

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fourth Session
May 18, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:24 a.m., on Friday, May 18, 2007, in Room 3138 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 Bernie Anderson, Chairman
Assemblyman William Horne, Vice Chairman
Assemblywoman Francis Allen
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

GUEST LEGISLATORS PRESENT:

Steven A. Horsford, Clark County Senatorial District No. 4

Minutes ID: 1323



STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Risa Lang, Committee Counsel
Janie Novi, Committee Secretary
Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Bob Maddox, representing Community Associations Institute, Legislative Action Committee; and Nevada Trial Lawyers Association

Chairman Anderson:

[Roll was called.]

We are going to turn to our work session document today. Let us start with Senate Bill 237 (1st Reprint).

Senate Bill 237 (1st Reprint): Revises certain provisions governing permits to carry concealed firearms. (BDR 15-47)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 237 (R1) ([Exhibit C](#)) was presented by Senator Lee on May 9th. The bill provides reciprocity for permits to carry concealed weapons from states that meet certain qualifying requirements. There was no opposition testimony presented. The Committee has one amendment to consider which would disallow semiautomatic weapons from becoming a category of weapons and would instead keep the current requirement to list and qualify on each individual semiautomatic weapon. The amendment does not affect the category of firearm for revolvers.

Chairman Anderson:

I have discussed this amendment with many legislators and believe that with this amendment, we can move forward with the bill and thus give some people who want to come to the State of Nevada to participate in certain revolver competitions the opportunity to do so.

Assemblyman Carpenter:

This amendment that you came up with is a very good compromise and should satisfy the people who want reciprocity and it also takes care of the safety concerns. I support this compromise.

Chairman Anderson:

I am always amazed that we come across people who want to carry more than ten weapons; however, I agree that with this compromise we can move forward.

Assemblyman Cobb:

I am pleased we are going to move this bill forward and I think we both share a respect for firearms and for any individual who wishes to take the test and training to carry a concealed firearm. This will make us a safer state and encourage tourism as well.

Assemblyman Manendo:

Thank you to the Chairman, Assemblyman Carpenter, and all of the others for working on this legislation. I also support this amendment.

ASSEMBLYMAN CARPENTER MOTIONED TO AMEND AND DO PASS
SENATE BILL 237 (R1).

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:

Assemblyman Carpenter will take care of the floor statement.

Next we will turn to Senate Bill 354 (1st Reprint).

Senate Bill 354 (1st Reprint): Makes various changes to provisions relating to the safety of children. (BDR 15- 1062)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 354 (R1) ([Exhibit D](#)) was presented by Senator Horsford on May 9th. This bill amends the provisions related to possession of firearms on school property among other things. During the hearing an amendment was presented by Assemblywoman Smith to include child-care facilities to the list of places where possession of firearms is prohibited. Based on concerns about child care in a private residence and whether it would prohibit the homeowner from having a gun, a subsequent amendment is presented to carve out home-based child-care facilities. There is a potential conflict between the provisions of this bill regarding jurisdiction of school police and provisions of S.B. 534 on General File on the Floor of the Assembly on the same topic. We may need to deal with that issue. The mock-up that is attached to the work session document is the document presented during the hearing on this issue and does not reflect the

potential amendment that is discussed in the work session document. This mock-up is more illustrative than substantive.

Chairman Anderson:

We are concerned about coming up with some language to make sure that we protect the child care facilities as well as clarify the questions in S.B. 534. That was not a bill that came from our Committee, but out of the Education Committee. We also need to consider school police officers. We may have a conflict and I would rather resolve it now than have to go through the conflict-resolution process.

Risa Lang, Committee Counsel:

Senate Bill 534, which is still on General File, makes a similar change to another statute as Section 8, subsection 2 of this bill. Consequently, because they make similar changes but in different places of the *Nevada Revised Statutes* (NRS), they would probably present a conflict that would need to be resolved if both pieces of legislation moved forward. If it is the Committee's desire, we could resolve that now to avoid having to do a conflict amendment later. The easiest way would be to remove Section 8 and put the changes from that section into the section of S.B. 534 where the similar changes are being made. Essentially we would combine the sections that are similar and then add the changes from subsection 1 over to 391.275 of NRS.

Chairman Anderson:

Senator Horsford, you may not be familiar with S.B. 534 but it is from the Education Committee. Would there be a problem with trying to resolve that conflict by removing Section 8?

