away after two years. It would be my hope that the inspections would continue. I talked to Fiscal this morning and they suggested

language for the bill so that we can clearly see what we are doing, but not clog up NRS forever with this one particular issue.

Chair Oceguera:

Is that so noted in the amendments?

Assemblywoman Leslie:

No. It is not in the second amendment because I just found that out this morning. I think there is a minor change that NDEP wants to suggest to make that part of the bill work.

Chair Oceguera:

So, there is an amendment from the Nevada Division of Environmental Protection and another amendment that you have been working on?

Assemblywoman Leslie:

Yes, I have been working on both amendments. I will let Leo Drozdoff address that with you. He told me he had an updated amendment. I am not sure if that addresses my transitory language issue, but it does address the two inspectors.

Leo M. Drozdoff, Administrator, Nevada Division of Environmental Protection:

The Division supports the changes that are being proposed by Assemblywoman Leslie. As indicated, we did provide an additional amendment which you have in front of you. It is entitled Proposed Amended Language A.B. 115, Division of Environmental Protection. It does not deal with the transitory language. That is still an issue that needs to be addressed. We would like to clarify that the language we proposed could be read to require two full-time compliance personnel being added more than once. We want to make it clear that this was a one-time only action. If there are minor language changes that need to be made, we would support that.

I do want to say, on the record, that this amendment would require NDEP to develop, and the State Environmental Commission to adopt, a fee increase sufficient to add two new inspectors to the existing Mercury Control Program and require that the fee change be finalized by the end of calendar year 2007. I have discussed the concept of funding these two additional staff with many of the interested parties, but this particular language was just developed several hours ago. All interested parties have not had a chance to thoroughly review the proposal. Because this increase is specific to the Nevada Mercury Control Program, it will only affect the mining industry.

This amendment was also reviewed by the Governor's Office and approved because it is industry specific, and the mining industry supports the concept of a fee increase to continue to support the Mercury Regulatory Program.

Lastly, we have provided a brief overview of our Nevada Mercury Control Program ([Exhibit E](#)) for this Committee. If you would like, we could run through that program or, we can just answer any questions that you may have concerning it. To conclude, we do want to thank Assemblywoman Leslie for working with us on this matter and share her hope for a better working relationship in the years to come.

Chair Ocegüera:

Are there any questions?

Assemblyman Anderson:

In light of the questions relative to transitory language that was discussed earlier, will these two additional personnel become full-time participants of your compliance effort regardless, or will they also become an item in future budgets?

Leo Drozdoff:

It would be my belief and understanding that, although the bill would be transitory, the positions would remain in place.

Assemblyman Anderson:

I was just trying to make sure, that regardless of whether the bill remains in place, we can expect upgrades in compliance with these kinds of emissions, if this bill is to pass.

Leo Drozdoff:

That is correct.

Chair Ocegüera:

Are there further questions?

Assemblyman Horne:

I was curious about Section 6 where we define a "Mine with the potential to emit mercury," to mean a mine that, as determined by the Director, has the potential to emit mercury. That seems like a circular definition. Will there be an effort to better define that?

Leo Drozdoff:

Can I see what you are looking at?

Assemblyman Horne:

Section 6, page 3 of the bill.

Leo Drozdoff:

I believe that much of the existing bill, including Section 6, will be deleted and replaced with these two amendments.

Assemblyman Horne:

Okay. That is what I did not understand.

Chair Ocegüera:

I believe Ms. Leslie said that the bill was going to be gutted, and these two amendments would be put in.

Russ Fields, President, Nevada Mining Association:

I want to begin by thanking Assemblywoman Leslie for bringing the parties together in this seemingly difficult and complex issue. I think we have come to a good conclusion. The members of the Nevada Mining Association have worked long and hard for the last five or six years to reduce mercury air emissions from their operations and have been extremely successful. We have worked with the Division of Environmental Protection in support of regulations that have become the Mercury Control Program for the State of Nevada, which Ms. Leslie recognized as a unique, one-of-a-kind, first-of-its-kind, best in the nation and probably best in the world, regulatory program to control mercury emissions.

