

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

**Seventy-Fifth Session
March 6, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 12:13 p.m. on Friday, March 6, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/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 Chair
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
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:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Steven J. Redlinger, Las Vegas, Nevada, representing Southern Nevada Building and Construction Trades Council, Henderson, Nevada
Steve Ross, Secretary-Treasurer, Southern Nevada Building and Construction Trades Council, Henderson, Nevada
Danny Thompson, Executive Secretary-Treasurer, Nevada State American Federation of Labor-Congress of Industrial Organizations, Henderson, Nevada
Jack Mallory, Henderson, Nevada, presenting International Union of Painters and Allied Trades, District Council 15, Henderson, Nevada
Lesley Pittman, Reno, Nevada, representing Perini Building Company, Las Vegas, Nevada
L. Tom Czehowski, Acting Administrator, Division of Industrial Relations; and Chief Administrative Officer, Nevada Occupational Safety and Health Administration, Henderson, Nevada
Mark Edgel, Training Director, Southern Nevada Laborers' Local #872, Las Vegas, Nevada
Micah Kennedy, Field Safety Representative, C. C. Myers, Inc., Reno, Nevada
Vicenta Montoya, Chair, Sí Se Puede Latino Democratic Caucus, Las Vegas, Nevada
Lou Salazar, representing United Association Local 525 Plumbers and Pipefitters, Las Vegas, Nevada
Theresa McKee, Reno, Nevada, representing Nevada Association of Realtors, Reno, Nevada

Chairman Conklin:

[Roll was called.] We will open the hearing on Assembly Bill 148.

Assembly Bill 148: Requires certain health and safety training for construction workers and supervisors. (BDR 53-276)

Assemblyman John Ocegura, Clark County Assembly District 16:

I am here today to present Assembly Bill 148. For anyone who has spent time in southern Nevada over the past ten years, it is apparent that the construction industry plays a major role in our local economy. With projects such as CityCenter, The World Market Center, One QueensRidge Place, and countless others, it is difficult to go too far without seeing our unofficial state bird, the construction crane. At times the pace of construction was staggering when there was a new project announced every month. For locals it became a game of guessing what the next casino would offer and what plot of vacant land would soon be occupied by a condominium tower.

Unfortunately, when projects were accelerated, mistakes happened, and 12 workers lost their lives. It was a sobering revelation when the Las Vegas Sun published reports that during an 18-month period, between December 2006 and June 2008, the number of fatalities was greater than the total number of deaths on The Strip in the entire 1990s. Construction safety in Nevada was a problem and changes would need to be made. I applaud the work of the union representatives, safety professionals, and industry leaders who have spent the last year working to find ways to improve safety conditions. They have agreed that by increasing education and awareness of safety standards, a culture of safety will be developed on the job site. It needs to be clear to everyone from the newest employee to the most senior supervisor that a safe workplace is their responsibility.

Assembly Bill 148 will require 10 hours of safety training for employees on construction sites and 30 hours of safety training for supervisors. It will also impose fines on employers who hire workers without this certification. Construction safety is an issue we cannot take for granted, and I believe that this bill will move us in the right direction and will ultimately save lives. Although we have been working on this for quite some time, we are not done yet. We are going to hear from representatives who will suggest changes to this bill, and I am totally amenable to working with them to create a good bill, since we are not finished yet. It is my belief that we have to change the culture of safety in the construction industry, and I think this bill is a step in the right direction to accomplish this.

I am not sure what changed in the construction industry. Maybe it was the speed at which we had to get things done or the rapid growth, but safety is no longer the number one priority. My goal is that when a construction worker steps onto a job site, whether it is his first day on the job or whether he has been there 30 years, he will be educated to notice when something does not look safe. I have a number of representatives who are ready to testify.

Chairman Conklin:

I applaud your effort in this area and appreciate your work on this. Are there any questions from the Committee for Mr. Oceguela?

Assemblywoman Kirkpatrick:

Was the effective date left off in error?

Assemblyman Oceguela:

Yes, that is one of the amendments we will be presenting. I think that a lot of the questions will be answered by some of the testimonies given today.

Chairman Conklin:

If there is not an effective date on the bill, it is automatically October 1st. An effective date is indicated only when it is different from what is standard.

Assemblyman Settlemeyer:

Is the 10 hours of training per year, or is it a onetime requirement?

Assemblyman Oceguela:

That is also up for discussion. The original version of the bill had the required training sunset in ten years, and then the worker would need to be retrained. There will be a discussion on when the 10 hours of training would need to be repeated.

Chairman Conklin:

Are there any other questions from the Committee? There are none. Mr. Oceguela, is there an order in which you would like the folks testifying to speak?