Steven A. Horsford, Clark County Senatorial District No. 4:

That would be fine. I am familiar with the bill. The language is similar and I remember the hearing on it and supported S.B. 534.

ASSEMBLYMAN HORNE MOTIONED TO AMEND AND DO PASS
SENATE BILL 354.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblywoman Gerhardt:

I am concerned with the exclusion of child-care facilities and the idea that we are going to say that guns can be in those places; however, I am going to support the bill so that it moves along.

Chairman Anderson:

Ms. Lang, could you clarify the responsibilities of a home child care facility? Is there some safeguard in statute that says guns must be locked up or some other form of protection?

Risa Lang:

I am not sure that there is currently any statute regarding child-care facilities, other than civil liability for not maintaining things in an appropriate fashion. What this does is maintain the current law concerning child-care facilities and applies a restriction on carrying a weapon into a separate facility.

Chairman Anderson:

So there are health-care requirements for home child-care facilities, which might provide an opportunity for this issue, but not statutorily in this area.

Assemblywoman Gerhardt:

That increases my comfort a little, but we will probably address the issue next session.

Jennifer Chisel:

There are regulations in place, not necessarily in statute. There are regulations in place for child-care facilities and that includes a requirement to inspect the facility at least twice a year. Also, there is a requirement to be licensed. These are found in the Nevada Administrative Code (NAC).

Assemblywoman Gerhardt:

I have no intention of prohibiting individuals from having firearms. I believe that when you have children in your home who may not have been trained by their parents on how to be around firearms safely, there needs to be some type of requirement to have those weapons secured. It sounds to me as if the law is silent on that issue.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:

The floor assignment will go to Assemblyman Horne.

Let us turn our attention to Senate Bill 243.

Senate Bill 243: Requires an affidavit and a report in an action against certain design professionals involving nonresidential construction. (BDR 2-695)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 243 (Exhibit E) was presented on behalf of the American Council of Engineering Companies. The Committee briefly discussed this measure during yesterday's work session. The bill would require that in order for a claim against a design professional in a nonresidential construction project to move forward, an expert must attest that the claim has a reasonable basis in fact and law. Current law requires a similar affidavit for residential construction defect cases. There was opposition from the construction industry but there are no amendments to consider.

Chairman Anderson:

The question really revolves around the complicated nature of commercial construction. Since the design professional is involved in an ongoing basis, should another design professional be involved in making the determination as to whether there was a legitimate case?

ASSEMBLYMAN HORNE MOTIONED TO DO PASS SENATE BILL 243.

ASSEMBLYMAN COBB SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Cobb will take care of this bill on the Floor. Next we will go to Senate Bill 157 (1st Reprint).

Senate Bill 157 (1st Reprint): Revises provisions governing the appointment of a public guardian and the management of the office and cases of a public guardian. (BDR 20-272)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 157 (R1) (Exhibit F) was presented to the Committee on May 9 by Senator Mathews. The measure makes various changes to the provisions related to public guardians. Opposition testimony came from the private professional guardians who proposed the first four amendments for the Committee to consider. The first removes the exclusion of Clark and Washoe Counties from those counties that allow the public guardian to contract with a private professional guardian. The second amendment would restore the existing statutory language to require that a person have insufficient assets to hire a private guardian as a requirement to obtain a public guardian and require that all three criteria be present. They also want Sections 5 and 6 deleted which are choices 3 and 4 in the work session document, regarding the service of process on the public guardian. An additional amendment was presented by Laura Miles on behalf of the public guardians to require that a person is a county

resident and has no one willing to serve as a guardian to qualify for the services of a public guardian. You will find that amendment on page 6 of your work session document. For voting purposes in this case, the Committee would have to make a choice between amendment number 5 and amendment number 2 because they are mutually exclusive.

Chairman Anderson:

The Chair likes number 5. I am not pleased with what happened with the guardianship bill that we sent out of this House. People promised they would work out a compromise, but when the bill got to the Senate they backed out of that promise. I thought seriously about adding all of the compromised language back into this bill, but it would potentially harm Senator Mathews' bill. Amendment number 5 in the work session document which changes an "or" to an "and" will take care of some of the issues we are concerned about.

Assemblyman Carpenter:

I agree that amendment number 5 is the way to go. I liked this bill when I read it, especially having some experience as a county commissioner.