We support the first amendment without qualification. That concerns the safety and health of our employees. That is our foremost, premier requirement at our operations. We want our workers to be safe. We support the regulations that can be adopted to ensure that the State of Nevada has requirements that are consistent with the federal requirements to protect those workers.

We support the concept of the second amendment which deals with the fees for the two additional inspectors. The Nevada mining industry has stepped forward and funded the entire program for the Mercury Control Program and, to the extent that these two additional inspectors make that program stronger and better, we are in support. We believe that what Leo Drozdoff, the Administrator of the NDEP, has presented, makes a lot of sense. We received the language approximately three hours ago, so I hope the Committee will understand that I have an Association that needs to look at this language. Certainly, the concept of fully staffing this regulatory program is something the Mining Association will support.

Chair Ocegüera:

Are there any questions? I see none.

Kyle Davis, Policy Director, Nevada Conservation League:

I do want to echo what the previous speakers have said and thank Assemblywoman Leslie for bringing this issue forward. I also thank everyone that was involved in negotiating something that we can all get behind and that will make a difference in working on mercury pollution in the State of Nevada. That is a big issue for us. We are very concerned about mercury pollution and mercury getting into our waterways and into our fish. Obviously, this remains a problem to some degree as we have seen in the news media. As amended with the new provisions that are being put into this bill, this could move us forward in protecting the people, whether they live near these sources or work in the mining industry. I can also protect our environment. We are in support of the bill, as amended.

Chair Ocegüera:

Are there questions from the Committee? I see none.

Steve Robinson, Deputy Chief of Staff, Governor Jim Gibbons:

[Spoke from prepared testimony ([Exhibit F](#)).]

Chair Ocegüera:

Are there any questions? I see none.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

Many of our counties are very dependent upon mining for their economy. They are very interested in making sure that the citizens and residents in their counties are protected, the people who work at the mines are protected, and their environment is protected. With the amendments that have been discussed today, we can support the bill as amended and we certainly appreciate the work of Assemblywoman Leslie and the others who put together this bill to address the mercury issue.

Dan Randolph, Executive Director, Great Basin Mine Watch, Nevada:

We also would like to thank Assemblywoman Leslie for bringing this bill forward. We think that the discussions have been productive. We look forward to continuing to work with the Division of Environmental Protection and the industry. There is a need for greater public confidence in the program and we think the two additional inspectors will greatly enhance that. We think the worker safety element amendment is extremely important. The current

regulations were written for mercury mines, not for precious metal mines and they were written in the early 1970s. This bill is a great step forward.

Leonard Bruce Hawk, Private Citizen, Battle Mountain, Nevada:

I am on disability. I do not work at a mine, but I fish a great deal. I have mercury poisoning. There is no way to prove it, but I believe the poisoning came from fish. I am glad that everyone is supporting this bill.

Chair Ocegüera:

Thank you for coming to testify.

John Mauldin, Private Citizen, Battle Mountain, Nevada:

I was asked by the Great Basin Mine Watch to come and talk to you. I have had very severe mercury poisoning since 1998. It took, literally, 7 years to diagnosis it. It has been very difficult to treat. I know for a fact that fish is the source of my poisoning. I have three other family members, who consume fish three to four times a week who have tested positive. My daughter, who does not eat fish, has no poisoning. I work at a coal-fired power plant and I had co-workers tested. They were all negative.

There has not been a lot of information about this problem. The reason I am here is because I do not want to see anyone else have to go through what I have had to endure for the last ten years. There needs to be more posting and more testing.

Chair Ocegüera:

Thank you. We appreciate you coming and testifying. Are there any questions? I do not see any. Are there others wishing to testify on A.B. 115?

Warren Russell, Commissioner, Elko County Commission, Nevada:

I represent a region in the State of Nevada that has mining. Most people in my county are employed in mining. We also recreate there so the impact of mercury would be significant. I came prepared to oppose this bill until I was informed of the amendments and I would like to change that position to support of the amended bill. As others have mentioned, I appreciate the hard work by Assemblywoman Leslie.

