

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

**Seventy-Fifth Session
May 11, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:30 p.m. on Monday, May 11, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/75th2009/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 Marcus Conklin, Chairman
Assemblyman Kelvin Atkinson, Vice Chairman
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblyman Ed A. Goedhart
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Mark A. Manendo
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblyman James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Bernie Anderson (excused)
Assemblyman Morse Arberry Jr. (excused)
Assemblywoman Heidi S. Gansert (excused)

GUEST LEGISLATORS PRESENT:

Senator Maggie Carlton, Clark County Senatorial District No. 2
Senator Bernice Matthews, Washoe County Senatorial District No. 1
Senator Michael Schneider, Clark County Senatorial District No. 11
Senator Steven Horsford, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Patricia Blackburn, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Rusty McAllister, President, Professional Firefighters Association,
Las Vegas, Nevada
Randall Waterman, representing Public Agency Compensation Trust,
Carson City, Nevada
Bryan S. Wachter, Carson City, Nevada, representing Retail Association
of Nevada and Reno-Sparks Chamber of Commerce
Samuel McMullen, representing Nevada Self-Insurers Association,
Las Vegas, Nevada
Robert A. Ostrosky, representing Employers Insurance Group, Las Vegas,
Nevada
Janice C. Moskowitz, Lead Actuary, Property and Casualty Section,
Division of Insurance, Department of Business and Industry
Dan Musgrove, representing Southern Nevada Chapter, National
Association of Industrial and Office Properties, Las Vegas, Nevada
Chris Childs, Member, Real Estate Committee, State Bar of Nevada,
Las Vegas, Nevada
William Uffelman, representing Nevada Bankers Association, Las Vegas,
Nevada
Helen Foley, Las Vegas, Nevada, representing National Association of
Professional Employer Organizations, Alexandria, Virginia
Todd Cohn, representing National Association of Professional Employer
Organizations, Alexandria, Virginia
Bill Rosado, President, Managed Pay, Las Vegas, Nevada
Edward Jacobson, Private Citizen, Reno, Nevada
Carol Crane, Partner, Antiques & Treasures, LLC, Reno, Nevada
Peter Peckham, Private Citizen, Reno, Nevada

Gay Elliker, Partner, Antiques & Treasures, LLC, Reno, Nevada
Linda F. Powers, Managing Director, Toucan Capital, Bethesda, Maryland
Karen D. Dennison, Reno, Nevada, representing American Resort
Development Association, Washington, D.C., and QM Corporation,
Sparks, Nevada
Foster Mullen, President, QM Corporation, Sparks, Nevada
Vicky Sakach, President, Nevada State Barbers' Health and Sanitation
Board, Reno, Nevada
Joe A. Reyes-Torres, Former Student, Nevada Barber College, Las Vegas,
Nevada
Dan Brigham, Former Student, Nevada Barber College, Las Vegas, Nevada
Donald Ruiz, Former Student, Nevada Barber College, Las Vegas, Nevada
Royal Byron, Instructor, Nevada Barber College, Las Vegas, Nevada
Texanner Byron, Owner, Nevada Barber College, Las Vegas, Nevada
Sten Washington, Private Citizen, Las Vegas, Nevada
Beatrice Turner, Private Citizen, Las Vegas, Nevada
Antinette Maestas, Vice President and Legislative Representative, Nevada
State Barbers Association, Las Vegas, Nevada
Robert Perry, Member, Nevada State Barbers Association, Las Vegas,
Nevada
Lawrence Weekly, Clark County Commissioner; Board Member, Southern
Nevada Health District, Las Vegas, Nevada
Efren Guerra, Barber Shop Owner, Las Vegas, Nevada
Nathaniel LaShore, Vice President, Nevada State Barbers' Health and
Sanitation Board, North Las Vegas, Nevada
Eloy Maestas, Secretary-Treasurer, Nevada State Barbers' Health and
Sanitation Board, Las Vegas, Nevada
Doug Moore, Vice President, Nevada State Barbers Association,
Las Vegas, Nevada
Ann Gallegos, Barber Shop Owner, Las Vegas, Nevada
Marilyn, Private Citizen, Las Vegas, Nevada
Keith Netty, Private Citizen, Las Vegas, Nevada
Lynn O'Mara, Health Planning Program Manager, Health Division,
Department of Health and Human Services
Glenn Savage, Environmental Health Director, Southern Nevada Health
District, Las Vegas, Nevada

Chairman Conklin:

[Roll taken.] We will start the meeting as a Subcommittee. This will be the last day that we hear any bills. We will have heard every single bill sent to us. We will take bills out of order today to accommodate the hectic schedule in both Houses. We will open the hearing on Senate Bill 363 (1st Reprint).

Senate Bill 363 (1st Reprint): Revises provisions relating to death benefits paid to surviving spouses under industrial insurance. (BDR 53-1130)

Senator Maggie Carlton, Clark County Senatorial District No. 2:

Last session there was a piece of legislation before us that allowed police and fire to be exempted from the marriage penalty in workers' compensation. I found that disheartening. I have always felt that under workers' compensation, if we are going to do something for someone, we should treat everyone the same. But police and fire came forward and made their case, and people supported them in it. I told a number of my colleagues last session that next session when I come back I would like to get that benefit for everyone who loses a spouse. When you kiss them goodbye in the morning and they go to work, if they do not come home, there is the same amount of loss and grief no matter whether they are police, fire, construction worker, Department of Transportation worker, waitress, maid, porter, or security guard; no matter who it is. That is the reason why this piece of legislation is before you. It takes the revocation of the marriage penalty and removes it for all employees who lose a spouse at work.

There have been some concerns about the way this bill is drafted and a bit of confusion when people have seen the text of the repealed section. They thought we were taking that benefit away from police and fire, but I believe the way it is drafted that section was removed and this benefit now goes to everyone who should be getting it. Would your staff please double-check because there have been concerns about section 4 not applying to a surviving spouse if the surviving spouse has remarried before October 1, 2007. The intent of this legislation was to make the date the same as the date the benefit went into effect for police and fire; we wanted it to go into effect for everyone. We wanted to have the groups of people who were left out included back in. I am not sure if we missed the date or if that was a mistake, but, Mr. Chairman, if your able staff would look at this to make sure that we have accomplished the mission that we were after, I would greatly appreciate it. After you look at something 15 or 20 times, you no longer see your mistakes.

The goal was to offer the benefit that was given to police and fire to everyone who may have lost a spouse since that day.

Chairman Conklin:

This is pretty straightforward. I think that is what this bill says. I believe you are correct. This goes back and lumps everybody into the same provisions of this act starting at the beginning of the bill that we passed last session.

Senator Carlton:

And that was the goal. There have been some concerns, so I wanted to make sure that everything got on the record so that no one thought we were trying to do something that we were not.

Assemblyman Settlemeyer:

Are we still talking about individuals who were on duty? Last session there was some discussion about covering people who were off duty. So, this would affect only individuals who passed away while on the job.

Senator Carlton:

Yes.

Chairman Conklin:

Was there a discussion with your Committee about the provisions of section 1, subsections 1 and 2, regarding, at least from an insurance standpoint, the amount of premium that they collected versus what they will pay out because they did not anticipate having this at that time? In other words, we are asking them to pay for something they were not required by law to pay at that time. So they have not collected any premium, but we are asking them to go back and pay the benefit. How did that go over? Did they have a concern, and if so, was it addressed?

Senator Carlton:

I believe there were some concerns and we had some actuarial testimony. Some of the people who testified said there would be an impact, but they did not believe it would be significant enough and that going forward the rates could always be adjusted. I could go downstairs and pull numbers for you. I did not come with that information.

Chairman Conklin:

That was a preemptive question because I am sure someone will bring it up.

Senator Carlton:

I did have someone approach me at the end of last week wanting to know if we would consider just giving them a lump sum amount buyout. I told them to talk to the police and firefighters, because I believe that was offered to the police and firefighters before.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there more testimony in favor?

Rusty McAllister, President, Professional Firefighters Association, Las Vegas, Nevada:

We rise in support of this legislation. Two years ago when this bill was passed with only police and fire included in it, I testified that we felt it was appropriate to include everyone. Senator Carlton is right; when someone passes away, it does not matter if they are police officers, firefighters, or someone who falls into a sewer clean-out at the Orleans Hotel. We felt it was appropriate for everyone, not just police and fire, but at the time that was the best that could be done.

Randall Waterman, representing Public Agency Compensation Trust, Carson City, Nevada:

We would also like to go on record as supporting S.B. 363 (R1). The reasons are the same as stated by Mr. McAllister and Senator Carlton.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in support? I see none. Is there anyone wishing to testify in opposition?

Bryan S. Wachter, Carson City, Nevada, representing Retail Association of Nevada and Reno-Sparks Chamber of Commerce:

Both of our organizations are opposed to S.B. 363 (R1). Our main concern is that we seem to be getting more and more away from what workers' compensation was designed to do. This bill reads more like a life insurance benefit policy rather than a workers' compensation policy. We understand the loss that can occur and we are sympathetic to the loss that occurs when someone does not come home, but we find that workers' compensation was meant to alleviate the financial burden of an accident or a death at work. When the spouse remarries, there is an argument that can be made that the compensation is no longer needed or valid. Our position is that workers' compensation should be left to what workers' compensation was supposed to be. We are opposed to this bill.

Samuel McMullen, representing Nevada Self-Insurers Association, Las Vegas, Nevada:

We testified against this change on the Senate side and want to continue to put that testimony on the record. We are also the party that suggested that some increase in the lump sum payout would be acceptable. The theory of continuing long-term payments at a small dollar level is not something we would like to do. We understand the issue here, but we would put again our opposition on the record and our indication that we would be willing to increase the lump sum payout, but do not want to go back to the periodic payments.

Assemblyman Settlemeyer:

Has Nevada Self-Insurers had an opportunity to find out how much this would cause the premiums to increase? One county said it would rise 10 percent, and I thought that was high.

[A quorum was present.]

Samuel McMullen:

The Self-Insurers do not think in terms of premiums; they think about things in terms of cost. By definition, self-insurer means they pay all of the costs. They think about it not only in terms of cost of the benefit, but also cost of the process and procedures and the effort to go through all of that. As important as this is to people, we thought it would be smarter to think about it in terms of a lump sum payout and increase that as it is in the current statute. I do not know that anyone has done any actuarial report.

Assemblyman Settlemeyer:

I was worried because every time we increase costs to businesses they may decide to cut another employee.

Assemblyman Horne:

Last session that actuarial question was raised on a similar bill, and I remember it being said that this was already paid going forward. I automatically assumed that these spouses would be receiving this for their lifetimes. How could a 10 percent increase have been factored in?

Samuel McMullen:

I think we are saying that this is already a forecasted item. A lump sum payment would be calculated using a formula, and we would just pay that as one payment as opposed to continuing periodic payments. You may be right that actuarially that has already been factored in. I am not sure what variables they factor in. It is a function of trying to resolve this issue. The theory that there is some compensation for the loss of a spouse is somewhat defeated by the fact that there is a remarriage. I thought the policy issue was trying to recognize that and then also give some credit for the continuing compensation at a reasonable level.

Before we go back to periodic payments, another alternative would be to keep this bill but increase the lump sum payout.

Chairman Conklin:

Are there any questions from the Committee? I see none. We will go back to testimony in support.

Robert A. Ostrovsky, representing Employers Insurance Group, Las Vegas, Nevada:

I apologize for not being here at the beginning of the hearing. I was in the Senate on another hearing.