ASSEMBLYMAN HORNE MOTIONED TO AMEND AND DO PASS
SENATE BILL 157 (R1).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:

The floor assignment for this bill will go to Assemblyman Segerblom.
Let us take a look at Senate Joint Resolution No. 2.

Senate Joint Resolution No. 2: Proposes to amend the Nevada Constitution to
revise provisions relating to the selection of justices and judges.
(BDR C-177)

Jennifer Chisel, Committee Policy Analyst:

Senate Joint Resolution No. 2 ([Exhibit G](#)) was presented by Senator Raggio on May 1st. This measure amends the method that judges and justices are selected in Nevada. The provisions are based on a modified "Missouri Plan." In this plan, the initial appointment is made by the Governor from a list of candidates chosen by the Commission on Judicial Selection. For a judge to be retained he must stand in a retention election and receive at least 60 percent of the vote. This measure must be approved in identical form during the 2009 Legislative Session and then be submitted to the voters for approval in the 2010

general election. As Chairman Anderson mentioned, there was a lengthy hearing with substantial testimony both in favor and in opposition of this measure. The Committee has no amendments to consider.

Chairman Anderson:

There is some level of comfort in knowing that this measure has to go through the legislative process and to the voters. I prefer voter selection and I do not think it is going to change the behavior of judges. My favorite political philosopher and maybe my favorite president is Thomas Jefferson. He maintained that if the public made poor choices, it was their responsibility and that no one should take away their opportunity to vote. On that philosophy, I will not support the legislation.

Assemblyman Carpenter:

I have the most respect and admiration for Senator Raggio; I cannot support this measure because it takes away the right of the people to choose and to vote and puts too much power in the hands of the Governor. I will not be supporting the measure.

Assemblywoman Allen:

While I have been quite vocal in the past in this Committee in regards to the need to select judges rather than elect them to remove the monetary contribution portion of becoming a judge, I am not happy with the proposed resolution as it is drafted. The 60 percent requirement concerns me. I feel torn, but have decided to vote no.

Assemblyman Ohrenschall:

As I look at the resolution, the appointed judge would then have to run for retention election and there was no guarantee that the judge would not then fundraise for that retention election to get the 60 percent vote for retention. I do not see S.J.R. 2 taking money out of judicial selection and retention. I concur with my colleague from Summerlin.

Assemblyman Cobb:

I personally believe that judges should be appointed and we should try to take the money out of the system. It is an unseemly process for a judge to have to go and ask for money from the people who then appear before that judge. I do not mean to impugn any of the judges that currently sit on the bench, but it is a process where we should be taking the money out of the system. This may not be a perfect resolution to that, but it will help maintain a good and independent judiciary. Furthermore, I will vote for this measure to put it on the ballot so that the people can choose for themselves whether or not they wish to have judges appointed or they wish to elect them.

Assemblywoman Gerhardt:

I have to agree with my colleague; this really needs to go to a vote of the people. They need to be the ones to decide, and in that spirit I will be supporting the bill.

ASSEMBLYMAN CONKLIN MOTIONED TO DO PASS
SENATE JOINT RESOLUTION NO. 2.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION FAILED. (ASSEMBLYMEN ALLEN, ANDERSON, CARPENTER, GOEDHART, HORNE, MABEY, MANENDO, OCEGUERA, AND OHRENSCHALL VOTED NO. ASSEMBLYMEN COBB, CONKLIN, GERHARDT, MORTENSON, AND SEGERBLOM VOTED YES.)

Chairman Anderson:

Moving on, I would suggest that we amend Senate Bill 202 (1st Reprint) ([Exhibit H](#)) to include some things. Ms. Chisel, could you explain.

Senate Bill 202 (1st Reprint): Makes various changes relating to domestic relations. (BDR 11-215)

Jennifer Chisel, Committee Policy Analyst:

This was Senator Washington's bill to codify common law factors that a court must consider when determining an award of alimony. There were concerns raised on behalf of the Nevada Network Against Domestic Violence which were resolved with an amendment that was submitted by P. K. O'Neill of the Records and Technology Division. The Committee heard testimony that the amendment was worked out and supported by all the parties involved. This bill is substantially similar to Assemblyman Carpenter's Assembly Bill 52 which the Senate Judiciary Committee did Amend and Do Pass. However, it has not been reported out of the Committee yet.

