

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-fourth Session  
April 18, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:01 a.m. on Wednesday, April 18, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Joseph J. Heck  
Senator Michael A. Schneider  
Senator Maggie Carlton

**STAFF MEMBERS PRESENT:**

Kelly S. Gregory, Committee Policy Analyst  
Lynn Hendricks, Committee Secretary  
Wil Keane, Committee Counsel  
Scott Young, Committee Policy Analyst  
Gloria Gaillard-Powell, Committee Secretary

**OTHERS PRESENT:**

Rebecca Ann Harold, Assistant General Counsel, Public Utilities Commission of Nevada  
K. Neena Laxalt, Board of Hearing Aid Specialists  
Susan Fisher, State Board of Podiatry  
The Honorable Kathy A. Hardcastle, Department 4, Eighth Judicial District  
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company  
James Jackson, Voice Writers of America  
Barbara Johnson  
Kevin Daniel  
Gloria Perry, Certified Court Reporters' Board of Nevada  
Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry  
Teresa B. McKee, Nevada Association of Realtors

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 2

CHAIR TOWNSEND:

Assembly Bill (A.B.) 397 will not be heard today. The sponsor, Assemblywoman Parnell, has asked for time to clarify the bill. I will open the hearing on A.B. 27.

**ASSEMBLY BILL 27 (1st Reprint)**: Revises provisions relating to penalties assessed by the Public Utilities Commission of Nevada. (BDR 58-551)

REBECCA ANN HAROLD (Assistant General Counsel, Public Utilities Commission of Nevada):

This bill allows the Public Utilities Commission of Nevada (PUCN) to directly impose administrative fines. If a utility fails to pay their assessment or commits a violation, we have to file legal action and go to court to recover the fines. This does expand liability as it is not just the utilities. Administrative fines could be levied against certificated registrants.

CHAIR TOWNSEND:

Do you think this would sweep in any interveners who may not play by your administrative processes?

MS. HAROLD:

It is possible, if it rose to the level of committing an offense or something that would call down the sanctions of an administrative penalty.

There are important safeguards that I would like to point out in this bill. It does provide that any of these administrative fines would be deposited in the General Fund, consistent with other agencies. This is not a money-making situation for the PUCN. The current law allows the court to consider mitigating or aggravating factors. This would require the PUCN to consider those. It retains the provision that the fine is not a cost of service and cannot be put into consumer rates. The fines are in addition to other PUCN remedies so we still could go to court to enforce collection. We still have the ability to consider revocation of a certificate of public convenience and necessity or license. The levying of a fine would be subject to judicial review, just as any other decision by the PUCN.

SENATOR CARLTON:

Would you walk me through the process?

MS. HAROLD:

If a utility failed to pay their assessments in a timely manner, it would allow us to bring them before the PUCN. The PUCN would hold a hearing to determine if it was

appropriate to levy a fine against the utility. This would be formal action by the PUCN.

CHAIR TOWNSEND:

If you issued an order to a company or group who hold a certificate under the PUCN's regulatory mechanism, and they chose to object, can you still author a fine?

MS. HAROLD:

Yes. There is a process whereby they can ask the PUCN for a rehearing or reconsideration similar to what they could ask a court. They do have a couple of attempts to get the PUCN to consider what they want. Once the PUCN has made a final determination, the action could be appealed to a court.

CHAIR TOWNSEND:

Over the past five years, how many of these have you averaged a year?

MS. HAROLD:

I do not have a good answer to your question.

CHAIR TOWNSEND:

Please e-mail the information to Scott Young. Many of the rulings that you have are appealed to court. I just want to know the ones that have to do with the administrative fines or penalties.

MS. HAROLD:

Do you mean how many we have taken to court?

CHAIR TOWNSEND:

Yes.

MS. HAROLD:

I do not know that we have actually taken any to court. In my term, we have not.

CHAIR TOWNSEND:

I would like to know how many appeal your administrative fines.

MS. HAROLD:

We currently do not have administrative fines.

CHAIR TOWNSEND:

You do not think you have done it over the last five years?

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 4

MS. HAROLD:  
Not to my knowledge.

CHAIR TOWNSEND:  
Find out if you have done any.

We will close the hearing on A.B. 27 and open the hearing on A.B. 35.

**ASSEMBLY BILL 35 (1st Reprint)**: Reduces the period during which a license issued by the Board of Hearing Aid Specialists may be renewed without an examination. (BDR 54-611)

K. NEENA LAXALT (BOARD OF HEARING AID SPECIALISTS):  
Assembly Bill 35 lessens the time a licensee of the Board of Hearing Aid Specialists can renew their license without an examination. It is currently five years and we are requesting it be lowered to three years. The bill requires a licensee to keep current with technology advances. I have provided you a copy of our stand on this bill ([Exhibit C](#)).