We opposed the bill in its original form. In the committee they established a date, and that date was the same date as the police and fire were given. Under those terms we support the bill.

We opposed the original police and fire change, but once it got into the statute there is an issue of fairness. When your spouse leaves to go to work in the morning, you expect your spouse to come back. If a coroner shows up at your door, or the police department, telling you that your spouse is never coming home again, why should you be treated differently than someone else in the benefit structure? Why is one person's death different than another person's death? We support the concept of equalization. That is how we got to the 2007 year, because it is an equal benefit for everyone.

As to the cost of that benefit, there is a small cost, but actuarially we think the cost is insignificant. When someone dies, we determine the value of the spouse's benefit based on their expected lifetime. The reason we do that is because of the two-year rule. We have discovered that the majority of spouses do not remarry, because they do not want to lose the benefit. If we give them the opportunity to marry and still maintain the same benefit, we are at the same place. They will still get paid one way or the other.

Some have taken the lump sum and that is why we resist going back farther than 2007 because employers managed all the claims from the old system. I am sorry I do not have the statistics in front of me. We have claims that go back all the way to the 1940s. I think we have four people over the age of 100 still receiving this benefit. No one wants to give up these monthly payments for the lump sum. However, there have been cases of it. I think people are put into an untenable situation of remaining unmarried and getting their benefits, or getting married. What do they view as the right thing? We want to take that problem away.

For those reasons, and because we think the cost is probably insignificant, we support this legislation as it stands.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in the neutral position?

Janice C. Moskowitz, Lead Actuary, Property and Casualty Section, Division of Insurance, Department of Business and Industry:

The question of cost keeps coming up. We asked our advisory organization, the National Council on Compensation Insurance, Inc., to estimate the cost of this bill, and they estimated a cost of between three-tenths of 1 percent and nine-tenths of 1 percent overall, system-wide. Their analysis used a comparison of annuities that contemplated spousal benefits with and without marriage considerations. It does not consider the current disincentive not to remarry. The actual impact might even be less when you consider that a lot of the claimants are choosing not to remarry.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to get on the record? I see none. We will close the hearing on S.B. 363 (R1).

We will open the hearing on Senate Bill 338 (1st Reprint).

Senate Bill 338 (1st Reprint): Authorizes a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises under certain circumstances. (BDR 10-1152)

Dan Musgrove, representing Southern Nevada Chapter, National Association of Industrial and Office Properties, Las Vegas, Nevada:

I think Mr. Childs is in Las Vegas and should be the best person to take the lead on this bill.

Chris Childs, Member, Real Estate Committee, State Bar of Nevada, Las Vegas, Nevada:

[Spoke from written testimony ([Exhibit C](#)). Presented a proposed amendment ([Exhibit D](#)).]

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Manendo:

What is the time frame on somebody to get notification?

Chris Childs:

A tenant will receive 14-days' notice from the landlord. The landlord is also required, under the amended version of the bill, to search the records of the applicable jurisdiction, the Secretary of State's Office in Nevada, for any

financing statements or evidence of commercial financing and give the lender the same amount of notice. If the landlord has not heard within that 14-day window, then the landlord can dispose of the property.

Assemblyman Manendo:

I found the amendment and I saw the 14 days. I have a follow-up question. Is the mailing just direct mail or certified?

Chris Childs:

It is not addressed in the statute. Regular mail would be sufficient. There is no requirement for certified mail. Most landlords would send a notice pursuant to the notice provisions in the lease, whatever those might say. In most cases it would be mail, certified mail, overnight delivery, or hand delivery of some kind. Hand delivery would not be practical if you did not know where the tenant is.

William Uffelman, representing Nevada Bankers Association, Las Vegas, Nevada:

I appreciate the real estate attorneys working with us to make this as workable as possible. As an attorney who used to practice in other places, if we are talking about lots of personal property in that lease space, I would probably use certified mail just to cover myself.

When you do a financing statement on personal property, such as pizza ovens, refrigerators, et cetera, there is a provision that the lender and the owner of the property will be on that statement. Hopefully, that will still prevail and the pizza shop will not have moved somewhere else and taken the equipment without notifying the lender. That sometimes happens. Between searching the records under the business name and the name of the lessee, we should be able to find out who owns the personal property and get it out in a timely fashion.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support? I see none. Is there anyone wishing to testify in opposition? I see none. We will close the hearing on S.B. 338 (R1).

We will open the hearing on Senate Bill 361 (1st Reprint).

Senate Bill 361 (1st Reprint): Revises provisions relating to employee leasing companies. (BDR 53-1125)

Helen Foley, Las Vegas, Nevada, representing National Association of Professional Employer Organizations, Alexandria, Virginia:

With me is Mr. Todd Cohn from the National Association of Professional Employer Organizations. We are here in support of S.B. 361 (R1), which was introduced by the Committee on Commerce and Labor in the Senate. This bill was unanimously supported in the Senate Commerce and Labor Committee and then unanimously approved by that Committee as well as the entire Senate. It was amended in the Senate and amended with support after meeting with the Insurance Commissioner and also the Commissioner of the Division of Industrial Relations and some of his staff.

Todd Cohn, representing National Association of Professional Employer Organizations, Alexandria, Virginia:

We are the national trade organization of employee leasing companies nationwide. This bill is an attempt to modernize and improve the regulatory structure surrounding employee leasing companies. It has been in place here since the late 1990s. It has served the industry and the state well since that time; however, there are 36 states that actively regulate employee leasing companies, and this bill is an attempt to streamline the approach taken by other states.

The main issue here is with regard to workers' compensation. Since the decoupling of the monopolistic system here, the structure for employee leasing companies has been limited. What this bill attempts to do is open up in the voluntary market some of the chances for employee leasing companies and their client companies to secure cost-effective workers' compensation coverage. The amendment that Ms. Foley was talking about was to ensure that if there are more choices in the workers' compensation market, there is an approach that ensures that the Division of Industrial Relations understands that there is a valid proof of coverage in place at all times for employees. At the end of the day, that is what we all want to ensure. We have worked hard to ensure that there is proof of coverage and that appropriate experience ratings are being disseminated to the designated advisory organization, which is the National Council on Compensation Insurance (NCCI) here in the state.

Of the two other matters in the bill, one has to do with the financial health of employee leasing companies. States have begun to regulate this industry and have required a good financial standing, and this bill would harmonize with that through a financial standard set in statute. Lastly, this is a compliance tool option; there is an organization similar to the Federal Deposit Insurance Corporation (FDIC) that is an assurance organization for employee leasing companies. This statute would authorize the Division of Industrial Relations,

which regulates the industry, if they so choose, to use information from that assurance organization to assist them with regulating the industry in Nevada.

Helen Foley:

One of the major concerns has been whether or not there is appropriate regulatory authority by the Division of Industrial Relations. We believe that there is with this legislation. Specifically, in section 4 of the bill, it states that the Division of Industrial Relations has all of the authority that they need to promulgate regulations. We are very comfortable with that.

Chairman Conklin:

Mr. Cohn, I am trying to understand section 4, subsection 1. Perhaps the vernacular has changed. I thought it was no longer "employee leasing companies," that it was "professional employer organizations." I guess it depends on who you ask. Part of the purpose of having a professional employer organization is so that you can separate the liability for the employees.

There is the question of co-employment. Do you allow an employer to carry workers' compensation when the employee is technically not theirs but is the professional employer organization's employee? Then, who is responsible? Is there a shared liability that transcends the workers' compensation portion into all other areas of employment? Does that not remove the advantage of having a professional employer organization in the first place?

Todd Cohn:

The vernacular has changed to "professional employer organizations." For purposes of state law here, it is one of the earlier statutes that referred to these entities as "employee leasing companies." That is a minor point that we are not trying to change in the statute. Everyone, hopefully, understands what they are, particularly the Division of Industrial Relations.

With regard to workers' compensation, one of the problems for the industry is when they decoupled the monopolistic system, it was not through statute but through NCCI rule which dictated the way in which professional employer organizations could procure workers' compensation in the voluntary market. At the time, it was a pretty restrictive rule on how we could procure it—through a multiple coordinated policy. Since 2000 or 2001, the problem has been that the voluntary market for leasing companies has been dwindling. These are expensive policies for the compensation carriers to administer. There are fewer and fewer carriers willing to issue a multiple coordinated policy; there is no competition in the marketplace.

One of the issues that this bill is meant to resolve is that there are lots of instances in which a client will join a professional employer organization relationship and as an existing business will have their own compensation policy covering their workforce. That existing policy, at times, has been a lot cheaper for the individual client company than if they were to join a professional employer organization relationship. At the end of the day, it becomes a question of viability for the small client to either want to come into the employee leasing relationship or not, depending upon the cost of workers' compensation and its availability. At some levels, it may not be cost-effective for anyone to bring that client in.

Aside from workers' compensation there are other valuable services such as access to health insurance, 401(k) plans, section 125 benefit plans, et cetera. You are correct, with the evolution of co-employment, one of the positive things that has happened, particularly in the world of workers' compensation, is the multiplicity of options, whether it is a master policy, a multiple coordinated policy, or even client-level approaches. They can reduce the liability the client is taking. In this case, if the client wants to take liability for being the employer for compensation purposes, they can do so, and also take advantage of some of the cost savings and benefits that they can get through the employee leasing company.

Chairman Conklin:

Who assumes the liability beyond the workers' compensation in that case?

Todd Cohn:

It would be the leasing company. Outside of workers' compensation, if the client were to hold that policy, it would still hold true. That would not change that relationship.

Chairman Conklin:

Are there any questions from the Committee? I see none. Ms. Foley, did you have any additional remarks on this bill?

Helen Foley:

No.

Chairman Conklin:

Is there anyone else wishing to testify in support of S.B. 361 (R1)?

Bill Rosado, President, Managed Pay, Las Vegas, Nevada:

I have been in the industry for over 25 years and I have had my own business for the last 13 years. I know there is a bit of confusion as to who is liable and

who the employer is. Many different areas of employment law affect our industry. I have clients who have slot machines, like convenience stores, and they are regulated by the Gaming Commission. I am hired as the employer of record with respect to managing those documentations, but at the end of the day the Commission is going to close them.

We have been challenged because clients could not get affordable workers' compensation. If a client has their own policy in place, and it is better than that of the professional employer organization, then the client should be able to keep that policy.

Chairman Conklin:

Let us say you are an owner of a professional employer organization and you bifurcate workers' compensation. Two years down the road one particular client lays off a lot of people and your unemployment experience modification rate goes up. Now, all of a sudden, it is cheaper for all of your clients to have separate unemployment accounts. The next thing is that health insurance may work the same way. Are you afraid that extending this into workers' compensation might open it up in other areas? Where do you limit this? What is the value to the professional employer organization if it is not cost reductions that being a member of a large group allows?

Bill Rosado:

Those are good comments. In other states, they mandate that the client maintain their own unemployment so that people with high unemployment experience ratings are not joining professional employer organizations to get lower ratings. With workers' compensation you really want to track the risk with each individual client, and the problem has been that for some clients it was better to get into a master policy of workers' compensation with a professional employer organization. We are not only looking at cost; we also realize that the client has a policy he can choose to keep, or he can go into a self-insured group. We do not want to force clients into the professional employer organization policy. All we want is to give clients the ability to choose which way they would want to go.

Chairman Conklin:

Let us say I had ten employers in my group. The person who can afford the cheapest insurance leaves but he was also the person who kept our modification rate down. Now I have nine clients with higher experience modification rates, which costs us more because it was a shared cost. Are you afraid of that or do you think that was worked out in this bill?

