

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

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

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:02 a.m. on Friday, March 23, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8

STAFF MEMBERS PRESENT:

Wil Keane, Committee Counsel
Jeanine Wittenberg, Committee Secretary
Scott Young, Committee Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Ed Guthrie, Executive Director, Opportunity Village, Incorporated
Brian Patchett, Chief Executive Officer, Easter Seals Southern Nevada
Mendy K. Elliott, Director, Department of Business and Industry
Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry
Terry K. Graves, Henderson Chamber of Commerce
Jim Meyer, Washoe Arc

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Tina Jeeves, Easter Seals Southern Nevada
James Greely, Progressive Choices, Incorporated
Sally Rothfuss, Transition Services, Incorporated
LaVonne Brooks, Executive Director, HSI
Cecilia Colling, Deputy Administrator, Bureau of Vocational Rehabilitation,
Rehabilitation Division, Department of Employment, Training and
Rehabilitation

CHAIR TOWNSEND:
I will open the hearing on Senate Bill (S.B.) 384.

SENATE BILL 384: Clarifies that certain relationships between persons with disabilities and training or rehabilitation centers do not constitute employment for the purposes of provisions governing the minimum wage. (BDR 53-1103)

ED GUTHRIE (Executive Director, Opportunity Village, Incorporated):
I have written testimony explaining the need for this bill ([Exhibit C](#)). This bill addresses an issue that arose because of an unintended consequence of the minimum wage amendment. Prior to that amendment, there was a provision to allow individuals with severe disabilities to be paid a special minimum wage if their disability caused them to have lower productivity than the norm. With the new minimum wage amendment, that provision was eliminated. We would still like to have the ability to serve people with severe disabilities and allow them the chance to make a contribution to the community. We have worked with numerous individuals to craft language to allow community training centers like ours to be able to continue to do that.

SENATOR CARLTON:
There is a bill in the Assembly, Assembly Bill (A.B.) 345, that is almost identical to this one, though there is a difference in the language.

ASSEMBLY BILL 345: Clarifies that certain relationships between persons with disabilities and training or rehabilitation centers do not constitute employment for the purposes of provisions governing the minimum wage. (BDR 53-1111)

SENATOR BARBARA K. CEGAVSKE (Clark County Senatorial District No. 8):
I have written testimony explaining the need for S.B. 384 ([Exhibit D](#)).

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The difference between this bill and A.B. 345 is a single word in section 1, subsection 1. Where S.B. 384 applies to individuals "participating in a training or rehabilitative program of such a facility or workshop," A.B. 345 only applies to those "at such a facility or workshop." The word "of" is in the best interests of people with disabilities. I have been informed that the sponsor of A.B. 345 has had an amendment to change her bill to match the language of S.B. 384. If that is the case, I would suggest that all 63 Legislators be put on the legislation to support this bill.

CHAIR TOWNSEND:

I will disclose for the record—I do sit on the board at Arc, which is the Association of Retarded Citizens in the north, and have since 1972. And the compensation I do receive is usually stale cookies, cold coffee, the great camaraderie and watching the wonderful organization do the right things for people with mental disabilities.

BRIAN PATCHETT (Chief Executive Officer, Easter Seals Southern Nevada):
We support this bill. I have a position paper on S.B. 384 from Easter Seals ([Exhibit E](#)). We serve a number of individuals with significant disabilities, and this bill will allow us to continue to provide those services. The individuals we serve will continue to have a place where they can go to work and prepare for transition into the community.

MENDY K. ELLIOTT (Director, Department of Business and Industry):
Thank you for putting this important piece of legislation into play. The Governor and the Department of Business and Industry support this bill wholeheartedly.

MICHAEL TANCHEK (Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry):
I am fully in support of this bill.

TERRY K. GRAVES (Henderson Chamber of Commerce):
We support this bill.

SENATOR CARLTON:

I still have concerns about the "of" versus "at" issue. How many more people and programs will be encompassed by "of" in this bill?

MR. TANCHEK:

I do not know the total number of people added by the use of the word "of." If we use the word "at," we will be geographically limited; if we use "of," we will be program specific, which goes more to meeting the intent of the bill.