CHAIR TOWNSEND:  
Have you had problems with licensees?

MS. LAXALT:  
There have only been one or two.

MS. LAXALT:  
The original bill did request this go to one year, but the Assembly changed it to three years.

CHAIR TOWNSEND:  
Are there two components of the bill? Do you want "per each year or fraction thereof that the annual fee has not been paid" removed? The other change is the license may be renewed without an examination within three years. Is Senator Carlton or Senator Heck familiar with this bill?

MS. LAXALT:  
I have not. I did provide some background materials last week.

CHAIR TOWNSEND:  
I will close the hearing on A.B. 35 and will open the hearing on A.B. 41.

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 5

**ASSEMBLY BILL 41 (1st Reprint)**: Makes various changes concerning podiatry.  
(BDR 54-631)

SUSAN FISHER (State Board of Podiatry):

We are going to remove the fees we currently have in this bill. A couple of questions came up on board issues. We are working to revise the language and would like a little more time. We would like to come back with some final agreement language.

CHAIR TOWNSEND:

Is that okay with Senators Heck and Carlton?

We will hold A.B. 41 for further review and open the hearing on A.B. 43.

**ASSEMBLY BILL 43**: Requires public utilities in larger counties to provide a list of customers for use in the selection of jurors. (BDR 58-651)

THE HONORABLE KATHY A. HARDCASTLE (Department 4, Eighth Judicial District):  
I am here in support of A.B. 43. I request, along with the Second Judicial District, that the public utilities in the larger counties provide a list for the selection of jurors. This will help us create a diversity in the juror pool and will give us a third source to increase the diversity of our jurors. There was a question in the Assembly regarding payment for the lists and we do provide payment. There is a reasonable fee charged and it is included in our budget. We would request passage of A.B. 43.

SENATOR HECK:

How are potential jurors identified, currently? Why specify only in counties greater than 400,000 people?

JUDGE HARDCASTLE:

Counties with less than 400,000 have access to the public utilities list. We are asking for the language to be removed so the larger counties can also have access to that list.

We get our jurors from the list at the Department of Motor Vehicles (DMV) and the voter registration list.

CHAIR TOWNSEND:

Do you pay a reasonable fee to the utility for the use of those lists?

JUDGE HARDCASTLE:

Yes. We would pay a fee for the list if the bill is passed.

CHAIR TOWNSEND:

Ms. Stokey, do you have objections to this? Are their terms reasonable to you?

JUDY STOKEY (Nevada Power Company; Sierra Pacific Power Company):

Yes.

SENATOR CARLTON:

There are no exemptions for people being called to serve on jury duty. I work in a profession where you receive tips. We did not have to serve and had the option of jury duty. A few years ago, it was changed and we were no longer exempt. The employees are more than willing to serve, but the process does not work. You receive a phone call the day before you are scheduled to serve. The employee has to give notice and get coverage for their shift. When the employee makes the phone call the night before and they find out the court has been cancelled, they lose a day of work. The shift has already been covered by another person. They cannot get reimbursed from their employer because they did not actually serve jury duty. We

have put them in a catch-22 situation. Once they are taken out and do not serve, they tend to get called again quickly. The same situation keeps happening over and over. Is there any way to give them more notice?

JUDGE HARDCASTLE:

They call in the night before because we have to find out if they really need to report. If the trial has been settled, pled or continued, there is no point in having the people report. It is a cost to all of us. They are only asked to be reassigned once. After the second time of being reassigned, if they are not needed, they are excused.

SENATOR CARLTON:

So you understand, when they do not report to work, they could lose up to \$200 for the day, and possibly \$300. That is what we make between the wages and the tips. It is a hardship on the person's weekly paycheck. I would appreciate if we could figure out how to address the problem.

JUDGE HARDCASTLE:

I think there are a lot of hardship cases and the chief judge has the ability to excuse a person who has a defined hardship. We are all required by law to report to jury service.

SENATOR CARLTON:

I understand that. We want to serve. Let us show up. When you tell us not to show up, we can't ask our employer to make up the difference in our pay. If we could get a little more notice than one day, we might be able to contact the employer to notify them we are free to work and we come in. We need to give the people an option of this issue. They are getting hit with \$200 to \$300 a day in lost pay. I would like you to seriously consider making it a 48-hour notice. We do not mind serving on jury duty, we do not want to get caught in this catch-22.

CHAIR TOWNSEND:

Madam Commissioner, maybe in the interim you could meet with Senator Carlton and anyone she chooses to work through this, over the next 20 months.

MS. STOKEY:

We certainly could meet.