Chairman Anderson:

I suggest that we Amend and Do Pass S.B. 202 (R1) to include Assemblyman Carpenter's name and, in addition, the amendments proposed here, while we wait and see what happens with the other bill. If Assemblyman Carpenter's bill comes to us in an acceptable format then we will have a clean bill and will concur with the amendments that were made there. If there are additional amendments that are placed into it, we will not concur. Then we will leave this measure to solve the issue.

Assemblyman Manendo:

In one section of this piece of legislation, there is a list of things the court can consider in determining whether alimony should be awarded. Would the Committee consider adding acts of domestic violence to that category?

Chairman Anderson:

That is an issue you raised in another piece of legislation, and while we find that important, we want to concentrate on getting this bill through so we only end up with two conference committees. If Assemblyman Carpenter's bill comes back in proper form, we will not need to use this bill as a vehicle. I do not know if we could accomplish what you want in the long run.

ASSEMBLYWOMAN GERHARDT MOTIONED TO AMEND AND DO
PASS SENATE BILL 202 (R1).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

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

We have two bills left on our work session document; they both deal with the same general topic. They are Senate Bill 235 (R1) and Senate Bill 436 (R1). Does the Committee have an appetite for S.B. 235 (R1)? Is there a reason to take up the issue or should we leave it alone? According to the balloting you were pretty well divided.

Senate Bill 235 (1st Reprint): Makes various changes concerning homeowners' associations. (BDR 10-681)

Jennifer Chisel, Committee Policy Analyst:

The Committee heard S.B. 235 (R1) ([Exhibit I](#)) on May 8th as presented by Senator Beers. This bill seeks to eliminate the delegate voting system in common-interest communities that are no longer in control of the declarant. There was some confusion regarding the method to transition away from delegate voting for those communities that currently use that system as outlined by Bob Maddox. He suggested a method of transition be outlined. Also, Senator Beers suggested that if the district voting system proposed in the bill was too complicated, especially for that transition period, that voting at large can be included as an option. Finally, an amendment was presented to change the effective date to give common-interest communities sufficient time to make that transition, and they can come up with their own method in that two-year period. There was an additional amendment submitted by Karen Dennison to provide for delegate voting in a time-share condominium

project. For the Committees clarity, Karen Dennison's amendment is amendment number 1 in the work session document, the proposal from Bob Maddox to provide a transition method is in number 2, number 3 is Senator Beers's proposal, and number 4 was proposed to change the effective date.

Assemblywoman Allen:

When we heard this bill, I indicated concern that this Committee has already acted on the delegate voting issue. I feel we came to a very good compromise. Everybody was on board including the Howard Hughes folks. Delegate voting would be prohibited in the specific instance of electing board members. I think that is the crux of what we need to get to. I am still concerned whether or not this is in conflict with what we did earlier. The creation of districts and other issues are all secondary as long as the delegate voting is not used for the election of board members.

Assemblywoman Gerhardt:

I really think that I made my concerns pretty clear when we heard the bill. There is very little that I like about this bill. I have concerns about the parking issues.

Chairman Anderson:

That is the other bill.

Assemblywoman Gerhardt:

I feel the same way about both of them. I will not be supporting this bill.

Chairman Anderson:

It looks as if we are rejecting the concepts of S.B. 235 (R1). If nobody wants to make a motion, we will then turn our attention to Senate Bill 436 (R1).

Senate Bill 436 (1st Reprint): Makes various changes to the provisions governing common-interest communities. (BDR 10-234)

Jennifer Chisel, Committee Policy Analyst:

Senate Bill 436 (R1) ([Exhibit J](#)) makes various changes to the common-interest community provisions. As the Chair stated, this measure came from the Senate Committee on Commerce and Labor and was presented primarily by Michael Buckley on behalf of the Commission for Common-Interest Communities. As the Committee probably recalls, there was substantial testimony during both hearings on this measure and there are several amendments that were presented. I have attempted to organize those amendments in a way that may make it easier to go through.

Chairman Anderson:

There are parts of this bill that I think would be very important to pass. However, I am terribly concerned about the fiduciary responsibility and making sure that Section 11 of this bill is retained and possibly put into effect. Sections 12 through 21 have some strong points in them. Section 15 may not be necessary. Section 8 deals with the amount of reserve available for five years. Ms. Chisel, can you take us through the choices?