Bill Rosado:

I do not have enough experience with a master policy. I have never been in such a policy because my business has always been governed by the state regulations and I had to have a multiple coordinated policy. I have never faced that from a business or profit standpoint. I have always had to face whether or not I could get an individual policy for each client, from my carrier and written in accordance with the laws that you have in place, which says that it must be my professional employer organization for leased workers. We are always limited to the one or two carriers who are willing to write those policies. I do not have a profit motive with respect to the workers' compensation policy. We actually go after high-modification clients because of our in-house safety. That was one of the major points of combining them under a professional employer organization. Each client may have their own separate policy. What is happening is that they are coming together under the roof of one large safety department with Occupational Safety and Health Administration (OSHA) certifications, which actually reduces their rates. We have been able to do that.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone wishing to testify in support of this bill? I see none. Is there anyone wishing to testify in opposition? I see none. We will close the hearing on S.B. 361 (R1).

We will open the hearing on Senate Bill 193.

Senate Bill 193: Revises provisions governing dealers in antiques.
(BDR 54-1069)

Senator Bernice Matthews, Washoe County Senatorial District No. 1:

This bill is fairly simple and straightforward. Under the current law, people who are engaged in the business of buying and selling antiques are subject to our provisions governing secondhand dealers. Some antique dealers came to me and asked me to do something about that. They told me that every city in the state except Reno ignores this law and does not charge them as they charge secondhand dealers. They do not have to go through the Federal Bureau of Investigation background check, or some other things that secondhand dealers go through. By the way, gun dealers do not go through those background checks either; that baffles me. We have proposed, under this bill, that the antique dealers be exempt or taken out of secondhand dealer's law. That is all this bill does. They will pay whatever license fees are needed and their fingerprints will be on record. They will do all the things necessary to get business licenses.

I have some people here to give you some history. We had no opposition from the City of Reno.

Chairman Conklin:

Are there any questions from the Committee? I see none.

Edward Jacobson, Private Citizen, Reno, Nevada:

The City of Reno did not know what to do with us, so they put us with massage services, escort services, and topless dancers for a while.

[Spoke from written testimony ([Exhibit E](#)).]

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Horne:

This removes antiques from secondhand, but in Clark County you often see pawnshops with antiques, coins, et cetera. Will this bill eliminate pawnshops from that law? Could they now say they were antique dealers?

Edward Jacobson:

Pawnbrokers have their own pawn licenses. They are in the business of loaning money on items that they take in. Since they loan money, they do not take title to those goods. We, as antique dealers, have title to all of our goods and we do not loan money. There are some pawnbrokers who may sell antiques, but that is a different situation altogether.

Assemblyman Horne:

So, in that term, antiques are just used in a descriptive manner?

Edward Jacobson:

Yes.

Senator Matthews:

Pawnbrokers also have lots of antique jewelry and many people search those places for heirloom jewelry. The pawnbrokers will continue to be licensed under the pawnshop statute and will not be affected by this bill.

Assemblywoman Kirkpatrick:

How would this bill affect antique dealers who sell collectibles?

Edward Jacobson:

Actually, that is where collectibles come in. There are certain things that are brand new and are still considered collectibles. Those would not come under this program. Things such as baseball cards are collectibles. There may be very few antiques in that market. I think the terms "antiques" and "collectibles" are basically one and the same for this particular law.

Chairman Conklin:

Are there any questions from the Committee? I see none. Before I turn it over to the next person, I am going to be as gentle as I possibly can. I have a lot of written testimony here, so please do not read to us from your written testimony. Paraphrase your testimony and it will keep people's attention and we will be able to move things along.

Carol Crane, Partner, Antiques & Treasures, LLC, Reno, Nevada:

[Distributed written testimony and a letter ([Exhibit F](#) and [Exhibit G](#)).] I would concur with everything Mr. Jacobson said. The other thing that concerns us is the fact that we, as owners, have gone through the extensive and expensive procedure for obtaining a license. We also carry liability insurance. We are responsible for the day-to-day operation of our business. What we do as an antique mall is rent small spaces to individuals. Some of these people have a 10-by-10-foot space and volunteer two days a month to help run the operation. It is hard for those people who are not making a lot of money—none of us are getting rich; it is more for the love of antiques than anything else—and it is very difficult for these people to be subjected to the expensive procedure that the City of Reno is enforcing.

The other thing I would like to say is that the City of Reno has changed their mind numerous times. Now, there will be a new Reno City Manager and we do not know what the position of the new City Manager will be.

Chairman Conklin:

Within the packet you gave us there are multiple memorandums from the Revenue Manager for the City of Reno. I am assuming you want those entered into the record.

Carol Crane:

Yes, I would.

Chairman Conklin:

Are there any questions from the Committee? I see none.

Peter Peckham, Private Citizen, Reno, Nevada:

I am an antique and collectible dealer at the Antiques & Treasures mall at 151 North Sierra Street in Reno, Nevada. I want to express my support for this bill. In my view, the law as it pertains to dealers right now is excessive in respect to routine reporting of all inventory transactions. I believe it is unnecessary and is a financial burden to some of the dealers. To give you an example of the kind of dollars we are talking about for dealers like me, in 2008, my average daily sales were \$32, which adds up to about \$8,000 a year. Out of that I paid \$10 a day for rent and I worked three days a month at the mall as a sales person. As Ms. Crane mentioned, this is not a get-rich-quick kind of business. Dollars are very dear in our industry.

In addition to the business license that Reno requires from us, with which I have no issue, I would be required to submit to an exhaustive background check which would include a lot of personal information. The eight-page document includes my social security number, my income and sources of income, my living expenses, savings account balances and account numbers, checking account balances and account numbers, information on my mortgage payment, information on former employers, former residences, and personal references. As you can see, that is a lot of information. On that same document it releases the City of Reno from any damage that might be caused to me because of the release of this information, even though it can be duplicated.

In Reno, the ongoing debate on this topic has reached the City Council at least two times. I attended and testified on both those occasions. Those representing the City of Reno management have never testified about how the oversight takes place that prevents any crime from taking place. We have yet to hear any tangible information on that.

In my experience, antique and collectible dealers are honest people trying to make an honest living doing what they love to do.

I have one last observation about our little industry and the value of it, especially in the location where our store is, in downtown Reno. If you were to walk out the front door of our store, you would see a vacant building to your left, a vacant building to the right, one across the street, one down at the corner on the left, and another on the right. This is all in the emerging arts and entertainment district which we all have very high hopes will flourish. We play an important role in that fabric of the city, and I would ask you to please do what you can to support us and help keep our business alive and well.

Chairman Conklin:

Are there any questions from the Committee? I see none.

Gay Elliker, Partner, Antiques & Treasures, LLC, Reno, Nevada:

I am a promoter of antique and collectible shows called Tanner's Marketplace. The way the current law reads is a two-sided sword. It does not just affect the antiques dealers in a mall, or those who own their own stores; it also affects every vendor who comes into our city who wants to sell an antique or collectible. Now, the City of Reno wants to have every vendor fingerprinted and a background check done on these people. It does not make a lot of sense to do this. If an antique or collectible dealer from San Jose, California, wants to join in a show in Reno, I need to tell them that they will have to make one extra trip here before they do the show to be fingerprinted and to have a background check done. That is an expense of over \$200 before they can come in and do the show. They, of course, do not come.

We need to bring these dealers into the shows because they spend so much money here. They love to come to Reno because it is a fun place to come to; they love to eat here, see the shows, and they pay a lot of sales tax before they leave.

We lost a doll show that has been coming to Reno for many years; they went to Sparks. We lost a button show that also went to Sparks. These people bring dollars into our community.

I am sure you have heard about Hot August Nights and the flea market that goes along with it. Last year because they could not deal with the city, they took 300 or 400 of their vendors to Arco Arena in Sacramento. We lost many nights of hotel rooms for those vendors, and all of the sales taxes collected went to California and not to Nevada.

It is so frustrating that the gun shows are exempt from all of this. My shows have pottery and antique jewelry and the law reads that these people have to be fingerprinted and have background checks done. The next weekend they can go over to the big Reno gun show and all they have to pay is a \$15 permit. There is something wrong with this picture. We need to change it and keep our vendors here in Nevada. [Distributed written testimony and a letter ([Exhibit H](#) and [Exhibit I](#)).]

Chairman Conklin:

We will put your letter on the record. Are there any questions from the Committee? I see none.

[Three additional letters were submitted for the record ([Exhibit J](#), [Exhibit K](#), and [Exhibit L](#)).]

Senator Matthews:

I thank you for hearing us. We appreciate your consideration of this bill.

Chairman Conklin:

Is there anyone wishing to testify in opposition? I see none. We will close the hearing on S.B. 193.

We will open the hearing on Senate Bill 273.

Senate Bill 273: Provides for various activities related to nonembryonic cells.
(BDR 54-874)

Senator Michael Schneider, Clark County Senatorial District No. 11:

This bill deals directly with regenerative medicine, one of the newest and most exciting fields of medicine. Nevada has an opportunity to get ahead of the field nationwide. In concert with Senate Concurrent Resolution 16, this bill has the potential of adding a new and viable sector to Nevada's economy at a time when it is badly needed.

The recent scare of swine flu has helped illustrate the importance of providing the newest and most advanced medical care here in the United States rather than have people travel to medical tourism hot spots outside this country, such as South America. Nearly 90 percent of Americans are willing to travel for medical care when they believe the quality of care will be high. This need for state-of-the-art regenerative care and the resulting multibillion-dollar market gives Nevada a prime opportunity to take advantage of a new and exciting economy.

Our business friendly environment and our surplus of amenities and lodging, not to mention the surplus of inexpensive and available direct flights, make our state a great place to develop and sustain what amounts to a new, if different, form of tourism with Americans seeking great medical care travelling to our state.

As a result of the significant success in this field, other states, as well as the federal government, are already working on developing regulations and standards. We need to get ahead of the curve. Before the next legislative session here in Nevada, there will already be a significant number of regenerative medicinal products reaching the market as well as new industry standards being implemented. This field is growing at a rapid rate and action is needed sooner rather than later. The regenerative market is expected to reach \$100 billion by 2020 in the United States alone.

As you probably heard this morning, President Obama has directed that we will cut a point and a half off of health care costs in the next ten years, for a savings of \$10 trillion or \$20 trillion. What I bring you today with this proposal is a way that Nevada can get far ahead of the rest of the nation.

We are set up for tourism in Nevada, especially in Las Vegas. We have approximately 160,000 rooms with different price points. We have airline flights coming in and out at varying price points and the airline flights are coming from not only major but secondary cities across the United States. We have an in-city airport. Las Vegas is the best city in the nation for tourism. We are set up for medical tourism. We know that this would be a huge boost to our economy.

I have Linda Powers with me today. She has companies that deal in stem cell research and regenerative medicine, which is all tissue-based. I would like to turn it over to her and she will bring you up to speed. She is desirous of locating her company here in Nevada and there are other companies looking also.

[Distributed a proposed amendment ([Exhibit M](#)).]

Chairman Conklin:

Did you want to take questions on this bill?

Senator Schneider:

I will take some questions, but it might be more helpful if Ms. Powers presents her testimony first.

Linda F. Powers, Managing Director, Toucan Capital, Bethesda, Maryland:

I am the managing director of an investment fund that is headquartered in Maryland next door to the National Institute of Health. Our fund has been the only investment fund in the United States that has been a large and sustained investor in the regenerative medicine area for the last eight years. I have also served on a variety of research institutes and worked with several other states, so I have a sense of the context in which this legislation is being considered by Nevada today.