Chair Ocegüera:

Are there any questions for Mr. Russell? I see none. Are there any others wishing to testify in favor, against, or in the neutral on A.B. 115? I see none.

Ms. Erdoes, can you work with Mr. Ziegler for a mock up on this and add the transitory language that Ms. Leslie has suggested? When we receive that we can move forward with this bill.

Brenda Erdoes:

Yes.

Chair Ocegueda:

We will close the hearing on A.B. 115.

We will open the hearing on Assembly Bill 286.

Assembly Bill 286: Exempts certain health insurers from provisions governing the denial of claims and the cancellation of or refusal to issue a policy or contract of health insurance. (BDR 57-990)

Assemblywoman Sheila Leslie, Assembly District No. 27:

This is a clean-up bill to address unforeseen consequences as a result of a bill last session, Assembly Bill No. 63 from the 73rd Legislative Session. The intent of that bill was to allow emergency room doctors to be able to refer people who came in with alcohol related injuries, to substance abuse treatment and be assured that the insurance companies would pay. We discovered that we had also included not only medical insurers, but disability, long-term care, and supplemental insurance agencies. Mr. Hillerby asked if I would submit a bill and allow him to bring this issue to the Committee's attention. This is what I have done.

Fred Hillerby, representing American Council of Life Insurers:

In some long discussions with Ms. Erdoes, I think we have a long-term solution for this confusion. We have committed with Ms. Erdoes and the sponsor of this bill that we will work with the Insurance Division and come back. We want to remove disability income and long-term care from the general health insurance, because they are really different. Those types of coverage are actually asset protection, not health insurance. They represent a very defined benefit.

Personally, I have a history of back problems and that is excluded from my disability insurance coverage. The same analogy would apply to injuries or illnesses that arise out of alcohol or substance abuse. The ability of the insurer to exclude that from coverage allows them to issue the policy. This was not what we dealt with during the 2005 Legislative Session. We want to distinguish disability income and long-term care. I will introduce my expert, Mr. Mangan.

John Mangan, Regional Vice President, American Council of Life Insurers:

Thank you for the opportunity to speak in support of A.B. 286. We do believe that the original legislation was not intended to affect our coverages. None of the coverages we are talking about here provide reimbursement for medical expenses. They do not pay providers for treatment of an injury. What they do, is provide financial protection to individuals, small business owners, and employers for their employees. They pay cash benefits to those people. Much like life insurance, these products need to be underwritten. That means the risk needs to be assessed each time a person purchases them. We want to make sure we make a fair and accurate pricing decision at the point of sale. We look at current health status, at smoking, and the danger of a person's occupation, to determine the cost. It is very difficult, in advance, to make a decision on a disability risk for people who may, in the future, chose to use or abuse alcohol or drugs. That is why we have tended to use an exclusion in policies as a way to address that potential risk. Again, it is not something we can predict. It could happen to any individual who makes that choice. The exclusion then allows us to provide the coverage at a fair and lower price. Our coverages are generally guaranteed, so once you purchase them, they are yours for a long period of time. We could end up paying out hundreds of thousands or millions of dollars for these claims. The use of an exclusion seems like a fair and reasonable way to address the risk. We also offer options to consumers, if they want to pay more, that they can actually have a contract that does not have the exclusion. Our contracts are fully regulated by the Commissioner in Nevada so we feel that people are on notice of what is in their contract.

For those reasons, we think taking these contracts out of the impact of the original legislation makes sense. We urge your approval of the bill. [Submitted a written statement, ([Exhibit G](#)).]

Chair Ocegura:

Are there any questions? Are there others wishing to testify in support of this bill? I see none. Are there others wishing to testify in opposition? I see none. I will entertain a motion.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS
ASSEMBLY BILL 286.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ALLEN, BUCKLEY AND
SETTELMAYER WERE NOT PRESENT FOR THE VOTE)

Chair Ocegüera:

We will close the hearing on A.B. 286.

We will open the hearing on Assembly Bill 294.

Assembly Bill 294: Revises provisions governing the testing of certain governmental employees who may have been exposed to a contagious disease while performing their official duties. (BDR 40-1274)

Assemblyman Mo Denis, Assembly District No. 28:

This bill comes before you because of an omission of some individuals in this part of the law. We have someone in Las Vegas to testify about this. We also have some amendments to offer.