CHAIR TOWNSEND:

We understand the importance of having the broadest jury pool possible. We have already articulated that, but we have to be realistic about individuals and their work environment. In Nevada, we are heavily dependent on a group of people who

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 8

provide these services for us and are paid in a unique manner. We want to accommodate these people when we can.

JUDGE HARDCASTLE:

We appreciate the efforts they put forth to serve on our juries and will do whatever we can to help them work the problem out.

CHAIR TOWNSEND:

I will close the hearing on A.B. 43 and open the hearing on A.B. 55.

**ASSEMBLY BILL 55 (1st Reprint)**: Makes various changes concerning court reporters. (BDR 54-765)

JAMES JACKSON (Voice Writers of America):

Assembly Bill 55 is a redo of a bill from last session. Voice recording is technology that is available now and widely used. This bill is the result of 18 months of work between my client and the Certified Court Reporters' Board of Nevada to have language that is agreeable with respect to how the testing procedure is done. No one can become a certified reporter as a voice writer until they have passed a test approved by the Court Reporters' Board. There is no advantage given to those who have training in this technology.

Section 5 has language that would exempt those in the district courts who operate the recording equipment. All of the courtrooms in Las Vegas are outfitted with recording equipment. The equipment is run by court personnel. There was language requested by the district courts to exempt those employees from having to be certified court reporters. My client is neutral on that language. There has been so much work done on the rest of the bill and we do not want to see this bill fail. Most of the language that is in section 5 is current language in law. There is a requirement that the person transcribing that matter indicate that they have done so accurately.

SENATOR HECK:

Can you explain the technology process of the voice recorder versus the traditional court reporter?

MR. JACKSON:

The traditional method is a stenographic process where a court reporter uses a stenographic machine. It prepares the raw transcript. It is transcribed into words we understand. A voice writer is in the same room where a person speaks into a device and it records the current testimony. They are creating a real-time transcript in voice that is being transcribed by voice recognition. They go back and check the recorded process versus what they have transcribed. The accuracy is really amazing.

SENATOR HECK:

Is it voice recognition software the court reporter is watching or are they actually transcribing as it is being said?

MR. JACKSON:

They are speaking into a device that does the recording. A separate tape recording of the proceeding is taken. With the voice writer you speak into a device that is nondisruptive to the proceedings so that they are getting the real-time recording.

CHAIR TOWNSEND:

Once they speak into the device, what happens?

MR. JACKSON:

You have a separate recording of the proceedings. Also, you have their transcript that is being prepared as they are speaking into their machine.

CHAIR TOWNSEND:

Are they required to go through the transcript they produced to make sure it matches the other recording?

MR. JACKSON:

Yes.

CHAIR TOWNSEND:

We had a lady here for a committee meeting on the hearing impaired. She had a traditional transcribing device. It was transcribed on a computer and printed on a screen. Is that used for those other than the hearing impaired?

MR. JACKSON:

Yes. Within stenography type of court reporting, there are different variations. That is what I call real time.

BARBARA JOHNSON:

It is real time. What you saw on the wall is communications access real-time translation (CART). Captioning is what you see on the television. The court reporter writes, which goes through the computer into specialized software where it is translated into English and shows up on the wall as CART.

CHAIR TOWNSEND:

How prevalent is this new technology, voice writing?

MR. JACKSON:

It is growing. It has been used for many years by the Department of Defense and the Department of Labor. Arizona uses this system extensively. I believe it is in 17 states that have approved voice writing. I will confirm that for you.

SENATOR CARLTON:

I have concerns about the exemption section. I understand the new courtrooms have been outfitted with the recording devices. I want to know if there is a back-up. If we are not going to have a back-up available in the courtroom, why would we exempt the district court from using this provision?

MR. JACKSON:

The accuracy of the record is very important.

JUDGE HARDCASTLE:

We have court recording going on in the courtrooms. This has been going on since 1993 in the family courts and we have been using it in the criminal and civil courts for a few years. There are ten judges who still use court reporters and all of the rest of us are using court recording. The court recording is the official record. We are in the process of implementing our new case-management system so the official record will actually be attached to the court minutes. When you go on the Internet, you will be able to pull up the court minutes, see the minutes and if you want to see the actual hearing, it will also be available. The court recording is downloaded to a server. The server keeps all the recordings. We have transcribers who prepare the actual written record and that is also maintained in the court files. We want to make clear we are not precluded from using voice recording. This is a new technology that has been developing and starting to mature. Our transcribers and court reporters are suffering from carpal tunnel syndrome. This would enable them to utilize the new technology. As the technology becomes more sophisticated, the courts will be looking at it and do not want to be precluded from utilizing this technology or any other.

SENATOR CARLTON:

Would you still want your employees certified?