Steven J. Redlinger, representing Southern Nevada Building and Construction Trades Council, Las Vegas, Nevada:

I would like to introduce Steve Ross, the Secretary-Treasurer of the Southern Nevada Building and Construction Trades Council.

Steve Ross, Secretary-Treasurer, Southern Nevada Building and Construction Trades Council, Henderson, Nevada:
[Spoke from prepared testimony ([Exhibit C](#)).]

Chairman Conklin:

Are there any questions for Mr. Ross on A.B. 148? Mr. Redlinger, do you have any additional comments?

Steven Redlinger:

Obviously, I echo what Mr. Ross has already said. We appreciate your interest on this issue and thank Majority Leader Ocegüera, and thank you for your leadership, Chairman Conklin.

Chairman Conklin:

Are there any questions for Mr. Redlinger? There are none.

Danny Thompson, Executive Secretary-Treasurer, Nevada State American Federation of Labor-Congress of Industrial Organizations, Henderson, Nevada:

On behalf of the 200,000 union members in Nevada who I represent, we wholeheartedly support this bill. We appreciate your interest on this issue. Ten hours of Nevada Occupational Safety and Health Administration (OSHA) training is the very least we should require to avoid other tragedies like those that have occurred on construction jobs on The Strip. In addition, the Legislature needs to ensure that Nevada OSHA is adequately funded and staffed to administer the proper inspections to make the construction jobs safer.

Assemblyman Settlemeyer:

Are the recent accidents related to proximity, where there are too many workers in close proximity working on larger jobs, getting careless, and using the wrong tools? Are there issues with small jobs, where workers are building three or four homes, or is it mainly large jobs?

Danny Thompson:

I have served on the Division of Industrial Relations (DIR) advisory board since 1991, and while there have been several incidences in Las Vegas as a result of the high volume of work being done, it is a statewide issue. The DIR also oversees the Mine Safety and Health Administration which has separate issues. But accidents have been concentrated in southern Nevada because of the amount of work.

Assemblyman Settelmeyer:

Is this related more to large scale projects with companies that have so many employees that they are not monitoring their workers, as compared to one supervisor who has three or four workers on his crew? Is this more of a problem with companies that have larger numbers of employees and larger jobs?

Danny Thompson:

CityCenter is a very large project with 12,000 workers in very close proximity, and that has been a problem. There have been incidents statewide but not at the magnitude that has happened in southern Nevada.

Assemblywoman Kirkpatrick:

There is such a high demand for work in our state that we get many workers who come from other states where the building process is different from here. For example, the San Jose Community College took eight years to build, and in Nevada that is unheard of. I believe one of the biggest problems is that we get workers from other states. Another problem is the weather; here in Nevada, there is extreme heat in the south and extreme cold in the north. Workers coming from Minnesota do not understand the safety precaution of drinking a lot of water in the summertime. Our culture is so different in how we build as opposed to anywhere in the West. To say that these incidents occur only because of the large-scale jobs with a high number of workers would misinterpret what the OSHA safety classes do. I think a lot of good things come out of the classes that out-of-state workers do not understand when they come to our state.

Assemblyman Oceguera:

I agree with my colleague. Employees that are working on a single family dwelling could also be standing on several buckets, as you see ([Exhibit D](#)), and working with saws, electricity, and all the equipment used on large-scale construction sites. I believe this affects the smallest project to the largest.

Danny Thompson:

An employer in Gardnerville had a conex box where he was recycling aerosol cans. He had a two-by-four with a nail driven in it, and five undocumented workers were stabbing the cans onto the nail which caused an explosion. This resulted in one fatality and several seriously-burned workers, and there was no insurance coverage. This happens statewide, but the number of incidences in southern Nevada has been unprecedented. There are so many projects with a large number of construction workers in very close proximity where contractors are pushing to get the work done. That is a recipe for failure. The concept is that if everyone has the basic training, there will be less opportunity for tragedies to occur.

Assemblyman Goedhart:

As a farmer, we have had an OSHA trainer from Employers Insurance Company of Nevada conduct a safety class for our workers. What is the accessibility for employers in rural areas to get workers trained? Will this be available through a community college and would other industries be included in this bill?

Danny Thompson:

The State of Nevada Safety Consultation and Training Section (SCATS), a division of OSHA, will come to a place of business, perform an inspection, and teach a variety of training classes at no cost.

Jack Mallory, representing International Union of Painters and Allied Trades, District Council 15, Henderson, Nevada:

I have provided four pictures ([Exhibit D](#)) to demonstrate that CityCenter in Las Vegas is not the only problem area with construction safety. The first, second, and last pictures were from residential construction projects. The gentleman in the first picture is wearing a T-shirt over his face to filter out particulate matter instead of wearing a National Institute for Occupational Safety and Health (NIOSH) approved respirator. Unfortunately, this has been a longtime practice within the painting industry and often results in painters needing to be on oxygen in their fifties and sixties.