Jennifer Chisel:

The first sections that I have laid out for you are Sections 1 and 21.5 that deal with the use of solar and wind power. The bill would place the burden on the property owner to show that a restriction on the use of solar or wind power causes a significant reduction in efficiency defined as greater than 20 percent. The Committee heard testimony from Karen Dennison who supported the provision as written in the bill. We also heard from Kyle Davis on behalf of the Nevada Conservation League, and Joe Johnson on behalf of the Sierra Club who opposed the 20 percent provision and had proposed an amendment to reduce that 20 percent number to 5 percent. You will see that there is an alternative amendment listed at number 2 which was suggested by a few of the Committee members, and Assemblywoman Gerhardt specifically suggested that it be included in the work session document because putting the burden on the homeowner to prove the inefficiency seemed unfair. This amendment in concept would delete the language of "unreasonably" from page 3, line 5, in Section 1 and then in Section 21.5 it would be page 29 at line 7. Additionally, it would delete subsections 2 and 3 from Section 1. Those deal with the significant decrease, and again in Section 21.5 it would delete subsections 3 and 4. That way there will be no restriction on the use of solar power as outlined in the provisions.

Assemblywoman Allen:

Those of us who sit on the Commerce and Labor Committee know very well that our State's energy portfolio and our need for green sources of power is significant. Not only that, but we have passed a significant piece of legislation in net metering, allowing folks to essentially sell back their unused power to the power companies. Therefore, this seems to be a good marriage to allow folks to have solar panels so that they can have energy efficiency in their homes and sell that back to the power company if they have excess.

Chairman Anderson:

If we are going to move forward, you would prefer choice number 2?

Assemblywoman Allen:

Yes.

Assemblyman Mabey:

If the second amendment passed, would that mean that the homeowner could use any type of solar panel? I am concerned about how that would look.

Chairman Anderson:

That is one of the issues. If you are several miles away and you have a view of the golf course and it is distracted because a neighbor half a mile away has a solar panel on their home, their view is not disrupted, but yours is. This is a common argument regarding the solar panels. The Sierra Club raised the point of the value that is gained from having the solar panels.

Assemblyman Mabey:

The people who move into these homeowners' associations know there are rules. People want certain aesthetics and I think there needs to be a compromise. I am not an expert, so I cannot say if lowering the level to 5 percent makes a difference.

Assemblyman Ocegüera:

There are a lot of items to cut on this bill. I can see that you are trying to go step by step, but there is a lot of bad stuff in this bill. We should keep the emergency vehicle part, the prohibition on radar guns, keep the solar panels and make sure that Ms. Allen's bill from last session about basketball hoops survives. If those four things happen I could support the bill and the rest could go away as far as I am concerned.

Chairman Anderson:

My concern remains with the impound balance. I want that to be fairly addressed. It is important to amend the provisions in Section 11 to make it effective on July 1, 2007.

Assemblyman Horne:

I concur with Mr. Ocegüera and his concept of the problems and what we are trying to accomplish. I also agree with you Mr. Chairman about Section 11.

Jennifer Chisel:

If it would be helpful, I can give a very brief description of what the section does, and then those that interest the Committee can be discussed.

You will see on page 2 of the work session document at the top, Section 1.4. This is the section that deals with restricting the use of motorcycles within the common-interest communities and this section would prohibit that restriction. Section 1.6 is the radar gun provision and the amendments proposed there are to either delete that section or replace it with the language proposed by the

ArrowCreek folks. Section 1.8 relates to governing documents and violations of members and nonmembers and the fines that result in those violations. Subsection 1.8 regards the fines, and there are three amendments proposed there. Section 2 relates to payment of fines and the allocation between fines and assessments. Section 3 deals with the election of board members and it allows the common-interest community to send out ballots only if the number of candidates is greater than the number of seats to fill. Section 4 deals with requiring the declarant to pay for a final audit prepared at the end of the period of declarant control. Section 5 speaks to the timing for a converted building reserve deficit. Section 6 talks about allowing the board to meet every 100 days at least quarterly and provides that the executive board meeting in executive session only need provide notice to those homeowners that may be discussed within that meeting. Otherwise, notice of those executive sessions does not need to be made to the entire common-interest community.

Section 7 deals with the reserve funding and this authorizes a board to establish adequate reserves based on a study provided by a reserve study specialist but without the approval of the homeowners. On page 4, we have Section 8 and this is again reserve funding. This was one of the sections that everyone opposed. The section specifies that the reserves are deemed adequately funded if there is either: (1) the amount of reserves meets or exceeds the amount on the funding plan; or (2) the amount available for the next five years is sufficient. This was the paragraph that there was substantial opposition to and the request was to delete subparagraph 2 on page 17 at line 6 through 8.