JUDGE HARDCASTLE:

No. They currently are not certified, and they are not required to be certified. We want to make sure they are not required to go through the Court Reporters' Board to be certified. We do train the employees and they are required to be placed under oath that they will properly prepare the transcript.

SENATOR CARLTON:

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 11

Would you be apprehensive about having one group of people certified and another not being certified? Would the accuracy come under scrutiny because they may not have been certified? Everyone else is expected to be certified but we are saying in this case they do not have to be.

JUDGE HARDCASTLE:

The court recorders have never been required to be certified. Technology of taking down stenographic notes is completely different than sitting there and

doing the auto logs on the recording. The recording itself is still available and always remains available. On the stenographic notes, not everybody can look at them and understand them. You have to have someone with training. This is just for the preparation of the transcripts. The certification has been for the court reporting stenographer taking notes.

SENATOR HECK:

There are two ways we are developing court transcripts, the traditional court reporter and the other system where someone is listening to a tape and transcribing the tape. We are now adding a third way which is the voice court reporter who is going to repeat or speak what they hear into a device. This will create a real-time transcript which will then be compared to the court recording. Am I right?

JUDGE HARDCASTLE:

I believe so.

MR. JACKSON:

I would agree with that.

SENATOR HECK:

If courts are already using someone listening to a tape and transcribing the record, what is the utility of the voice court recorder?

MR. JACKSON:

It will provide us with more certified court reporters for use in any other legal proceedings. Lawyers may request a certified court reporter for any proceeding and this will allow them to use either traditional stenographic reporting or voice recording. The voice writers will have to be certified to do those proceedings, whether it is a deposition or other legal proceeding. You are correct. We would have three different ways, the courts way and the two other ways which would involve certified folks.

CHAIR TOWNSEND:

Did section 5 come from the courts in southern Nevada?

JUDGE HARDCASTLE:

It came from the Second and the Eighth Judicial District Courts; we both use the court recording. The actual language that I submitted is not the language used currently in this bill. The current language does clarify that we are allowed to continue doing what we have been doing since 1993 and also allows us to utilize technology as it becomes available to us.

CHAIR TOWNSEND:

If you been doing this since 1993 without having to be certified, why now?

JUDGE HARDCASTLE:

There was a question raised by the Court Reporters' Board as to whether or not we could utilize voice transcription in the courts. This helps clarify that we can use voice recognition transcription in the courts.

CHAIR TOWNSEND:

After fourteen years, why are they just raising this now?

JUDGE HARDCASTLE:

Voice recording technology has just now matured so that we are starting to look at utilizing it in the courts. It has not been sophisticated enough previously for us to be able to utilize it.

SENATOR CARLTON:

You are currently exempt and would like to expand that exemption to the new technology so that you would not have to have your people certified as you move into using this new technology. Would this be a new exemption for you?

JUDGE HARDCASTLE:

Yes. This would continue the exemption we have always had and allow our court recorders to utilize a different method of transcribing the record other than sitting there and just typing it on the keyboard.

SENATOR CARLTON:

Let me clarify again. This is a new procedure, and you would like to expand your existing exemption to include this new procedure.

JUDGE HARDCASTLE:

I do not believe this is an expansion. It is just recognition that the transcribers are not required to be certified.

SENATOR CARLTON:

I understand your current exemption. I see it as an expansion of that exemption into this new area of certification.

JUDGE HARDCASTLE:

It could be considered that, yes.

Ms. JOHNSON:

I am opposing the one exemption. That exemption related strictly to tape recording operators. They have been taking the record since 1993 and now they want to expand that portion to being legislatively exempt from ever being certified. My belief is all methods of record taking should be certified. The voice writers with this bill will become certified and meet the same scrutiny as the regular stenographic reporter. It is a built-in protection for the public. To have this other section of record makers not certified, legislatively exempted, could be a disaster for the public. If the recording failed, there is no recourse because they are not certified. My license is at stake every time I do a job. I feel it compromises the judicial system. I object to the legislative exemption.

CHAIR TOWNSEND:

There are the traditional court reporters who type into a machine which creates a tape. They go back and actually type up a verbatim transcript that is distributed, and made part of the record. You are required to be licensed. In this bill the recommendation is voice writing, speaking into a device and the language is printed out so the individual can double-check to make sure it is accurate. Section 5 says the people who are currently taking an audio recording are not required to be licensed. The request in this section is to clarify those people do not have to be licensed as a certified court reporter as well as those using the new equipment, voice writing. Is that what I am hearing?

JUDGE HARDCASTLE:

That is correct. We will continue with the recording. The recording will always be there and will be kept. We have never had a loss of a recording. We have digital recording and it is downloaded to servers.

CHAIR TOWNSEND:

We understand that. The dilemma of this Committee is to add a new technology to be licensed and then you want to sweep it into your court proceedings and have it exempt from being a licensed individual. Is that correct?