Biotech is one of the big industries of the future for this country as a whole and potentially for Nevada, in particular. More than 40 states have adopted major programs to try to become the top 5 or 10 in biotech in the country. It will be interesting to see how they all fit into the top five slots. Within biotech, regenerative medicine is by far the biggest new area of medicine and industry

that has been created since the creation of biologics, which form the biotech industry today.

To give you a glimpse of it, you have been given a handout ([Exhibit N](#)) that has some very useful facts and figures and metrics in it about regenerative medicine. First of all, regenerative medicine is using living cells together with supporting materials, matrices, and growth factors to rescue, repair, or replace tissues that are damaged in any part of the body. It is an entirely new area of medicine in which the products are mostly personalized. They are nontoxic and they are cost-effective because they fix the underlying medical problem rather than just treating symptoms.

It also entails an entirely new manufacturing industry to manufacture these living-cell products. It is a manufacturing industry that is very labor-intensive, and many high-salaried jobs will be created. The field is wide open for any state or area in the United States to capture the lead. By the time of your next session it will no longer be a wide open field. There is intense competition that is coming.

What you will see in the handout is that regenerative medicine is not 10 or 20 years away. Today, more than \$1 billion in sales of these living cell and tissue products—that is, skin, cartilage, and bone—is taking place in the United States markets. There are a couple of hundred more products in clinical trials that are only a few years from market. Last year, in 2008, there was over \$4 billion worth of corporate transactions. The industry is coming of age. This relates to Nevada and S.B. 273 because there are three parts to the picture.

One part is research, the second part is the clinical application, and the third part is the manufacturing of the living-cell products that are used to treat the patients. The research area is already incredibly crowded and already captured, frankly, by other states. Unless Nevada had huge dollars to put to work you could not compete in that area. California invested \$3 billion, New York invested \$1 billion, Massachusetts invested \$1 billion, and so on. But, no state has yet specifically focused in on becoming the leader in the clinical applications or the manufacturing. That is wide open.

As Senator Schneider said, clinical applications are mostly done on an outpatient basis and they fit very well for medical tourism, for which you have the infrastructure. That provides the strong magnet.

Senate Bill 273 will play a major role in enabling Nevada to capture a lead in the clinical applications, and based on that the manufacturing. This bill does several important things to clarify the situation, in the eyes of both medical personnel

and patients, to establish a regime here in Nevada under which these treatments can start to be administered to patients now and the state can become a leader.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Horne:

I have some concerns with section 6 where it precludes any regulation. We will not be able to take any disciplinary action or impose any civil or criminal action. What if you have someone who goes beyond the pale with ethical standards and harms someone?

Linda F. Powers:

This bill is very narrow and conservative. It relates only to the first portion of the picture and not to the whole picture involving anything that could be done by anyone. It relates only to nonembryonic stem cells. That is important, not only from an ethical standpoint but from a safety standpoint. The embryonic stem cells are the ones that people have the safety concerns with because they can form tumors. The adult stem cells, which are the only subject of this bill, have not been shown to have safety problems. This bill is also very limited because the only thing it authorizes is contained in a specific list. Section 6 only says that the state will not add more restrictive regulations beyond what is specifically listed.

Remember, the second major part of the answer is in addition to federal regulations. There is an entire regime of federal regulation that governs the safety of every medical product that goes into every human patient in the United States. It governs the sterility and purity and safety of every product that is manufactured in the United States or used in the United States that goes into a patient. All that S.B. 273 is about is clarifying that there will not be unpredictable and potentially problematic additional layers of state regulation because up until now there has been a patchwork among other states. Quite a few states have adopted stem cell legislation and some of the states have adopted affirmative, positive, permission-granting regulations. Other states have created negative and restrictive regulations. People who are looking at Nevada and considering establishing here, in the absence of legislative regime, do not know what the rules of the road will be beyond the federal.

I think it is more limited than it might look.

Senator Schneider:

I understand your concern because we had to get this past Senator Care and Senator Amodei, and some other attorneys in the Senate. The people

performing injections and taking blood, et cetera, are all regulated according to our state. They fall under each particular board. We are dealing with new stem cells and tissues, which is new science, so these boards do not know how to handle that. They are still regulated but their boards cannot get into stem cells.

In other words they still have to use clean needles, for instance. But, when it comes to stem cells, this is beyond what their boards can do. So the boards cannot go in and say you cannot do stem cell application because our regulations are not drafted for that. What this is saying is that when it comes to stem cells and tissues, they are not regulated by all of these boards.

Assemblyman Horne:

Another concern beyond the medical personnel who may be regulated is the product that is in the syringe. The bill appears to say this is a new product and we are trying to flourish using this, so leave us alone and trust us. I appreciate the federal regulations that are involved, but we are unique in Nevada. We like to have our say if something goes wrong, so this gives me pause.

Chairman Conklin:

Are there any questions from the Committee? I see none.

Senator Schneider:

The dollar amounts we are speaking about are huge. Ms. Powers has clinics in Germany, Israel, India, and China. There is a clinic pending in Switzerland. She was just appointed this past year to a board in China and is the only non-Chinese person on their stem cell and medical board. She is operating clinics overseas which Americans are going to.

I think we have a real opportunity in Nevada. These jobs that can be created start at \$40,000 or \$50,000 a year. You do not need a college degree for these jobs. We have an opportunity to create thousands of jobs here in Nevada and do billions of dollars in new tourism. I feel that people would rather stay in the United States for health care and travel to a good destination. These procedures, whether it is working on cartilage for knees or valves for your heart, are outpatient procedures. Some of your tissue will be taken, processed to extract the proper stem cells, and then reinjected into you. There is no rejection because it is your own tissue coming back in and it is clean and pure. The tissue fixes the area that needs to be fixed. The patient is here for about one week and it is great tourism dollars. The patients play golf and go out to dinner. That is how the stem cells work and it is all adult stem cells.

Linda F. Powers:

The air service infrastructure that you have in Nevada is very beneficial and not only for the tourism related to the clinical application of regenerative medicine, which we have talked about. What may not be as obvious is that it is also very relevant for becoming a manufacturing hub in this state. A lot of these stem cell and tissue-engineering products are manufactured on a centralized basis in very capital-intensive, specialized, clean-room manufacturing. You need excellent air service in order to make possible that system of medical products. The tissue, in some cases, is taken in a physician's office and sent to a centralized manufacturing location to extract the stem cells. The medical product is created and then it is sent back. You are talking about a huge amount of specialized air shipping and cargo-related aspects that are very relevant to where a manufacturing hub can or cannot be located.

The only other point I wanted to make was the point about competition and the limited window of opportunity for this. As an example, Monterrey, Mexico, is 150 miles from the United States border. It is a health care city with ten hospitals. Regenerative medicine is a top push for that whole health care city. All throughout the Americas as well as in Thailand, India, and China, the places where we have operations, these operations are growing very fast. The window of opportunity to establish a lead in this area in the clinical application and in the manufacturing is very limited.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support? I see none. Is there anyone wishing to testify in opposition? I see none. We will close the hearing on S.B. 273.

We will open the hearing on Senate Bill 176 (1st Reprint).

Senate Bill 176 (1st Reprint): Makes various changes relating to time shares.
(BDR 10-692)

Senator Michael Schneider, Clark County Senatorial District No. 11:

This is a time share bill. You and I, Mr. Chairman, worked on mortgage banking and some other issues through the interim. Residential housing is not the only thing affected by the downturn in our economy. Time shares have been greatly affected. This bill helps protect the current owners of time shares. Some people have given up on the mortgages on their time shares and walked away. This bill helps the current owners through the developer. It helps them consolidate their units, keeps the time share developments in a more positive cash flow, and gives the developer a way to manage their properties better and keep those associations going strong.

I would like to turn it over to Karen Dennison, and she can walk you through the bill. There are two sections in the bill that are very important.

Karen D. Dennison, Reno, Nevada, representing American Resort Development Association, Washington D.C., and QM Corporation, Sparks, Nevada:

I have with me Foster Mullen, who is the president of QM Corporation. He is a developer and a manager of time-share associations. The American Resort Development Association (ARDA) is the national trade industry group for the time-share industry and it is composed not only of developers and managers, but also of time-share owners. There is a special segment of ARDA called ARDA-ROC, which is the Resort Owners Coalition. These are the time-share purchasers who pay their dues to ARDA and are represented in our working group. We have about 40 members in our working group. Unfortunately we were not able to get all of our thoughts into the first go-round of the bill, so we have presented some amendments ([Exhibit O](#)). We believe that these amendments provide additional consumer protections for the time share owners.

As Senator Schneider has mentioned, the purpose of this bill is to allow time-share projects which were once expanding to now contract consolidate, and downsize due to the economy. We have associations that are not able to collect their dues; they have had to foreclose on time-share weeks and those weeks are not producing revenue for the associations. The effect is that you have fewer owners supporting more units than they need to operate their time-share project. What we are proposing is a means to consolidate the time-share project into fewer units or parcels. This is basically done through a process of having a vote of at least 10 percent of the owners, excluding the developer. With developer consent, downsizing then occurs through the developer relocating time-share owners into the empty units, taking out units, and agreeing to enter into a cost-sharing agreement with the association so that the units that are removed from the time-share plan are paying their fair share of the amenities and the common area expenses.

Section 1 of the bill basically provides for the relocation of time-share interests and provides valuable consumer protections. It provides that the replacement unit or parcel must be within the same time-share project and within the same time-share plan.

Section 2 provides that the replacement unit must have a value which is greater than or equal to the value of the original unit. Through many discussions with ARDA and looking at the Florida law—which pertains to a different subject matter; I do not want you to think that the Florida law is a relocation law—the ARDA working group has come up with another test due to the fact that it may be difficult to value a time-share suite. Is it valued as a hotel suite? Is it valued

as a condominium? We do not get into a valuation issue, so we have provided, and it is shown in green ink in the proposed amendment, that the replacement unit must provide the owner with an opportunity to enjoy a substantially similar vacation experience. If you turn to the second page of our proposed amendment, right under paragraph (f), "a substantially similar vacation experience" is defined as one in which at least the following factors are present: unit size, furnishings, reservation rights, standard of maintenance, and location. Location takes into account geographic, topographic, and scenic characteristics.

Going back to the additional consumer protections, the sleeping accommodations must be similar and they must accommodate the same number of people. If the time share is a fixed-unit, in other words, the use rights are fixed to unit number 24, then that time share cannot be relocated. If you bought in a fixed-unit, which is very rare, you could not be relocated to another unit. If the time share is a fixed-week, that week will be honored. For example, if you have a Las Vegas time share and you bought New Year's week, the relocated unit has to afford you the reservation rights to New Year's week. Also, if you bought in a particular season, let us say summer at Lake Tahoe, the relocated unit has to afford you the right to reserve your unit at Lake Tahoe in the summer.

The additional consumer protections which we have added in our amendment are in paragraphs (d) through (f) and they are in green. We felt that these additional protections should be stated. There can be no increase in the maintenance fees solely by reason of the relocation. You have to maintain a one-use right to one-use-night ratio, meaning you cannot have your time share out of balance by reason of these relocations and you have to make sure that everybody can reserve seven use nights for every week that they have in the time-share resort.

Finally, a catchall general consumer protection is that the location and historical use of the time shares that are to be relocated must be taken into account to further the best interests of the owners as a whole, with respect to the owners' opportunity to use and enjoy the time-share plan.