SENATOR CARLTON:

During discussions on this over the last six months, I had understood the bill would apply only to people in workshops rather than to people being sent out.

JIM MEYER (President, Washoe Arc):

We provide services to approximately 156 people every day. We would interpret "at" to apply only to the people who work in our physical building. The four people who we drive to Spanish Springs to work in a small enclave would not be covered; they work for and are paid by Washoe Arc, but physically they are not in our building. So use of the word "of" would add four people to those covered by the bill.

TINA JEEVES (Easter Seals Southern Nevada):

We have over 100 people who work in our training program. About half of them are located in our facility, and the rest are in the community. If we use the word "at," the bill would only apply to those who work in the facility and are unable to work in the community. We would like the bill to apply to all those we work with.

JAMES GREELY (Progressive Choices, Incorporated):

We have the same situation as Easter Seals. The bill needs to extend to those working in the community.

SALLY ROTHFUSS (Transition Services, Incorporated):

We serve 180 people in Las Vegas and Henderson. About 25 to 26 people in our agency would be affected by the choice of the word "of" or "at." For example, one of our groups works at a local restaurant rolling bundles of silverware.

CHAIR TOWNSEND:

Are you satisfied that this bill is written so that none of the people involved will surrender any of their rights under the workers' compensation statutes in Nevada?

MR. TANCHEK:

I have been focusing on wages and hours. I do not know if there is an impact on workers' compensation.

WIL KEANE (Committee Counsel):

Our office did look at that issue, and it was decided that by drafting both the bills actually, but S.B. 384 in particular, in the way it is as addressing the employment relationship—that there would be no effect on workers' comp. Now as to each individual entity or business out there, we'd have to look at each one to decide if those individuals were covered by workers' comp. But this bill should not change whatever that relationship is.

CHAIR TOWNSEND:

I want to make sure that is on the record. We do not want to undo anything, no matter what happens. Has anyone done a head count to determine how many people would be affected by the word difference?

MR. GUTHRIE:

That question could probably be answered by Carlos Brandenburg, Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services.

SENATOR CEGAVSKE:

I would estimate this would affect perhaps 300 people across the State.

CHAIR TOWNSEND:

What was your concern over the different words?

SENATOR CARLTON:

It was more a confusion than a concern. I watched a lot of people work on the language for A.B. 345 for six months, and when I noticed the word change I wanted to be sure I understood the reason for it.

LAVONNE BROOKS (Executive Director, HSI):

We work to transition the individuals we serve into community positions that are competitive. One effective way to do that is to have the individuals work in the community in settings like the enclave mentioned by Mr. Meyer. When they begin to do that work, they are not necessarily working up to the industrial

norm. If we are restricted to the work at the center, we no longer have the capability to do that transition work.

MR. TANCHEK:

Another group that has been involved in this is the Ruby Mountain Resource Center in Elko. Their program is geographically dispersed because they serve the rural areas of the State.

SENATOR HARDY:

Does the phrase "rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation" include Deseret Industries?

CECILIA COLLING (Deputy Administrator, Bureau of Vocational Rehabilitation, Rehabilitation Division, Department of Employment, Training and Rehabilitation):

The phrase refers to programs authorized in *Nevada Revised Statute* 334.025, which allows an exemption for training centers that serve individuals with disabilities. This is not limited to people with cognitive disabilities; it also includes people with physical disabilities such as blindness.

SENATOR SCHNEIDER:

I'd just like to declare that I'm on the board of Opportunity Village. ... It's a nonpaid board. ... For 16 years, in my brochures I've let my constituents know I'm on the board, and I'm always going to vote to benefit Opportunity Village in any way I can. I just want to get that on the record.

SENATOR HARDY:

"I should probably disclose I'm not a board member, but I'm very, very involved with the Deseret Industries. They're my—in my church affiliations."

SENATOR HARDY MOVED TO DO PASS S.B. 384.

SENATOR HECK SECONDED THE MOTION.

SENATOR CARLTON:

I will support this bill, but I do still have some concerns.

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THE MOTION PASSED UNANIMOUSLY.

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CHAIR TOWNSEND:

Is there any further business to come before the Committee this morning?
Hearing none, I will adjourn at 8:36 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____