JUDGE HARDCASTLE:

It would boil down to that. This is just a transcription preparation method for us to be able to utilize with the new technology. In preparing the transcripts rather than typing on a keyboard, they would sit there and talk into a device and it would prepare the transcript. The recording is still going to be there.

CHAIR TOWNSEND:

We understand that, but you want those individuals to be exempt from being licensed. Is it your intention to take the people who currently transcribe your sound recordings, have them trained in this new technology, and they would not have to be licensed?

JUDGE HARDCASTLE:

They would not be licensed if we choose to have them use the voice recognition software to prepare the transcript as opposed to sitting there at the keyboard.

KEVIN DANIEL:

I have been a court reporter for 36 years, 6 years in Nevada. I am certified in five states and I hold six different skill licenses from the National Court Reporters Association. Despite my qualifications, I was required to pass Nevada's court reporters examination. I support that requirement. I am here to express my concern over a last-minute amendment to A.B. 55. I have followed this bill's progress since 2005 and I echo the comments of Ms. Johnson. I think she correctly described the issues. This bill was carefully crafted and language agreed upon through discussion and input from the Nevada Court Reporters Association and the National Verbatim Reporters Association. Considerations in the crafting of this bill included testing, oversight and requirements to maintain a license as a court reporter in Nevada. All of this is in the interest of protecting the public. Now in the eleventh hour we have language inserted to specifically carve out the current keepers of the record in most of our courts in Nevada. This amendment poisons the spirit of our profession attempting to protect the

public's interest and it has no place in this bill. We did not attempt to encompass tape recorder operators in this bill, but it should not be a vehicle to exempt them in the same statute carefully designed to protect the public's interest. This amendment does the opposite of protecting the public's interest. After hearing the judge's testimony, I understand they want to exempt voice writing technology from being licensed because it is in a district courtroom. I request you remove this amendment language and pass A.B. 55 in its original form.

CHAIR TOWNSEND:

I will close the hearing on A.B. 55 and open the hearing on A.B. 100.

**ASSEMBLY BILL 100**: Eliminates the requirement that a certified court reporter be appointed as a notary public to administer oaths and affirmations. (BDR 54-572)

GLORIA PERRY (Certified Court Reporters' Board of Nevada):

I was the chair of the legislative subcommittee for the Certified Court Reporters' Board of Nevada. The only power granted a court reporter through the current limited notary provision is the power to administer oaths and affirmations. We feel this power can be efficiently and easily granted court reporters through the licensing process by the Certified Court Reporters' Board of Nevada. The notary rules provide for renewal every four years. Through the Certified Court Reporters' Board of Nevada licensing process, a court reporter is required to submit continuing education requirements every two years.

CHAIR TOWNSEND:

What is the problem we have now that would generate this bill?

MS. PERRY:

It would be one less thing court reporters are required to have. They would not add an additional requirement. The State would not have to administer this process for court reporters. It is a more efficient method for all concerned. During the Assembly hearings, the State had no opposition and no problem with the bill language.

CHAIR TOWNSEND:

Who will be at risk if this is passed?

MS. PERRY:

No one will be at risk. There is no negative impact to the public. Because of the more stringent licensing and continuing education requirements through the Court Reporters' Board, the public would be better served.

CHAIR TOWNSEND:

Is it your contention the regulatory process that would allow the Board to require education of court reporters to administer oaths and affirmations would be just as strong as if they were to become notary publics?

MS. PERRY:  
Yes.

CHAIR TOWNSEND:  
We will close the hearing on A.B. 100 and open up the hearing on A.B. 562.

**ASSEMBLY BILL 562**: Revises provisions governing persons regulated by the Real Estate Division of the Department of Business and Industry. (BDR 54-584)

CHAIR TOWNSEND:  
I want to go on record again stating my wife is a licensee of the Real Estate Division, Department of Business and Industry.

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

Several sections of this bill deal with two proposed legislative changes which encompass several chapters of licensing law under the jurisdiction of the Real Estate Division. One is the requirement for a licensee, certificate holder or permit holder to notify the division within ten days after a conviction or plea of nolo contendere to a felony relating to the practice of the licensee or any crime involving fraud, deceit, misrepresentation or moral turpitude. This is a proactive requirement of the licensee to notify the regulating body of a conviction or a plea.

CHAIR TOWNSEND:  
Why would you limit it to fraud, deceit, misrepresentation or moral turpitude and not just say convicted of felony or any crime?

MS. ANDERSON:  
I believe we took the language from existing law that defines what area we should consider for denial of a license. They must disclose a conviction or plea on an application to renew their license.