That, basically, is what section 1, subsection 1, is about—the relocation and the parameters of that relocation. Subsection 2 talks about the mechanism of how the relocation is actually implemented. First, the developer must consent to the relocation, and second, you need a vote of a quorum, pursuant to *Nevada Revised Statutes* (NRS) 82.291, and that is code for 10 percent. You need 10 percent of the owners, excluding the developer, to buy into the relocation and also the consent of the developer.

Subsection 3 is the mechanics of the recorded document and what information must be put "of record" in order to accomplish the relocation. "Of record" means with the county recorder's office. The amendment we have to that section clarifies that not every unit may have a permanent identifying number. That was a requirement that came into effect with the Time Share Act of 2001. These are just technical corrections.

Subsection 4 refers, once again, to the recorded instrument which must be recorded in order to accomplish the relocation so that it is very certain as to where these relocated time-share interests are placed.

Subsection 5 contains definitions. It defines what a fixed-unit time share is, and that is one where your unit-use rights are restricted to one unit; they are not floating. You do not buy a one-bedroom unit type, but a specific unit, such as unit 24. It also defines fixed-week time share, which is self-explanatory.

The definition of one-use right to one-use-night ratio did come from the Florida statute, and it specifies that each time-share interest, if it is a week, must have seven use-nights.

Section 2 of the bill provides for a withdrawal once you have relocated the unit owners and consolidated them into a smaller nucleus. It provides for the mechanism of withdrawing units or parcels from the time-share plan. The most important feature is found in subsection 2, paragraph (d), which is that the developer must enter into a new cost-sharing agreement with the owners association so that costs of common area maintenance and amenities maintenance are shared equally and proportionately according to the unit size and the number of units withdrawn.

I would like to point out that we have discussed this bill and I would like to thank Senator Schneider for bringing it forward. We discussed this bill with the Nevada Real Estate Division, and they would play a role if the developer is currently in sales when the relocation occurs and has a current public offering statement. This would be considered a material change in the plan, and the Real Estate Division would have to approve any material change in plan according to existing regulations under the Time Share Act.

I would be happy to answer any questions. Again, I have Foster Mullen here who can give you a concrete example of a situation where the association cannot afford to maintain all of the units in the project and has many units that go unused.

Assemblyman Settlemeyer:

In the amendment, paragraph (f) talks about the geographic, topographic, and scenic. I assume you mean that if you have a time share facing the lake, then they do not have the right to give you a time share not facing the lake; is that correct?

Karen Dennison:

I think it would be fairly rare that you would be buying a unit with a view, but basically, if that were the case and if you were promised a view in your time-share documentation, which would be your purchase agreement, then you would have to receive a replacement unit with a view.

Chairman Conklin:

Are there any questions from the Committee? I see none.

Foster Mullen, President, QM Corporation, Sparks, Nevada:

We are a developer and management company of time shares. We are hopeful that you will be in favor of this bill. This bill will relieve members of time-share homeowners' associations that are in good standing of having to support the additional costs for foreclosed units waiting for the current time-share market to turn around and tourism to turn around in Nevada.

The Thunderbird Resort Club has 158 units, and of those 158 units we are holding approximately 10 percent of those units back in foreclosures. This is a substantial cost to this association and that is one of the reasons we are bringing this before you.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Horne:

I thought Mr. Mullen was going to explain if you could no longer afford. . .

Foster Mullen:

Time-share associations must take care of the interior of the units as well as the exterior. They are much like condominiums except we have full maid service. When we have foreclosure units we still have to maintain those units because they are still part of the association. We have to continue to provide those services to the rest of the members, because the time shares are fragmented now by the foreclosures. For example, we have 158 units scattered throughout the entire resort. We cannot just shut down one unit or two units. Because these units are scattered throughout the resort, we have to maintain the

entire unit. When we have a refrigerator in a unit go down, we cannot just pay for 10 percent of that refrigerator; we have to replace the entire refrigerator.

There are amenities inside the units that we have to continue to pay for on all of the units, the entire 158 units. When you look at a property with 158 units where 10 percent of the homeowner base is no longer there to pay for those amenities, you have a shortfall in the operating budget of approximately 10 percent. You have to pass on those additional costs to the existing members in order to pay for the shortfall in your homeowners' association budget.

Assemblyman Horne:

So, you have 158 units, and a number of those units have been foreclosed upon. There is no one in those units. Are those time-share units, or . . .

Foster Mullen:

They are time-share units but those units are scattered throughout the entire project.

Assemblyman Horne:

If they are foreclosed upon the owner of the unit . . .

Foster Mullen:

The owner of the unit is now the homeowners' association itself. They are the ones that foreclosed because of the lack of payment of maintenance fees.

Assemblyman Horne:

So, it is not the bank; it is the homeowners' association.

Foster Mullen:

The homeowners' association now becomes responsible for maintaining and selling that property.

Assemblyman Horne:

So, now if you had a total of 100 separate individuals who were part of the association, and that has been culled down to 95 due to foreclosure, then those 95 persons are responsible for the amount that the 100 were responsible for.

Foster Mullen:

They would be responsible for 100 percent of the maintenance fee or budget.

Karen Dennison:

If I may clarify the point that Mr. Horne is making, basically, there usually are no lenders here. If there were, the lender would be responsible for assessments just like any other lender in a condominium association. These are generally paid for where the association is in first position; they take back the time-share week, and those time-share weeks are scattered throughout the project. Our idea is to try to consolidate those into fewer units. Time-share covenants, conditions, and restrictions (CC&Rs) provide for expansion, because that was what everybody thought was going to happen; they do not provide for contraction. That is why we are coming to the Legislature to try to get legislation to help us shrink, or consolidate, these projects into fewer units or parcels.

Assemblyman Horne:

These units are already paid for; what are the reasons for the association to foreclose? Is it certain fees or assessments that were not paid? If that is the case, when the association forecloses on the unit, does the association attempt to sell that unit to someone else to recoup your fees and bring another unit owner in?

Karen Dennison:

These are foreclosures on maintenance assessment. The association then takes title back to the time-share interest, and I will let Mr. Mullen speak to this, but right now there is no vehicle to resell those. In a good market, you will have a certain amount of attrition of time-share owners who just cannot afford their unit. They will forego their time share even if it is paid for, so the association has to take it back for nonpayment of maintenance fees. In a good market you have a constant influx of new owners. In this market sales are very slow, at best, or nonexistent.

Foster Mullen:

One of the problems the industry faces is consumer lending. Consumer lending for the time-share product is nonexistent. Most of the time-share lenders, because of the way the lending institutions are at this point, have stopped altogether lending on time shares. There are very few lenders willing to lend on this type of product. It has brought the time-share industry to a halt in the sales and marketing area.

Our primary marketing area for northern Nevada is northern California, and right now in northern California very few people are interested or have expendable dollars to put into time-share products. They are very cautious about what they are purchasing so it has reduced the marketing area for these individual time shares.

Most of these time shares that we are talking about today are time shares that have been in place for the past 20 years. The developer has since moved on and we have other developers out there now, such as Marriott, that have different products and higher-end products. This makes it more difficult for these older time-share associations to be able to sell this product.

Some of the time-share associations here in Nevada have actually tried to give away different time shares through charities to try to get people back into paying their maintenance fees. They have been unsuccessful to this point because the economy has made it that much more difficult for that to occur.

Assemblyman Horne:

I will have to call Ms. Dennison and get some more answers.

Chairman Conklin:

I know that Assemblywoman Kirkpatrick had some concerns with this bill, so when you get your questions answered, Mr. Horne, will you share them with her?

[Three letters in support were introduced for the record ([Exhibit P](#), [Exhibit Q](#), and [Exhibit R](#)).]

Are there any questions from the Committee? I see none. Is there anyone else wishing to get on the record on this bill? I see none. We will close the hearing on S.B. 176 (R1).

We will open the hearing on Senate Bill 393 (1st Reprint).

Senate Bill 393 (1st Reprint): Revises provisions governing barber schools.
(BDR 34-1223)

I am sorry I kept this bill until the last, but we have been trying to get Senator Horsford to testify and he has been tied up in budget hearings. I think we will do this in reverse order. We may have to reconvene on this bill at a later date. What we will do is start with the opposition.

**Vicky Sakach, President, Nevada State Barbers' Health and Sanitation Board,
Reno, Nevada:**

I think we could expedite this if we start in Las Vegas so that things are not repeated.

Joe A. Reyes-Torres, Former Student, Nevada Barber College, Las Vegas, Nevada:

I am a former specialist in the United States Army and veteran of the Kosovo conflict, Operation Keep the Peace. I humbly approach the Committee to present information regarding my experience at Nevada Barber College. I was a student until three weeks ago, when I was illegally removed from the institution. This information may be pertinent to S.B. 393 (R1).

I initially enrolled at Nevada Barber College after being laid off from Sprint due to the economic conditions of the country. I went to the school with aspirations of cutting hair and attending the College of Southern Nevada to continue pursuit of my engineering degree. I will highlight the following three points about Mr. Byron and Nevada Barber College: (1) is in regard to his character, (2) the college environment, and (3) the impact of S.B. 393 (R1) to the greater community of southern Nevada.

Mr. Byron initially presented himself with a kind and professional demeanor. Unfortunately, two months into the nine-month program, profanity, crude comments, physical threats of violence, and lack of pedagogy, which means teaching style, occurred. He verbally abused students, including myself, with expletives on a daily basis. He elevated his tone and physical presence in a manner of intimidation. When I sought professional feedback regarding my cutting technique I received no input and was often ignored.

My second point is about the college environment. It was not collegiately supportive in any way. My perception was of "us" versus "him." He would leave the institution unattended by a licensed professional for hours. Mentally I was fatigued by the constant verbal badgering, leaving me unable to focus on the task at hand—learning to cut hair. I was coerced into eating lunch after cutting hair for seven-hour periods at a time. Rules and procedures were often changed depending on his temperament. Please note, we were never provided with a formal students' rights handbook. When I contested Mr. Byron's behavior he threatened to call the police and withhold transcripts to prevent graduation.

Lastly, I would like to talk about the possible impact of this bill to the greater community of southern Nevada. Please consider my first two statements regarding Mr. Byron's lack of professional demeanor and the hostile college environment. The Nevada State Barbers' Health and Sanitation Board's oversight of the Nevada Barber College is important to the school's survival. Mr. Byron is in need of state supported rules and regulations to prevent future generations of barber students from experiencing what I have over the past

seven months. In order for our community to prosper, the Nevada State Barbers' Board is needed for the school to be successful.

[Chairman Conklin passed the gavel to Vice Chair.]

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Dan Brigham, Former Student, Nevada Barber College, Las Vegas, Nevada:

I would like to oppose S.B. 393 (R1) because if this bill is passed, all future barbers who will enter this school will have no monitoring of the behavior of the instructor. I would like the Board to continue to monitor the school for health and safety reasons from personal experiences with the teacher.

During my nine-month experience I have been threatened, suspended, and asked to leave, among, other things. No reason has ever been given why I have been suspended or why I have been removed from the school. Mr. Byron just told me to leave.

The reason I oppose the bill is the need to continue to have the Board involved with the school.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Seeing none we will move to the next person who wants to testify.

How many people in the audience want to come up and testify? This could be a very lengthy afternoon. We know that a lot of you will state the same things, so we would not mind you saying, "Me, too." I know people have personal stories, and those are okay, but we do not have a lot of time this afternoon. If you have particular concerns about the bill and what it may do to the industry, we certainly would like to hear that, but can we just stick to what problems you might have with the bill.