Next we have Section 9 which deals with the records of a common-interest community. It requires that most records be provided to the homeowners upon request; however there are a couple of exceptions when a record has not been approved by the board. Those records do not need to be submitted or turned over to a homeowner who requests them. There was an amendment on that section to add the word "acceptance or approval" because not all documents are actually approved by a board.

In Section 10, it talks about the emergency response vehicles. There is the 12,000-pound limit and the people from Southwest Gas and other utility companies would like that raised to 20,000 lbs. to account for all of the types of vehicles that are sent home with an employee. There was also the definition of "commercial motor vehicle" that was another issue.

Section 11 expands the list of financial institutions qualified to accept escrow. This is a section that the Chairman thinks is an important one because there is a temporary regulation in place that will expire on July 1 and this provision would replace that section.

We have Sections 12, 13, 14 and then 16 through 21 and these provisions talk about registration of reserve study specialists rather than licensing of those reserve study specialists. There was testimony from Michael Buckley that indicated that these were pretty important provisions as well. That way they can deal with the certification of the reserve specialists.

Lastly, we have Section 15 which deals with the employment of unlicensed community managers and there was a request to delete one of those provisions that allowed an unlicensed community manager to come in with just prior experience. The common-interest community commission believed that was insufficient. They believe that training and the legal classes are pertinent.

Chairman Anderson:

Let us start at the back of the bill. Are there any problems with Sections 11, 12, 13, 14, 16, 17, 18, 19, 20, and 21?

Okay, Section 10 with acceptance of the 20,000-pound vehicle limits. Are there any problems?

I am not a fan of Section 1.6, the provision dealing with private roads on page 9. It concerns me that the common-interest boards want to have the same power as police and will hold the homeowner responsible for others speeding.

Assemblyman Horne:

Are you saying that you are not inclined to accept proposed amendments for Section 1.6 or you do not like Section 1.6 in the bill?

Chairman Anderson:

I am not real fond of some of these as a whole. This is a real issue because of the number of common-interest communities in southern Nevada.

Assemblyman Horne:

I agree. I do not like the radar guns. I am not in favor of the proposed amendments by Brad Zinner. I could live with Section 1.4 that is in the bill. Also, Section 10 as written is fine.

Jennifer Chisel:

On Section 1.6, regarding the radar guns, the section in the bill would actually ban the use of radar guns in common-interest communities. The proposed amendments would allow the use of radar guns, and deleting the section would allow the use of radar guns.

Chairman Anderson:

We would want to reject the amendment and keep the original wording in Section 1.6 if we wanted to ban radar guns in common-interest communities.

Assemblywoman Gerhardt:

I have some information here on solar panels. Current law apparently does allow for views to be obstructed; the problem is with color choice. I do not have any problem with the color of solar panels so that they do not look hideous; I think that is fair. Any other requirements I would not be in favor of.

Assemblywoman Allen:

I want to make sure that people who have motorcycles in homeowners' associations can use them.

Chairman Anderson:

The requirement would be that you actually have to be a resident of the community to actually ride your motorcycle, skateboard, or other electric carts. If you have a scooter because of your age, or a golf cart, or a motorcycle, you should be able to use it in your community.

Assemblywoman Gerhardt:

I agree. There are many good kids in my neighborhood who ride their skateboards or play basketball and I am happy they are out there instead of getting into trouble. We are making it difficult for good kids to play outside. I do not think any of those things should be prohibited.

Assemblyman Manendo:

We are only restricting homeowners with motorcycles. If somebody has a guest with a motorcycle, they should be able to use it. Also, in these larger communities the homeowner should be able to use his motorcycle to go see a neighbor on another street.

Assemblyman Horne:

This is another way that the communities are trying to control the roads. I think the way it is written in the bill is sufficient for our concerns.

Assemblywoman Gerhardt:

I agree with Assemblyman Horne; Section 1.4 is fine as written. I just want to see it go a little further. Maybe we can get a definition of what is encompassed when we say motorcycle. Is there a way to let kids ride their skateboards, scooters, et cetera?

Chairman Anderson:

The difficulty is that the language says "every motor vehicle to travel with not more than three wheels."

Assemblyman Mabey:

Section 1 seems okay to me. I would not change Section 1.4, or 1.6. I am opposed to Section 1.8 as well as Section 2. Sections 4, 5, 6 seem okay. Sections 7 and 8 are not. Section 9 is probably not okay.