Section 1 deals with real estate, section 9 deals with *Nevada Revised Statutes* chapter 645C which is appraisers of real estate, section 13 deals with NRS chapter 645D which is home inspectors, section 15 deals with NRS chapter 116A which is community managers, section 18 deals with NRS chapter 119 developers, section 21 deals with time share sales agents and section 25, chapter 119B about campground memberships.

There is a provision that allows the Real Estate Division to disclose investigative documentation to a licensing board or agency or any other governmental agency including law enforcement that is investigating a person who holds a license under our jurisdiction. Investigations and information gathered through investigations in all of our chapters of law are deemed confidential. We are asking for a limited exemption and ability to share investigative documentation with another regulatory agency or governmental agency such as law enforcement. The Real Estate Division has been precluded from participating in some real estate task force investigations. One concerned real estate fraud. We were invited to participate and attended the first meeting. We had to tell them we could not share our findings. We are requesting, under limited circumstances, to be able to disclose and share investigative documentation to another agency that is investigating a person who holds a license. Sections 5, 10, 14, 16, 19, 23 and 27 encompass all of our chapters of law.

Section 2 of the bill amends NRS chapter 645, the real estate license law. This is a technical adjustment concerning the license denial appeal procedure and the timing issue which sometimes requires a special meeting of the commission to be called. The current law says the appeal must be heard within 90 days and we are requesting the language be changed to allow the appeal to be heard on the next available agenda of the Real Estate Commission. The Commission meets six times a year but two of those meetings are in the north. It would be helpful not to have to call a special meeting of the Commission to satisfy the 90-day requirement.

Section 3 and 4 are housekeeping. The Real Estate Division has already adopted by regulation the standards for continuing education.

Sections 6 and 12 are at the request of the Commission and the appraisers of real estate. This request is to increase the maximum allowable fine to be raised to \$10,000 for each violation found by the Commission. Violations are found as a result of a full administrative hearing with witnesses, factual allegations and findings with disciplines imposed. Each Commission currently has full latitude to apply penalties they deem appropriate within the authority bestowed by the law after a hearing and finding violations. There are times that the penalty latitude the Commission has is not adequate. They are requesting this change. The appraisal penalties in section 12 have not been changed since the law was created in 1991.

MS. ANDERSON:

Section 7 requests a change in real estate law from the time of three years to five years when proceeding to suspend or revoke may be commenced. This time change requirement comports with the required retention of work files and records that must be kept for a transaction which is five years.

Section 8 allows for the pre-permit education for a business broker permit to be held by distance education. The language in the original bill talked about classroom education which we interpret to be in person. The Commission has discussed and requested this change to allow for distance education.

Section 11 is a cleanup area in the appraisal license law. It is concerning registered interns. These are trainees who work under the supervision of a certified appraiser. This language would remove the work license. There are three levels of appraisal licensing. Licensed residential is the most basic level with the least amount of hours of experience and education. To remove the word licensed would comport with the appraisal qualification board standard which precludes licensed residential appraisers from supervising interns.

CHAIR TOWNSEND:

I would like to go back to section 1. Section 1, subsection 1, paragraph (a) and subsection 2, paragraph (b). When a person renews are they going to have to put this on the application again? It does not state that for renewal.

MS. ANDERSON:

Yes. When they renew or apply for a permit on a license we ask them to disclose.

CHAIR TOWNSEND:

We would want to make that clear because it is not currently. Does that mean any person who has ever been convicted, enters a guilty plea or nolo contendere previously needs to disclose that now?

MS. ANDERSON:

They currently should be putting that down. Section 1 was intended as a going forward for new applicants. Concerning section 2, the Real Estate Division already inquires on applications and renewals about convictions.

CHAIR TOWNSEND:

In section 2, subsection 2, lines 27 and 31, the "15 days" does not give any flexibility based on the way the bill is written.

MS. ANDERSON:

The intent is subsection 2 is the Division would have 15 days to place a request on the agenda. When someone has been denied they could file an appeal and we will make every attempt to get it on an agenda for the Commission meeting. It was to give us some time frame guidance.

CHAIR TOWNSEND:

Mr. Keane, I believe what she is trying to say is if they receive an applicant's request they need at least 15 days before the next meeting. Do you see the potential problem?

If they filed 15 days before the meeting, " ... then the Division shall notify the applicant and shall accompany the notification with an exact copy of the protest filed together ... ." You would have to do that simultaneously. I do not think that is what you want. There should be a gap that would allow you to respond. Maybe it should be at least 20 days before the meeting.

MS. ANDERSON:

You are correct. That would not be a problem. If an appellant comes forward, we have allowed them to waive the 15-day notice referenced in (c) to allow us to get the material back to them.

TERESA B. MCKEE (Nevada Association of Realtors):

I understand your argument. Whether you change the proposed language from 15 days to 20 days we would agree that those days should not be the same day.