John Fudenberg, Assistant Coroner, Clark County Coroner's Office, Nevada:

This bill accomplishes three things. Staff members of various coroner/medical examiners are routinely exposed to bodily fluids and the proposed changes are critical for the protection of those staff members. The first thing it does is allow for the coroner/medical examiner staff members to be added to *Nevada Revised Statutes* (NRS) 441A.195. This addition will afford them the ability to petition the court when they are exposed to a contagious disease. Secondly, this bill allows for a coroner/medical examiner office to draw blood from a decedent and test that specimen for the outlined contagious diseases. Finally, once we have those results, it allows us, as coroner/medical examiners offices, to release those results to the appropriate agencies such as law enforcement agencies, emergency medical specialists personnel, and firefighters.

The amendment concerns Section 1, subsection 3(b), on the top of page 3 ([Exhibit H](#)). We would like to add hepatitis C and tuberculosis to line 3.

Assemblyman Mo Denis:

In addition to that, I see that there are several references to contagious diseases in this bill and we need to change the wording in all those areas. For instance, on page 2, lines 10 and 11, also lines 38-39. The intent would be to fix it anywhere they mention diseases.

Chair Ocegüera:

I understand. It seems like this would be consistent with the other bills we have passed in the past, adding hepatitis and tuberculosis. Just from my personal experience, it has been difficult to get those results for employees who work for me, when the person is deceased. This would clarify the law to allow the coroner to notify people.

Assemblyman Anderson:

I presume this is a conceptual amendment to make sure that we are consistent by including the hepatitis and tuberculosis, but that you are not going to change the language of who is allowed to draw the blood for testing. Is this in addition?

John Fudenberg:

That is correct; this is in addition, if I understand the question correctly.

Assemblyman Mabey:

How do you test for tuberculosis on a person who is deceased?

John Fudenberg:

We have toxicology labs that we contract with who can perform those tests.

Chair Ocegüera:

Are there further questions from the Committee? I see none. Are there others wishing to testify in favor of A.B. 294?

Brian O'Callaghan, Detective, Office Intergovernmental Services, Las Vegas Metropolitan Police Department, representing Nevada Sheriffs' and Chiefs' Association:

We are in full support of this legislation.

Oran McMichael, representing American Federation of State, County and Municipal Employees (AFSCME), Nevada:

We are in support of the legislation except we would like to see the language expanded to include all public employees who might come into contact with these contagious diseases. As the bill is currently written, it is limited to correctional and law enforcement. Our Forestry Service people supervise inmates during forestry details and can be exposed to these diseases. Our road crews from the Nevada Department of Transportation (NDOT) who might happen upon an accident or have to serve the public could also be exposed. We would like to see the language changed to include other public employees and not restricted to just correctional or law enforcement employees.

Chair Ocegüera:

Did you have the opportunity to speak with Mr. Denis about this?

Oran McMichael:

Yes.

Chair Oceguela:

Are there questions from the Committee?

Assemblyman Anderson:

Your concern rests with the striking of "or any other employee?"

Oran McMichael:

Yes.

Assemblyman Anderson:

And the retention of that language?

Oran McMichael:

Yes, and the retention of that language. On page 2, it would require retaining the language at line 4, possibly striking just "agency of criminal justice," and also on line 14. On page 3, line 26 retaining the language and striking the "criminal justice" language on line 27.

Assemblyman Anderson:

If we strike the reference to criminal justice, then it would be open to all public employees.

Oran McMichael:

Yes, sir.

Assemblyman Anderson:

That is a much broader circle of individuals.

Oran McMichael:

I think that would be inclusive of any public employee who would be subject to these contagious diseases.

Chair Oceguela:

Are there any other questions? I see none. Ms. Erdoes, I am wondering if this could be drafted so that it would not open it up to the general public.

Brenda Erdoes:

Yes, Mr. Chairman, I think we could come up with something that would work for them and get the disclosure they want but not open it up to the general public.