Donald Ruiz, Former Student, Nevada Barber College, Las Vegas, Nevada:

I have a lot of personal issues with Mr. Byron. I could go on and on. I feel that the school is a ghetto. Our instructor is very unprofessional. There was an altercation when Senator Horsford was at the school. Mr. Byron cut Senator Horsford's hair and the law states that he is not allowed to serve any clients. He had the Senator waiting for about one hour while he was in the back arguing with his wife, cussing up a storm. The whole school heard him, customers heard him. That is just one of the incidents. He threatened to shoot

me. What instructor threatens shooting a student? I have been to college for a year and a half. He brags that after this law passes ...

Vice Chairman Atkinson:

Excuse me; we do not even know who you are talking about. The bill does not address individuals.

Donald Ruiz:

I am speaking of Mr. Byron, our instructor.

Vice Chairman Atkinson:

Okay, proceed.

Donald Ruiz:

Lately, Mr. Byron has been bragging about this bill, saying that if it passes he will never have to deal with the State Board and that he will be on his own, and that the Board cannot tell him anything. He intimidates other students from going to the Board, saying that if they go to the Nevada State Barbers' Board they will be kicked out of school. A lot of students at the school are scared.

My dream was always to be a barber and I was excited as soon as they opened the college in Nevada because I could not afford to go to school in California or Arizona. It is a good idea, but the wrong person is in charge. I feel he needs someone to answer to. If you leave the State Board out of it, he will run out of control. He is very good at intimidation. I was one of the people intimidated for a while until he threatened my life and told me I would not make it home to see my family. It took a lot for me to come up here to testify. I have been at the school since August 6 when he first opened the door. I was in the morning session. He also has an evening class. He does not even put in the eight-hour day. I witnessed it with my own eyes; they do not practice barbering there; what they do is buy drinks, drink out back, and joke around. This is a very unstable and unprofessional environment. I could go on with a lot of personal issues. It is not fair that if this law passes he will be the one in charge. I do not agree with it.

Assemblywoman McClain:

I do not know who Mr. Byron is, but he is not going to be in charge. What this bill does is take authority away from the Nevada State Barbers' Health and Sanitation Board and transfer it to the Commission on Postsecondary Education. That Commission will oversee licensing of instructors where they have to be qualified to be instructors and it also puts the local Health District in charge of the conditions. I do not know what he is telling you, but I think he has you up in arms over nothing. I think this bill would probably help your case.

Donald Ruiz:

I just feel like we need someone to go to. With the State Board in charge, we have someone to go to and complain. I do not want to bring up another subject, but there have been times where Mr. Byron leaves and locks the students in the school, because the law says there has to be an instructor there at all times. We had the State Board President show up one time and Mr. Byron was not there. He was gone for about one hour; he came back and started arguing with the State Board President. It was an awkward moment for us. I wanted to say something but then I would have probably been kicked out of school if I did. Mr. Byron has the power to do that. The State Board should remain the people that we talk to about issues concerning the school.

Assemblywoman McClain:

I think you would have more protection under the Commission on Postsecondary Education. They have more stringent rules for schools and they cover a lot of schools. I wish I had heard the proponents of the bill.

Vice Chairman Atkinson:

We did not do the pro side of the bill. Senator Horsford is in Finance Committee and unable to come up here.

This is getting difficult for the Committee. The way I read the bill, it appears that it helps individuals like yourself so I am not sure what information you are getting from Mr. Byron. Senator Horsford has asked that this bill be moved to Wednesday so that he will have the opportunity to present it to us, so perhaps it will make more sense if we are able to hear the testimony in support. We are confused where you people are going and where we think the bill is going.

It looks as if Senator Horsford is arriving so we will have him present his bill. It appears the bill will help you students. I am not sure who Mr. Byron is, but Senator, three people have testified so far in opposition. We are confused because the way we read the bill it does not do what they are saying it does.

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

I am here to present S.B. 393 (R1). I would like to give a little background and explain what the bill does and answer any questions based on sections of the bill.

Last session, Mr. Arberry and I worked on legislation to establish the state's first barber college. Based on the parameters prior to that date, it was not clear what the requirements of the instructor were, how he would be licensed, or how to formulate an actual school. The Legislature approved that legislation and created the process by which the first barber college could be established.

It has a provision that allows for the current instructor. There is only one licensed barber instructor in the State of Nevada. Prior to that, all of the students who wanted to become a barber had to go to either Arizona or California or some other place to become trained. Clearly, that has been a hardship for many students and for potential students. Because there is currently only one licensed instructor, there was a provision that allowed for the school to be established with a limitation on the number of students that could be served until a second instructor was approved.

The reason that S.B. 393 (R1) is before you is because after looking at some of the issues that have transpired before, during, and after the establishment of the barber college, it became evident to me and others that we need a stronger oversight of the school. This bill changes the governance structure and licensing for barber schools only, not barber shops or barbers, from the State Barbers' Health and Sanitation Board to the Commission on Postsecondary Education. This Body knows, based on other legislation that has come before us, that a number of the vocational and education programs are governed by the Commission on Postsecondary Education. Those include driving schools and massage therapy, among other types of vocational training.

This change, in my opinion, is a logical step toward an organized system similar to many of the other trades. I believe it is in the best interests of the students. More importantly, it will make sure that the bond requirements and the protections that we have in place with the Commission on Postsecondary Education, as well as the oversight for how instruction occurs, is handled by the Commission.

That being said, and based on testimony we received in the Senate on this bill, there is an interaction between the Commission on Postsecondary Education and any licensing board, as there would be in this situation with the State Barbers' Health and Sanitation Board.

Upon completion of the program, students who ultimately want to become barbers would have to obtain their barber's license from the State Barbers' Health and Sanitation Board. Furthermore, based on the provisions of the bill and concerns that came from the Barbers' Board, we ensured that the health and sanitation was maintained and enhanced.

I do not know if the Committee knows this, but the State Barbers' Health and Sanitation Board has no staff. It is completely run by members appointed by the Governor's Office. Because there is no staff and only small fees are collected, there is not a lot of oversight or inspection of the facilities that they have authority over. Because this is a school and patrons are serviced as part

of the training, I believe that it needed to be enhanced, and so there is a provision in the amended version of the bill that requires, in counties with populations over 400,000, that the District Board of Health in that county would administer inspections of the barber college to ensure high sanitation standards are met.

That is the background and the purpose of this bill. If there are specific questions regarding the provisions of the bill or any other justification on the bill itself, I would be happy to answer any questions.

Vice Chairman Atkinson:

I have one question. Does this change the licensing requirements for the students? Does this affect them at all?

Senator Horsford:

The procedures that are currently handled by the Board with issuing of student licenses and accepting applications would be transferred from the Board to the Commission on Postsecondary Education. There are certain requirements that have to be met, for instance, age, a test that has to be taken, and some other requirements, in order to work as a student and like an apprentice. Those criteria and standards would be handled by the Commission on Postsecondary Education.

Vice Chairman Atkinson:

For individuals who are already licensed barbers, this would not affect them at all, would it? They would continue to work and be licensed, correct?

Senator Horsford:

That is correct. When this bill was heard in the Senate, there were statements made by representatives from the Board and on behalf of the industry that this somehow would deregulate the industry and the industry would be impacted. This bill does nothing whatsoever to a licensed barber. It all pertains to the governance structure of the barber school. Upon completion of the program, students would have to go through the licensing process before the State Barbers' Health and Sanitation Board.

Assemblyman Settlemeyer:

Why not use the same people who are doing inspections for the Cosmetology Board?

Senator Horsford:

There are separate governance structures between barbers and cosmetology. It has been like this forever. Barber bills in the past have been somewhat

contentious, and I probably should have known, when the proposal was made to establish a barber college, that there would be a lot of opposition or resistance. There always have been separate boards for the barber profession and cosmetology.

Assemblywoman McClain:

Did you say that they still would go through the same process but they would have to get their license from the Commission on Postsecondary Education?

Senator Horsford:

Because of some of the bond requirements and the like that the Commission does for every vocational school, there is a process for how student records and applications have to be handled.

Mr. Perlman has reviewed the process that has been done with the State Barbers' Health and Sanitation Board and he feels that their Commission is fully adequate and capable.

Assemblywoman McClain:

So, it is not replacing anything the Barbers' Board does; is that right?

Senator Horsford:

Correct.

Assemblywoman McClain:

It is just making sure the school is compliant with the Commission on Postsecondary Education. Is that the way they do it with cosmetology schools?

Senator Horsford:

The Cosmetology Board does handle cosmetology schools. That is the practice currently. That is not true in every state.

Assemblywoman McClain:

Apparently, it is not working well with the barber school.

Senator Horsford:

Again, this is in no way meant to make a statement about the State Barbers' Health and Sanitation Board. Because of the lack of infrastructure, the Board's primary purpose is licensing barber shops and individual licensed barbers, which is very different from overseeing a barber college.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Senator Horsford, do you want us to go to the rest of the people who want to speak in favor of this bill?

Senator Horsford:

If we could. I know there are several people in Las Vegas wishing to speak.

Vice Chairman Atkinson:

We will take testimony now in support of S.B. 393 (R1).

Royal Byron, Instructor, Nevada Barber College, Las Vegas, Nevada:

I am the instructor you have been hearing about. I am here today to ask that you pass this bill. This is the first and only barber college in the State of Nevada. I am the first and only instructor. This bill will help if we can get someone in place to oversee that the school runs on a more efficient basis. Having never had a school here, we need a board that can oversee us without the necessity of looking to other states as to the way the school should be run. This is a prime investment for me and my wife; I think that my investment to the community and to myself would be better overseen by the Commission on Postsecondary Education.

I have talked with Mr. Perlman, the administrator of the Commission on Postsecondary Education, and supplied him with all the information we had previously given to the State Barbers' Health and Sanitation Board. I think this is the right direction for this bill to go to ensure a fair chance to succeed, since this is the first barber college in the State of Nevada.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Texanner Byron, Owner, Nevada Barber College, Las Vegas, Nevada:

I am in support of S.B. 393 (R1). I think it will be beneficial to the college to have the Commission on Postsecondary Education have oversight authority.

Sten Washington, Private Citizen, Las Vegas, Nevada:

I had the pleasure of accompanying Mr. Byron to the Legislature in 2001 when the bill about the barber college was being deliberated prior to Mr. Horsford being in the Senate. The college has a lot of history with Mr. Byron and the Barber Board. I came as a neutral party. I want the right thing to happen for our community. I spent my own money to come to Carson City to testify in front of Senator Townsend. We were unsuccessful in trying to get a barber

college going because of the two-instructor rule. Previously the law had stated that there need only be one instructor.

In the meantime hundreds of students had to go to Arizona or California because of the problems in getting the school going. Thankfully, Senator Horsford began to take this issue under his wing. The only licensed instructor in the State of Nevada wanted to do the right thing for his community. He is not perfect and I do not know of anyone who is. I went to the school and I saw a professional atmosphere there. I saw a positive contribution being made to the community. The whole conflict between the Board and Mr. Byron is better served by moving the venue to a more structured licensing regulatory authority. There is no question that the barber college needs to be here and Mr. Byron has the professional expertise to put that in play. This dispute that has been going on for many years needs to be put to rest.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Beatrice Turner, Private Citizen, Las Vegas, Nevada:

We have been going round and round since 2000 about the barber school. We even went to Boulder City to go to a meeting concerning the school. I am not one to always support what Senator Horsford does, but this I support. The oversight needs to be moved to another venue. When you have a board that can act and do what they please, that is not right for someone trying to have a barber school here. I have a cousin who went to Chicago to go to barber school. When he came back he could not pass the barber test here. He had to go back to Chicago to go to school for some more hours and that was a hardship on our family.