Chairman Anderson:

Mr. Maddox, what does your group find absolutely essential to this legislation? If we were going cut some things out, what do you absolutely need?

Bob Maddox, representing Community Associations Institute, Legislative action Committee; and Nevada Trial Lawyers Association:

I think all of the provisions that the Commission for Common-Interest Communities requested and the registration for reserve study specialists are important. Those are Sections 12, 13, 14, 16, 17, 18, 19, and 21. There has been no opposition to Section 3 or Section 4. Section 4 is important. The provisions of Chapter 116 deal with the developer turnover to the homeowners and there are various requirements regarding audits and reserve studies.

Chairman Anderson:

We will make sure that the Section 4 provision will be included.

Bob Maddox:

Section 5 clarifies a provision that this Committee passed.

Chairman Anderson:

We do not need to go through the entire bill. I want you to tell me what is essential.

Bob Maddox:

Section 6, subsection 4 is about needing an executive session. That is a closed session that no homeowners are allowed to attend. Sending out a notice is an unnecessary expense.

Chairman Anderson:

There should be notice that such an event is going to take place, just as there is when other public bodies have closed meetings.

Bob Maddox:

If it were to be an open session portion of the meeting then there would have to be a notice, but if it is only...

Chairman Anderson:

There has to be a notice.

Bob Maddox:

We suggest this so the board does not have to have the expense of mailing notices when it is a closed meeting.

The next most important provision is Section 8, subparagraph 2 which defines adequate reserves. I understand that Section 7 is not acceptable to the Committee, but I want to explain why it should be.

[Chairman Anderson leaves the room.]

Vice Chairman Horne:

We are not taking testimony; this is work session and we are trying to get rid of the problems. All parties are not going to get what they want. That is not something we want to do. The Chairman was trying to get you to decide what was important.

Assemblywoman Allen:

I want to make sure that Mr. Carpenter's concern with the reserve study portion and finding experts to go all the way out to Elko and the significant cost of getting reserve study experts out there is addressed.

Assemblyman Carpenter:

Regarding reserve studies and audits, I would like to see some exceptions made for the real small associations.

Vice Chairman Horne:

Has anyone spoken to you about those audits in your small community?

Assemblyman Carpenter:

I have a letter and I have spoken to these people. It becomes a hardship when they have to get a certified public accountant to provide an audit. Also, if they have to bring in a reserve specialist it is difficult. The communities that I am talking about may only have 19 units. The requirements in the bill cost more than their entire budget. This could be unreasonable for them financially.

Assemblywoman Gerhardt:

We attempted to pull out the things that we liked. In Section 1, we want to keep Section 1.4.

Vice Chairman Horne:

Can you do this so it is in the form of a motion?

ASSEMBLYWOMAN GERHARDT MOVED TO AMEND AND DO
PASS SENATE BILL 436 (R1).

Assemblywoman Gerhardt:

The provisions being to delete everything except the items that I will mention: Expand Section 1.4 to include the skateboards and all of the rest of the things we are talking about. Also in Section 1, regarding the work session document, keep option number 2—no solar power use restrictions with the exception of color and so forth. We will keep Section 1.6 because we do not want radar guns. Also, we will keep subsection 3 of Section 10 to protect the emergency vehicles, but we will expand that to protect work vehicles so that plumbers can take care of residents. We will keep Section 11 with the amendments. Section 16 we will keep with the amendment so that smaller communities such as those in Elko can be excluded.

Vice Chairman Horne:

Ms. Lang, is there a way to get this accomplished?

Risa Lang, Committee Counsel:

We can do it by population or by the size of the common-interest community. Whatever the desire of the Committee is you can provide it to me conceptually and we can figure it out.

Vice Chairman Horne:

Sections 17, 18, 19, 20, and 21 all go?

Assemblywoman Gerhardt:

Yes.

Vice Chairman Horne:

Did everyone follow?

ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

Assemblyman Ocegüera:

I thought 17, 18, 19, 20, and 21 were important. For the makers of the motion, do you want to keep the emergency vehicles section just as it is in the first reprint?

Assemblywoman Gerhardt:

Yes, but expand it to include work vehicles.

Vice Chairman Horne:

To the maker of the motion, can we include Sections 17, 18, 19, 20, and 21?

Assemblywoman Gerhardt:

That is fine; we just wanted to get to the important stuff.