Assemblyman Conklin:

I am wondering if, on line 6 where it says "employed by an agency of criminal justice" if there might be some other status where you could say "employed by or contracted by." Otherwise, you are really expanding the coverage.

Chair Ocegüera:

I understand where AFSCME is trying to go. There is the road worker who picks up the bloody mess on the road. I just do not want it to go too far. We will work on it.

Are there other questions? I see none. Are there others wishing to testify in favor or in opposition to this bill? I see none. I will entertain a motion.

Assemblyman Anderson:

I want to disclose the fact that I have two daughters who would be covered under this bill, but that they would not be affected any differently than other employees in similar status.

Assemblyman Settlemeyer:

I would like to disclose that my sister works for the State of Nevada and may or may not fall under this policy. She would not be affected any differently than anyone else.

Chair Ocegüera:

I would also like to disclose that I am a full-time firefighter and I may or may not be covered under this bill, but would not be affected any differently than anyone else.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 294.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN ALLEN AND
BUCKLEY WERE NOT PRESENT FOR THE VOTE.)

Chair Ocegüera:

We will close the hearing on A.B. 294.

[There was a 12 minute recess.]

We will open the meeting on Assembly Bill 349.

Assembly Bill 349: Revises provisions governing the Commission on Economic Development. (BDR 18-999)

Assemblyman John Carpenter, Assembly District No. 33:

I have people here to testify on Assembly Bill 349.

Elaine Barkdull Spencer, Executive Director, Elko County Economic Diversification Authority, Nevada:

During the last session, this bill originated as a mining-dependent community's bill and that bill supported the Northeastern Nevada Regional Rail Port in Elko County. I want to thank you for providing the \$1 million towards the Northeastern Nevada Regional Rail Port. It is a 56 acre "transload" facility, the largest in Nevada. I am happy to report that it is now in the design phase and will soon go into the construction phase thanks to the \$1 million that came from the Nevada State Legislature two years ago, the financial support of Elko County, and also Union Pacific. This project is well-known and well-supported and is going to put us on the map. In fact, we have already had quite a few successes. We will sell 44 acres of the industrial park to a company on Wednesday. It is a diversified company that is not dependent on mining.

We are here today to reintroduce the mining-dependent communities bill for \$1 million. There are five counties within our State where the majority of the jobs within those counties are mining related. Those towns are both blessed and cursed. Mining is a finite resource and does not last forever. There are smaller mining communities within the center of our State that, when mining goes away, will have to become historical mining towns seeking the tourism dollars. There are those communities along Interstate 80 that are very fortunate. They sit on Interstate 80, they have rail access, and they have available resources and a skilled workforce, thanks to the mines. There are electricians, welders, diesel mechanics, and computer technicians.

The west is growing rapidly; most of the growth in Nevada is on the western side of our State. Reno and Las Vegas have benefited greatly from being in close proximity to California. Those of us on the eastern side of the State are not growing as rapidly. The growth now is spilling over to Lyon, Douglas, and Storey Counties. Manufacturing and diversified types of industry are coming to the west and they are coming quickly.

Those of us in mining-dependent communities have some great assets. One of my jobs is planning for the future. The Elko County Economic Diversification Authority (ECEDA) includes the County, and the incorporated cities of Wells, Carlin and Elko. Those on our Board include the college, the hospital, the

utilities, but our strongest supporters are the mines. The mines are there because they understand that mining is finite. They will not be with us forever.

We have a goal within ECEDA to develop a thousand acres of shovel-ready property. Shovel-ready means close proximity to a highway, available resources, and that a company could turn dirt within 18-24 months.

Mining-dependent communities are not without vision. The Rail Port did not come to us, the "transload" facility idea actually originated from my office. We brought it to the County, we brought it to Lieutenant Governor Hunt, we had other visitors in our community, and I talked to everybody who would take the time to listen. We had Be-Be Adams represent us and explain to all the representatives that Elko was doing this great project. It has become a reality. We are building a large industrial park and a huge "transload" facility and a lot of that success has to do with the support from the State of Nevada.