We have a barber school here now and we need to change it around so that it will not fall under the State Barbers' Health and Sanitation Board.

I have had issues with the State Barbers' Health and Sanitation Board when I would call to get information about the school. They told me that there was not going to be a barber school in Nevada. Well, the school is here and we need to do what we can do to work with this school so that students from Nevada can come to this school.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Senator Horsford:

It is my understanding that Commissioner Weekly is in Las Vegas. I know there is the other side of the issue and I want that side to be heard. At this point I would say that there is no way this school can stay under the State Barbers' Health and Sanitation Board. I think it is important that all of the communities be heard. It sounds as if there are some valid student concerns that should be addressed, and that is part of the reason I think the Commission on Postsecondary Education is better suited to oversee the college, since they can address issues rather than stirring them up or allowing them to fester. I do not know if Commissioner Weekly is still there, but I hope you will allow him to testify. I need to excuse myself because I am being called back downstairs.

Vice Chairman Atkinson:

Is Commissioner Weekly there? [He was not present.]

Assemblyman Settlemeyer:

I was looking at the *Summerlin View* and it indicated that the school had to get a second instructor by June 30. Perhaps that could settle some of these problems.

Senator Horsford:

There is an individual who is testing to become a second instructor at the school. Apparently that person was given the runaround, and it is my understanding that his test has not been scheduled until the fall despite his willingness and desire to become an instructor now. It plays into the pattern, in my opinion, that rather than trying to support something that is Nevada-based, and help establish something that can help both students and the community, there have been attempts, or efforts, to undermine it.

The school does intend to have a second instructor as required by the *Nevada Revised Statutes*.

Assemblyman Manendo:

I think we need to get that person tested. I do not know what the holdup is, but we should try to work on that now.

Vice Chairman Atkinson:

If we have additional questions, we will talk to you during the week, Senator.

We will move back to Las Vegas to take more testimony.

Antinette Maestas, Vice President and Legislative Representative, Nevada State Barbers Association, Las Vegas, Nevada:

I am not going to go into my whole statement because I know you are tired of hearing it, but I hope Senator Horsford is still in the room so that he can hear this. On April 3, I was in Carson City testifying on this bill. I got home on that Friday evening and on Tuesday they called me at my barber shop and assured me that things were going to be different, that this bill would cover my concerns and the instructors would still be tested under the Barber Board. My question concerns a bill being voted on without the amendments being there so one can see them; how can that happen? The amendments came out after the Senate Health and Education Committee passed the bill. Senator Horsford did not do what he said he was going to do. He put the instructors back to Postsecondary. My question is what does Postsecondary know about testing barbers or people to be instructors? Do they even know how to properly drape a client? Do they even know what proper draping means?

Another problem I have as a shop owner is that they would be subjected to one annual sanitation inspection. We, as a barber shop, are subjected to inspections anytime our doors are open. That is only for the safety of the public. I do not think that is right.

Vice Chairman Atkinson:

Let me just clarify for you because the legislative process is a lot different and we do have amendments that are sometimes done in committee and then amendments that are sometimes done on the floor. We do have different ways of putting in amendments and they do work differently. Sometimes we hear testimony in our hearings and may decide later, well after the hearing, that something needs to be changed on a bill and the only way to do it is on the floor. I am not totally defending the Senator—I do not know what his thought process was and he is no longer here—but that is an explanation of how the legislative process works. That is probably what happened in that instance; he got information after the hearing and did an amendment.

Assemblyman Settlemeyer:

My wife is a licensed cosmetologist so I do know how to properly drape a person.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Robert Perry, Member, Nevada State Barbers Association, Las Vegas, Nevada:

I am a licensed barber. I vehemently oppose this bill on the basis that it defies all logic. The Nevada State Barbers' Health and Sanitation Board exists for the

very purpose of successfully regulating, licensing, and legitimizing the barbering profession. They are given jurisdiction over barber shops and the licensing and regulating of barber shops; they also license and regulate individual barbers. It does not seem logical that they would not have regulation or oversight over the school which will teach the profession of barbering.

As board members, they are licensed barbers and they have a personal, vested interest in the profession of barbering. I can think of no better group of people to regulate or oversee the barber school. The entity that Senator Horsford wants to place over the school does not have a vested interest in the profession of barbering or of making it successful. They have no vested interest in public health, sanitation, or anything like that and only are interested in the guidelines he is asking the Board to give them. It defies all logic that another entity that has no interest in barbering will have oversight over the school.

For the record, I would also like to say that I am very grateful to those three young men who came from the school to testify and to give their own personal stories and statements. Senator Horsford seems like a very busy man and I am a little resentful that he is not there to hear the opposition as well.

Vice Chairman Atkinson:

Commissioner Weekly, we took the individuals who wanted to speak in favor of the bill, but I know that Senator Horsford wanted you to speak as well. We will go back to the people who want to speak in favor at this time.

Lawrence Weekly, Clark County Commissioner; Board Member, Southern Nevada Health District, Las Vegas, Nevada:

Having spoken with our Majority Leader on this issue, I also spoke at the Senate hearing in favor of S.B. 393 (R1). I come today to continue to support Senator Horsford and his efforts. I hope that you will take this bill into consideration and understand that there is a lot of oversight that needs to take place here so I appreciate all the support. I have had the opportunity to speak with several of you when I was in Carson City and you voiced your concerns about this bill. I shared my comments with you and I ask that you support this bill.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. We will move back to the opposition.

Efren Guerra, Barber Shop Owner, Las Vegas, Nevada:

I have been a barber for 33 years—17 years in California and 16 here in Nevada. I am an owner of a barber shop called Town and Country Barber Shop,

and I have been a proud member of the Nevada Barbers Association since 1993. I oppose S.B. 393 (R1). Some individuals have a special interest in having this bill passed. They wish to change one of the oldest and honored professions, by allowing the newly-established barber school in Las Vegas to have the Commission on Postsecondary Education regulate how the school does business. Proper licensing and training in the barber profession, with appropriate checks and balances being performed by knowledgeable individuals who have devoted their lives to being part of this profession, is a necessity. Barbering for 17 years in California showed me how some people could change the whole state of affairs. I heard the same rhetoric, how new changes in the legislation would not change the barber industry. You should go to California and see how it is now. I have.

Assemblywoman Kirkpatrick:

Who inspects the barber shop, itself?

Efren Guerra:

The Nevada State Barbers' Health and Sanitation Board.

Assemblywoman Kirkpatrick:

Who makes up that Board?

Efren Guerra:

Nathaniel LaShore, ...

Assemblywoman Kirkpatrick:

What I meant was, are they barbers?

Efren Guerra:

Yes, they are barbers; they have been barbers for many decades. I think this bill will take us back to the 1800s.

Assemblywoman Kirkpatrick:

If they were to inspect the barber school would there be a problem with that?

Efren Guerra:

No. When I went to barber college they inspected our college periodically and they taught us how to be sanitary. I am afraid if that is not taught, the whole community and the public will suffer.

Assemblywoman Kirkpatrick:

I like to understand the different portions of bills. There might be portions that are good. What specific portions of the bill do you have a problem with? Is it

the fee, adopting regulations for employment of the licensed apprentices, or what?

Efren Guerra:

It concerns me that the Barbers' Board would be off limits and not be able to exist and perform the duties that they are there for.

Assemblywoman Kirkpatrick:

Hypothetically speaking, what happens if there is a bad inspector? In other venues there are inspectors who have different interpretations. What happens if something bad happens and the Board was the one who did it? Who would be responsible then?

Efren Guerra:

The Board and the members of that Board would be responsible. They police themselves. We have never had a liability issue. A special interest from another state came here and is pushing and shoving trying to tell us what to do and what not to do. I had to go out of state to go to barber school, come here to be licensed, and I am not complaining. I think that is the way it should be. It is just like in the military; there are certain things you have to do.

Assemblywoman Kirkpatrick:

How many barber schools are there in Clark County?

Efren Guerra:

One. It worries me whether I would hire the people who come out of the college being run the way I hear it is being run. I wish I could hire the three gentlemen who testified. They probably have more knowledge and chutzpah than the instructor, from what I understand.

Vice Chairman Atkinson:

We are going to discontinue that line of talk. I understand you are irate, but you are about to make us irate. We will not allow people to come to this dais and attack people. We do not have time for that.

Nathaniel LaShore, Vice President, Nevada State Barbers' Health and Sanitation Board, Las Vegas, Nevada:

I am here today to urge you not to pass this bill. I would like to share some information. Before I do that, City Councilman Reese just left—he could not wait any longer—but he was here to oppose this bill as well and he would like you to know that he was here.

The Nevada State Barbers' Health and Sanitation Board has been given the task to regulate the barber industry for the protection of over 1 million people, residents and guests. We take our job seriously. We have 883 barbers, we have 223 barber shops in Nevada, and I am sure that most of those people you would talk to would say they are pleased with the regulatory board that they have been under for all of these years. The only people who are opposed to the Board are those not willing to follow regulations. We are glad to see a school in Nevada. We feel that having a school in Las Vegas can help to ensure that this is a good school and the students receive the kind of training they are paying for so they do not have to go back to school again because they failed to get proper training. You heard that from the students who testified earlier. We are not here for that; we are here to help the school.

We need to help the school with their records. We have a person who is ready to take the test. This person was not ready to take the last test to be an instructor because there were some errors in the records that were given to us by the school. The records were fraudulent. There was no way that this person could have had the hours in at the time that he presented the information to us. Because of that, he was not allowed to take the test. Since that time, he did go back and get some additional hours. At the next appointed time this person can take the test. The only reason there has not been a definite date set for the test is because of what could happen to this bill. If this bill passes, then we would no longer be able to license instructors.

I have spoken to David Perlman, who is the administrator of the Commission on Postsecondary Education. He called our office because he was in awe when he saw this bill. He thought that it was something we were interested in. We told him it was not our bill. As we talked, he admitted that the Board is better able to regulate this school, as far as licensing of instructors and inspecting shops. The Commission has a school that is under their jurisdiction, but they do not license the instructors. The State Board of Cosmetology continues to license their instructors and inspect the shops. That is what we would like to do.

What happens if a student comes to us out of a school and has not been trained properly? We feel bad that he has to go back. That is why we are so glad that we have a school here in Nevada and we want to be sure it is a good school.

I would like to find out who cuts Senator Horsford's hair.

Vice Chairman Atkinson:

We are not going to allow you to ask him here. You can ask him directly, but not in this Committee. Are there any questions from the Committee? I see none.

Assemblywoman Kirkpatrick:

Can you tell me how often the school is inspected?

Nathaniel LaShore:

We have inspected the school three, maybe four times.

Assemblywoman Kirkpatrick:

How often do the students turn over?

Nathaniel LaShore:

It depends on the course they are taking. It could be a 1,500-hour course, or a 400-hour or 600-hour course. That would determine how long the students remain in the school.

Assemblywoman Kirkpatrick:

I want to know if you inspect as often as you have new students, so you are not inspecting the same people all of the time.

Nathaniel LaShore:

The same people are there. We inspect whoever is at the school at the time and we inspect the school itself.

Assemblywoman Kirkpatrick:

What happens if there is a student who is not doing things exactly as they should, but you never inspected to catch that fault? They would go out into the barber shop and do that again not knowing that it was not correct. Would it be fair to say that you inspect enough to be sure that all of the students have the opportunity to have fault found?

Nathaniel LaShore:

We try to make sure that the students in the school are receiving proper training as far as sanitation and how to work with customers. We have had people come to us from schools and we have had to stop them from taking the test because they were not able to handle the razor. They did not know how to operate the barber equipment. This is sad coming out of a school.