Assemblyman Mabey:

Now, when we talk about skateboards, I do not want the bill to allow some guy to use his go-cart and drive around the neighborhood. Those are private roads and there could be a liability. I am concerned.

Assemblywoman Gerhardt:

Can we come up with a definition, possibly some language like, "anything that is legal on the streets" because go-carts are not legal on city streets?

Assemblyman Mabey:

There are people in our neighborhood who will drive around on these private roads that have no police enforcement, using vehicles that are not approved. There will be liability.

Vice Chairman Horne:

I do not think there is a prohibition against skateboards.

Assemblyman Mabey:

I think the original wording is fine, but the expansion concerns me.

Assemblywoman Gerhardt:

Maybe we can get some clarity on that—allow anything that can be used in other than a common-interest community that is legal for the street.

Assemblyman Mabey:

In my opinion we are overdoing this.

Vice Chairman Horne:

It is the type of bill that invites that. You will have the opportunity to review the amendment when it is ready.

Assemblyman Mabey:

By trying to expand it like we have, it is introducing more controversy. In the spirit of compromise, I think we should keep it as written.

Vice Chairman Horne:

Ms. Lang, perhaps you could find language to describe only vehicles that are legal on city roads.

Assemblyman Mabey:

Any plumber or electrician can now bring home their work vehicle.

Assemblywoman Gerhardt:

For their jobs, they are required to bring their work vehicles home; they need to be allowed that. It is just like an emergency vehicle. I use the example of my son with the plumber and pipe fitters union.

Assemblyman Mabey:

I would oppose that.

Assemblywoman Gerhardt:

If they are required to be on call 24 hours and need to take that truck to their homes, should those people not have a place to live?

Assemblyman Mabey:

I support the emergency vehicles, but what if a mortician needs to bring his hearse home?

Vice Chairman Horne:

Morticians do not usually need to be on 24-hour call.

Assemblyman Goedhart:

In regards to Dr. Mabey's comment, it would be fairly simple for many employees to say that they have to have their vehicle, and the boss will sign off on it. People question whether those workers really are on call and need those trucks.

Also, Mr. Carpenter had a nice amendment for smaller homeowners' associations, but maybe we could look at doing the same thing with homeowners' associations that have small monthly fees. I know there is one in Pahrump that has fee of \$18 per month. When you put in the cost of all these necessary audits, it has a substantial impact on what they have to charge their members.

Vice Chairman Horne:

For the sake of moving this bill, could we keep it at emergency vehicles and omit the work vehicles? Is that something you absolutely need?

Assemblywoman Gerhardt:

I feel pretty strongly. Is there a way to craft some language?

Vice Chairman Horne:

Not on Friday and the day of the deadline.

Assemblywoman Gerhardt:

I will withdraw that portion and will work on it to see if I can come up with something on the Floor.

Assemblyman Ocegüera:

Section 1.4, the ingress and egress part, actually works for what you are trying to do. I disagree with Dr. Mabey. If I have a four-wheeler and I live in a common-interest community and I want to go out the gate to ride, there is no problem going from my garage to the gate to go and ride. The ingress and egress part says you cannot go riding around the neighborhood, but as long as you are leaving, it is okay.

Vice Chairman Horne:

The original language does not include ingress or egress. That is in the amendment.

Assemblyman Ocegüera:

You are right.

[Chairman Anderson returns.]

Vice Chairman Horne:

I think we are ready to vote. We will keep Sections 1.4, 1.6, and 10. We will also keep Section 11 with the proposed amendment in the work session document. We are also keeping Sections 16 through 21. Ms. Lang looked up the small communities to address Mr. Carpenter's concerns and found it applied to include counties of 45,000 or less. Everything else is jettisoned from the bill.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:

The floor assignment will go to Assemblyman Goedhart. Mr. Carpenter will take S.B. 202 (R1) if we need to take it to the Floor.

Meeting adjourned [at 4:32 p.m.].

RESPECTFULLY SUBMITTED:

Janie Novi
Committee Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 18, 2007

Time of Meeting: 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 237 (R1)	C	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.B. 354 (R1)	D	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.B. 243	E	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.B. 157 (R1)	F	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.J.R. 2	G	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.B. 202 (R1)	H	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.B. 235 (R1)	I	Jennifer Chisel, Committee Policy Analyst	Work Session Document
S.B. 436 (R1)	J	Jennifer Chisel, Committee Policy Analyst	Work Session Document