When completed, it will represent an investment of \$11 million, of which \$1 million came from the State of Nevada. That was a great investment for this State. It is going to pay off; it will pay off quite a bit. Last session \$3 million was spent on rural infrastructure. That was a one-time funding. I am here to ask you to either renew additional funding for rural infrastructure, or look to this bill that is directed toward mining-dependent communities.

Elko, Carlin, Winnemucca and Lovelock do not qualify for economic development funds. You have to be at the poverty level or else you are on your own. Community Development Block Grants that are offered within our State are hard to get because our area has moderate to high-income levels. When the times are good, we do well, but when mining starts to slow it scares us. That is why diversification is our goal. Our vision for Elko County is to prepare the land and market it to diversified industries. We have found matches. We know which companies match our skill base and will come to Elko. Elko is a small city with a lot of opportunity.

The bill that you see will benefit Winnemucca, Carlin, Battle Mountain, Lovelock, Eureka, Ely, and even Wells. Assembly Bill 349 is offered to communities that are mining-dependent, if they are willing to invest in a feasibility study to prove that their project is worthwhile, and they are willing to do a 200 percent match of funds. That means the community would have to come up with at least \$2 million in order to get \$1 million. They are investing in their own community.

The feasibility study is an add-on. That study will show that the project is viable, that they have gone to a professional that said they could get the

resources, that they have the land shovel-ready, and that industrial parks fits their area. Not all areas are fit for industrial development.

The \$1 million site preparation funds are the most logical source for preparing a site, making roads, or bringing road access to the site. Money could also be used for flood prevention or for land acquisition if the community is willing to spend their resources on preparing the site.

Nevada needs communities that are shovel-ready. We need to prepare now, we cannot wait. I ask the State to support us.

Chair Ocegüera:

I want to point out that we are only discussing the policy part of this bill, not the fiscal part. Thank you for the background. Are there any questions from the Committee? I see none.

Warren Russell, Commissioner, Elko County Commission, Nevada:

I would like to also thank you for approving the \$1 million two years ago. With the funds that Elko County put with it, approximately \$2 million to start, we were able to get this project started. There are a lot of enterprise and entrepreneurship-type business activities that can occur in small communities. Elko County is doing that in a variety of ways, but there are also medium to larger-sized projects that require infrastructure. This money provides the financing for the infrastructure for our communities. Once the infrastructure is in place, then the possibilities of those medium and larger-sized projects are possible. That is what we are seeing happen right now.

This bill would continue to assist us in accomplishing those tasks and providing for diversification. We want to be prepared so we have a positive picture in economics. You can help our County and other counties that are dependent upon the fluctuations of mining. We would welcome the members of this Committee to come to Elko County and see what the money has done for us.

Chair Ocegüera:

Are there any questions, comments or concerns? I do not see any.

Assemblyman John Carpenter:

Economic development does not come easy to rural Nevada, especially rural eastern Nevada. For years we tried to get economic development in Elko. We finally decided that we had to use what we had there. We had great assets in the railroad and the Interstate. Thanks to Elaine Barkdull Spencer, who came up with the idea of the Rail Port, we were able to finally get economic development that is going to work. In rural Nevada we have hit on economic development

that works. This bill would give impetus to other communities to make a commitment. I ask this Committee to pass this bill onto Ways and Means where, hopefully it will not die. Thank you.

Chair Oceguela:

Are there any questions from the Committee? I see none. Are there others wishing to testify in favor, in opposition, or in the neutral? I see none. We will close the hearing on A.B. 349.

Thank you, Committee for your hard work. We may need another evening session, we are scheduling hearings now.

[The meeting was adjourned at 2:44 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

APPROVED BY:

Assemblyman John Oceguela, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 26, 2007

Time of Meeting: 1:11 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AB 115	C	Assemblywoman Leslie	Two Amendments
AB 115	D	Division of Environmental Protection	Proposed Amended Language
AB 115	E	Division of Environmental Protection	Overview Presentation
AB 115	F	Steve Robinson	Written testimony
AB 286	G	John Mangan	Written testimony
AB 294	H	Clark County, Nevada	Proposed Amendment