That is why, with the school in our state, we can help to monitor that.

We were told that Senator Horsford was present and getting his hair cut at a certain time at the school. The regulations state that an instructor is not supposed to be providing services to the public. There should be a sign indicating that all of the services are provided by the students. Problems at an inadequate school would include instructors not being there, or the instructor

was providing services to someone else and not properly training the students. That is a regulation that has been violated. We see a school that does not want to be under our regulatory agency because no one else would be able to check those things.

Eloy Maestas, Secretary-Treasurer, Nevada State Barbers' Health and Sanitation Board, Las Vegas, Nevada:

I would like to go on record as opposing S.B. 393 (R1). We feel, as a Board, that we are best qualified to administer the tests for instructors as well as individuals. There are concerns I have about the bill if it passes as written. The way the bill is written now, people coming here from other states have to be accepted through the Commission on Postsecondary Education. We would not be looking at these people and I do not feel that it would be fair. I deal very closely with the National Association of Barber Boards of America, of which I am the vice president. I will be the president in the coming year. That is an association of all barber boards throughout the country. We gather information from the states. We see where mistakes are made and how we can benefit and better the profession. There are only three states that have barber schools that are under a commission on postsecondary education. One was California in 2007. The law in California was repealed because they did not know how to handle it. Now, nobody is governing the schools or the instructors in California. I do not want to see that happen here.

I want this school to succeed. I want a good school. I want the students to prosper and to be able to have the same opportunities that I have had. I know that Senator Horsford made a comment that our Board is understaffed. We do not believe that is true. We believe that we do the job that we need to do. Our Board has been in existence since 1929. That is 80 years of experience. I do not think that is something that should be thrown away. You, as Committee members, need to take into consideration the amount of experience that we have in this industry. We have always been very productive. We have tried to help people. We have the school now; we opened the school. We want the school to move forward. We do not know why they think the Barbers' Board is against the school. We are here to help the students. We are here to make our industry prosper.

We are a small Board but we have adequate staff. People pick up applications and they are treated in a timely manner. We have over 900 licensed barbers in the State of Nevada. We have 248 licensed shops. We do not feel that we need the total manpower that the Cosmetology Board needs. There is a cosmetology shop at every corner. We are not that way as barbers; we are different.

[Submitted documents ([Exhibit S](#)).]

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Let me remind you that some of your comments are getting repetitive; please keep your testimony to new information.

Doug Moore, Vice President, Nevada State Barbers Association, Las Vegas, Nevada:

Our President would have been here, but he is out of town today. I represent the barbers of Nevada and we have 900 barbers in the state. I am also opposed to S.B. 393 (R1). I do not agree with any other entity trying to come in and take control of the school. They do not know how to do things. Why change the law for one person or one school?

Our Barbers' Board has done a very good job for the last 80 years. The Board has been working with barber shops for many years. The school is new to the state and to the Board. Perhaps things are not yet right, but the only way to find out that the training is not correct is to have someone who knows what is expected.

The Association feels that the Board is the entity that needs to be in charge of overseeing the school.

I came to Nevada from New Mexico because of the laws here in Nevada.

Ann Gallegos, Barber Shop Owner, Las Vegas, Nevada:

I am a barber and shop owner and have been for many years in Nevada. We have to be extremely careful. You are all aware of the poor sanitation that occurred with the colonoscopy clinic. Barber shops throughout the state are under the supervision of our Barber Board. We follow all of the sanitary guidelines. Who better to control, inspect, and supervise this than the barbers who themselves practice sanitary procedures and are board members.

When students go to school, it is like the old saying goes, if you do not teach the child in the high chair, you will not teach him in high school. If the Board is doing inspections and they see something wrong, who better to know if they are doing something wrong than the Board members since they are licensed barbers. If they see unsanitary situations, they can correct it right then.

In my barber shop, I sterilize every time before I start to cut someone's hair. My clippers are sprayed. I wash my hands before, after, and in between. My razors are sterilized.

With only one instructor in the school, how is he going to watch every student to know that they are doing things correctly? The Board members can periodically go in and check to see what kind of procedures the students are using. If it is wrong, they can tell them, cite them, or whatever in order to correct it. In that way, when the students do graduate they will know what the Board expects.

This state attracts people from everywhere. We have different sanitary conditions that we have to be able to observe and we screen patrons before we ever cut their hair. I feel the Barber Board has kept a watchful eye. I was secretary-treasurer for ten years for the Nevada State Barbers Association, and there are barber shops that call me and tell me that they received a citation for this or that. If the shop had been in the right order, the Board would not have had to give them a citation.

Barbers are limited. It is not like anyone else who has a job. If we go on vacation, we have to look around for another barber to fill our chair to keep our shops going while we are gone. We need a good school. We need a school with good students who are very well educated in their profession and in sanitation and in what they do. In that way, when we call every barber shop in town asking if they have a barber who could help us out, we might have one if we had students coming out of the barber school. That is all we are concerned about—protecting the public to the best of our ability.

For these reasons, I oppose S.B. 393 (R1).

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Marilyn, Private Citizen, Las Vegas, Nevada:

From what I have heard from some of the students, and something I witnessed having come from a medical background, I believe that the Board should stay involved for cross contamination purposes and infection control. I worked in the county hospital where there were multiple infections and airborne diseases. If there is no one to instruct and direct the students on how to prevent the cross contamination, as well as how to treat it once they have been exposed to it, then this will go out to the public and spread everywhere. We need someone to monitor that as well as to know how to contain it and control it.

I am opposing S.B. 393 (R1) on behalf of Nevadans as well as people who come here to visit. We have multiple tourists who come here and they will come to the schools because they know that the schools give a more reasonable

discount. Also, as instructors in schools, we need to be able to teach students professionalism as well as how to go out into the public.

The gentlemen who came here to testify who attended the barber school walked in with their heads up. They walked out with their heads down after attending the school for eight months. They need someone to support them, be able to listen to them, and to isolate issues that they encounter as well as control infectious diseases.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Keith Netty, Private Citizen, Las Vegas, Nevada:

I have represented the Nevada State Barbers Association during the passage of the legislation as it now exists and I wanted to try to straighten the record out. I heard one of the witnesses say that the two-instructor rule was placed in the law to prevent the barber school that now exists from even beginning. That is not so. I testified at the hearing on the original bill establishing the school as it was making its way through the Senate in Carson City. I know that the two-instructor rule was a protection for students. It was well known that in the interests of making a profit, there might be too many students for one instructor sometimes and so students might not get the full benefit of the education they paid for.

With one instructor there is the potential that the instructor could become ill, or have a death in the family—any kind of reason that an instructor may be absent from the school. The students would be at risk of losing the education that they have paid their money for.

The statement that there was an ulterior motive in the two-instructor rule is false. I was troubled to hear Senator Horsford imply there was a vendetta between the school and the Barber Board. I think that was inappropriate. I wished that you had asked him to be more careful about his presentation. I know you did that appropriately for someone who was testifying here.

Vice Chairman Atkinson:

I do not need you to tell us how to run our meetings. I said what I said to the other gentleman because he personally called someone out.

Do you have anything else for this Committee?

Keith Netty:

No, sir, I do not.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Vicky Sakach:

We want the school here, but we want to see it grow in the right way. Our Board is self-sufficient. We support our Board. We get no state income of any type. My husband's concern was that this bill adds an unnecessary layer of bureaucracy to the system. A few years from now, this will require a tax increase to support the bureaucracy.

I strongly suggest that the Governor veto this bill and any other bill that comes with a hidden future tax. Right now, we do an excellent job. If we go into that school to inspect and see something wrong, we will correct it. We will teach them. It is like anything else; you drill it into them until it becomes second nature. We want to see a school of excellence. We cannot have someone inspect once a year. It will not work.

Assemblywoman Kirkpatrick:

My frustration is that we come here as a citizen legislature. Anytime we ask questions or draft bills regarding various boards we are deemed to be horrible people. I do not think that is fair. We have the ability to ask the questions, so that is what we do.

Whether or not this is a tax increase in the future, it is our job to come here and ask the tough questions. I am not thinking about how much it will cost 15 years down the road. I would like to see an accounting of all the boards to determine where their fees go. I cannot get those answers.

Vicky Sakach:

We are audited annually.

Assemblywoman Kirkpatrick:

We cannot always get that information from staff or from you.

Vicky Sakach:

I appreciate what you do and thank you for doing it. Please take the literature, read it, and investigate with it.

Vice Chairman Atkinson:

Is there anyone wishing to testify in the neutral position?

Lynn O'Mara, Health Planning Program Manager, Health Division, Department of Health and Human Services:

The Health Division does have expertise in regulating and inspecting health care facilities, and food service operations, including some environmental issues in schools, so we are already looking at how we could implement this bill, if it is passed. In doing that we considered the fact that there will be regulations passed and there will be a very small fiscal impact.

For the Committee's consideration, we are submitting an unsolicited fiscal note ([Exhibit T](#)) simply to cover the cost of the new regulations.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none.

Glenn Savage, Environmental Health Director, Southern Nevada Health District, Las Vegas, Nevada:

The Southern Nevada Health District would be the governmental body for Clark County to conduct inspections, promulgate the regulations, and set a fee schedule for the work to be conducted by the staff at the barber school.

If the Legislature passes this bill, the Southern Nevada Health District would work with the State Health Division, the barbers, and the educators to run a successful program.

I read the facility could be inspected "annually." It is up to the Legislature to make it more often or allow the local health district to make a minimum or maximum number of inspections per year.

We investigate complaints. If there are any complaints lodged by students or others concerning sanitation and health matters or other matters regarding running the school, those would be addressed in the regulations. We would investigate those complaints like we do in all of our other environmental health programs.

I heard people testify about sanitation, communicable diseases, and infection disease protection. We address those issues in some of our other programs, including tattoos, body art, and permanent makeup.

We will face the challenge if you pass this bill.

Vice Chairman Atkinson:

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in the neutral position? I see none. We will close the hearing on S.B. 393 (R1).

[Vice Chair returns gavel to Chairman Conklin.]

Chairman Conklin:

I think that concludes our business for the day. We heard the last bill. There is one energy bill that may be heard that is exempt. Wednesday and Friday are work sessions. If you have a desire to hear something on work session, I need to know by the end of tomorrow.

[The meeting was adjourned at 5:01 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

Denise Sins
Editing Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 11, 2009

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 338 (R1)	C	Chris Childs	Written testimony
S.B. 338 (R1)	D	Chris Childs	Proposed amendment
S.B. 193	E	Edward Jacobson	Written testimony
S.B. 193	F	Carol Crane	Written testimony and supporting documentation
S.B. 193	G	Carol Crane	Letter to Senator Matthews
S.B. 193	H	Gay Elliker	Written testimony
S.B. 193	I	Gay Elliker	Letter to Senator Matthews
S.B. 193	J	Paula and Dan Clements	Letter in support
S.B. 193	K	Helene Walker	Letter in support
S.B. 193	L	Patricia Boynton	Letter in support
S.B. 273	M	Senator Michael Schneider	Proposed amendment
S.B. 273	N	Linda Powers	Supporting documentation
S.B. 176 (R1)	O	Karen Dennison	Proposed amendment
S.B. 176 (R1)	P	Gary Torres	Letter in support
S.B. 176 (R1)	Q	Alexandra Kingzett	Letter in support
S.B. 176 (R1)	R	Larry Allison	Letter in support
S.B. 393 (R1)	S	Eloy Maestas	Supporting documentation
S.B. 393 (R1)	T	Lynn O'Mara	Written testimony and fiscal note