CHAIR TOWNSEND:

Mr. Young also caught the fact the same language that is in the bill is in the NRS 645.633.

SCOTT YOUNG (Committee Policy Analyst):

The language that is in section 1 of the bill mirrors what is in the existing statute. The changes in section 1 would now require a licensee to disclose that.

CHAIR TOWNSEND:

Do you see the problem on the 25 days? It is not fatal, it just means you may get a lot of requests for waivers. I think you and Mr. Keane could work out a time frame.

MS. ANDERSON:

We request we amend it to 20 days in subsection 2 before the meeting.

SENATOR CARLTON:

Regarding the moral turpitude language, I think we need to put some things on the record. How would the Division define moral turpitude?

MS. ANDERSON:

I do not have one of my attorneys with me who prosecutes cases. Explicit examples would be prostitution or pornography convictions. These are the type of things we

have dealt with. Our attorneys on a case-by-case basis would review or recommend prosecution on a particular basis of moral turpitude.

SENATOR CARLTON:

My concern is it is in the eye of the beholder. It is interesting that you brought up prostitution because that is legal in some counties in this State. It adds even more confusion. When you are talking about mandatory reporting on the licensee's application, what they see as moral turpitude may not be what you see as moral turpitude. The other things you have in there are very distinct and delineated, but that is so open that someone could lose their license for not reporting it to you. They may not have realized your definition of the word. That is my problem.

Ms. MCKEE:

I did a search in NRS and found there are a number of chapters that use moral turpitude. We did not want to get further into it and bring up everyone's wrath on this bill trying to define moral turpitude. The search I did shows it to be a gray area and it is subjective. Within NRS chapter 645, the word is used in several places. I would not object to a definition of moral turpitude. I think it would be important. The Realtors are in support of this bill and what it is trying to do in cleaning up people who are bad actors in the profession. We want a clean profession.

SENATOR CARLTON:

I would like to read something into the record that would possibly help give guidance in the future as to one of the options that moral turpitude may be addressed. Basically the meaning in general, "a shameful wickedness so extreme a departure from the ordinary standards of honest, good, morals, justice or ethics has to be shocking to the moral sense of the community. It also has been defined as an act of baseness, vileness or depravity in the private and social duties which one person owes to another or socially in general contrary to the accepted and customary rule of right and duty between people." If we can have that on the record so if there is a problem in the future. Sometimes it is best not to discuss it, but I do not want someone to be caught in this limbo in what is moral turpitude. Take that with a grain of salt that it is meant, I would appreciate it.

Ms. ANDERSON:

I would appreciate a copy of that.

Ms. MCKEE:

I agree it is a good thing to put on legislative intent.

CHAIR TOWNSEND:

The only portion of this bill that needs to be amended is line 27 on page 2, from 15 days to 20 days allowing the Division the opportunity to appropriately notify the applicant with the documentation. Ms. McKee, are you satisfied with that?

MS. MCKEE:

We would be satisfied with the 20 days versus the 15 days. The Realtors are in support of this bill. The intent is to clean up the bad actors of the profession. The requirement of notifying the Division regarding convictions of this type is already in law; it happens at renewal.

CHAIR TOWNSEND:

We know the law states when submitting an application to renew a license, every time you renewed you would have to declare it on the form.

SENATOR HECK:

I have a question for Mr. Keane. With the increase in the fee there is no two-thirds requirement on the bill. Is that an oversight or does this not require a two-thirds vote?

WIL KEANE (Committee Counsel):

Are you referring to the increase in the administrative fine? Administrative fine increases do not require a two-thirds vote.

CHAIR TOWNSEND:

I will close the hearing on A.B. 562 and open the work session.

SENATOR HARDY MOVED TO DO PASS A.B. 27.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

\*\*\*\*\*

SENATOR CARLTON MOVED TO DO PASS A.B. 35.

SENATOR HECK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

\*\*\*\*\*

CHAIR TOWNSEND:

We are holding A.B. 41 at the request of the affected parties who think they have this bill worked out. Assembly Bill 43 requires public utilities in larger counties to provide a list of customers for use in selection of jurors.

SENATOR CARLTON:

In light of how the procedure is now working, I am apprehensive about adding more people into the current jury selection. There needs to be a way of timely notification so people can go to their jobs if they are not needed. I have real concerns regarding this procedure now, and we are going to ask them to turn over names of everyone who has a utility bill in Clark County.

CHAIR TOWNSEND:

The testimony reflected the courts currently use DMV and voter registration lists. How much broader will the pool become if you use a utility bill?

SENATOR CARLTON:

They use DMV and voter registration. If you do not legally drive and you do not vote then you currently are not on the list. We would hope that everyone would have electricity and gas in their homes. I would imagine it would substantially expand the list.

SENATOR SCHNEIDER:

I know in my district, just west of the Strip, I have constituents that are illegal aliens. They will have power bills, so they will be caught up in this. They cannot serve, but will the courts track them down? If you could pick a date at the beginning of the year when you would be available to serve you, might have more executives serving. They have busy schedules and businesses to run.

SENATOR HARDY:

This summer I had jury duty. You can send back a time frame when you are available to serve. I agree with Senator Schneider's first concern. How are they going to work out those that are ineligible to serve? How will they know if they are citizens eligible to serve? If there was a way to determine eligibility, I think serving on a jury is critical. It is an obligation of every citizen in spite of the difficulties associated with it.

SENATOR CARLTON:

We are talking about known felons, and people who are not allowed to serve. Is the court system going to run a check on everyone required to come in and serve on the jury? Are we going to make it self-reporting?

SENATOR HARDY:

Perhaps we can have Scott Young contact the people so we can have our questions answered.

CHAIR TOWNSEND:

I think our questions are important and it does not appear we asked them. We will hold this bill until we get answers from the individuals.

SENATOR HECK:

How do they do it in the other 16 counties? They are already using the utility rolls in the 16 other counties in the State. I am sure they are pulling in people who are undocumented. They must have a process and we need to find out what it is.

CHAIR TOWNSEND:

Mr. Young, please have Mr. Ziegler check on the testimony from the other House.

On A.B. 55, I would prefer to take section 5 out of the bill. I will listen to the Committee's pleasure.

MR. KEANE:

The new language in subsections 2 and 3 of section 5 relates to the issue you have been discussing about the courts not needing to use certified court reporters to operate their sound equipment and to transcribe those recordings. If the Committee wishes, it can take out the new language in subsections 2 and 3 of section 5, but the Committee would want to keep section 5 in the bill because the change in subsection 5 of section 5 relates to voice writing and is necessary to carry through the changes that, for example, are also made in section 4 of the bill. Specifically, the change is removing the reference to "shorthand" and replacing it with a reference to "record." With regard

to Senator Carlton's earlier question, the amendment on the Assembly side not only added the new language in subsections 2 and 3 of section 5, but also revised section 2. For example, the Assembly amendment added language in section 2, subsection 2, paragraphs (b) and (e) to add the exam and the certificate discussed in those paragraphs. However, the changes to section 2 appear to be unrelated to the section 5 changes regarding the courts not needing to use certified court reporters for their sound equipment.

CHAIR TOWNSEND:

It is the consensus of the Committee to not allow the provision of section 5 where you would expand the current exemption for certified court reporters. Mr. Keane has put on the record the way we could do it mechanically which has brought more questions. We want to make sure you were here to answer the questions.

MR. KEANE:

I just wanted to point out that if the Committee wanted to remove the expanded language put into the bill at the suggestion of the courts, regarding the courts not needing to use certified court reporters for their sound equipment, then the Committee could remove the new language in section 5, subsection 2 and 3. However, the Committee would still want to leave in section 5 because the change in subsection 5 is related to voice writing.

MR. JACKSON:

I think the concerns of the two court reporters who testified are valid. When the amendment was discussed with me, it was my understanding they wanted to be sure the people operating the recording equipment did not have to be certified court reporters. The current language makes that clear. This would allow them to become voice writers without being certified.

I have had experience with the Eighth Judicial Court. I requested a copy of the recording of a trial I worked. I called the court and within 24 hours I had the audio recording of the entire trial. Ordering a transcript can take many weeks. I do not want any of my comments to suggest I doubt the audio recording system that the court has put in.

CHAIR TOWNSEND:

The suggestion by Mr. Keane, if the Committee chooses, is to remove the language that expanded the exemption. We would need to leave in section 5, subsection 5 in order to capture the intent of the remaining portion of the bill.

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 26

SENATOR CARLTON MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 55.

SENATOR HARDY SECONDED THE MOTION.

CHAIR TOWNSEND:  
Remove subsections 2 and 3 of section 5.

THE MOTION PASSED UNANIMOUSLY.

\*\*\*\*\*

SENATOR HECK MOVED TO DO PASS A.B. 100.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

CHAIR TOWNSEND:  
The motion, if you choose, on A.B. 562 would be to amend and do pass by changing page 2, line 27 from 15 to 20 days.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 562.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

CHAIR TOWNSEND:  
The meeting of the Senate Committee on Commerce and labor is officially adjourned at 9:57 a.m.

RESPECTFULLY SUBMITTED:

---

Gloria Gaillard-Powell,

Senate Committee on Commerce and Labor  
April 18, 2007  
Page 27

Committee Secretary

APPROVED BY:

---

Senator Randolph J. Townsend, Chair

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