The second picture shows a drywall installer standing on a stack of five buckets. The worst part of this picture is that ten feet away is a ladder.

The third picture was taken at the SpringHill Suites project in Las Vegas, near the corner of Riviera Boulevard and Paradise Road. The worker is on the sixth floor, and the scissor-lift was approximately six feet away from the slab edge where there also was no retaining cable or barricade of any kind. The worker was working overhead, attaching a fixture to the ceiling.

The final picture, which is my personal favorite, is of a worker approximately 15 to 17 feet over the top of the landing of a stairwell, which is not seen in the picture. The other end of the plank he is standing on is hanging out of a residential-grade window. Obviously, this drywall finisher is in a very precarious position with the angle of the ladder propped in a corner, instead of on a straight wall.

These pictures demonstrate that the problem is not specifically related to big construction, big crews, or the pace of work. It is a problem with the culture of safety itself. I have gone on the record previously, stating that I do not believe OSHA 10 Training and OSHA 30 Training are the complete fix to this problem. I think the culture on the job site needs to change as well.

I am happy to support this legislation, since it addresses both issues to a certain extent. We reviewed an amendment to this bill proposed by DIR, and we were concerned that some of their proposed revisions reversed some of the intent of this bill. We have consulted with the building trades and have submitted a Building Trades Proposed Amendment submitted by DIR ([Exhibit E](#)). We believe that you need to define what an authorized trainer is, define who could provide the training, create a registry so the authorized trainers can be identified, create a registry of workers who have been trained, and make sure there are penalties for both employers and workers who fail to comply with the requirements of this law. We believe this is important and hope you will consider our amendment. We intend to work closely with all stakeholders in order to make this the best bill possible.

Chairman Conklin:

Is this the amendment you proposed?

Jack Mallory:

Yes, sir.

Chairman Conklin:

Is the title: Building Trades Proposed Amendment of The Amendment Submitted by DIR to AB 148? The Committee should also have a letter ([Exhibit F](#)) dated February 20, 2009, from DIR. Are there any questions from the Committee for Mr. Mallory?

Assemblywoman Gansert:

I think you are correct; this has to do with the culture. When I look at these pictures I think about poor judgment. Will the training help with better judgment? People on the job site do things that do not make sense. My concern is: will the training provide what is needed? How do individuals become responsible for their actions, and how do we get workers to change the culture by being safer?

Jack Mallory:

I believe it is a combination of training and changing the culture. Having an active safety program enforced by the employer through supervision will prevent a lot of accidents. Many of the safety issues you see in the pictures and on other job sites are largely due to ignorance and not being aware of a potential problem. For several years I carried a bucket around a room while finishing drywall, as did many other workers. This was a common practice because it was more efficient and faster than dragging a ladder, even though it was not very safe.

We have gone to great extents to change the culture. Our employers mandate that members have the training before they start work. The training we provide is not limited to OSHA 10. There is ladder and scaffold training. There is training on respirator fit, fall protection, aerial platform, and confined space. And there are many other training programs. We work cooperatively with our employers to ensure that members get trained before they start work. Employers have told us they will not hire anyone unless they have been trained. Through our training departments, we have assisted employers in developing their own safety policies and programs. We have many who have been trained as OSHA 500 instructors. We have an agreement with Perini Building Company where they hire some of our members as safety consultants and trainers.

Chairman Conklin:

Are there any other questions for Mr. Mallory? There are none. Thank you for your testimony and the photos.

Lesley Pittman, representing Perini Building Company, Reno, Nevada:

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

Assemblywoman Kirkpatrick:

Do you think that when there is a safety program in place, it helps the cost of insurance? Is that not a good reason to have this type of training?

Lesley Pittman:

Yes, there certainly is motivation in terms of Workers' Compensation rates. Training impacts our modification rates, but for projects like CityCenter where there is an Owner Controlled Insurance Program in place, it has a negligible impact on Perini's Workers' Compensation rate. There is a financial benefit for a corporation to ensure that there are safety practices in place at their job sites.

Chairman Conklin:

Are there any other questions for Ms. Pittman?

L. Tom Czehowski, Acting Administrator for the Division of Industrial Relations, and Chief Administrative Officer for Nevada Occupational Safety and Health Administration, Henderson, Nevada:

We would like to be on the record that we support A.B. 148 in its concept. We think this bill will help increase the awareness of safety throughout the state. We submitted a proposed amendment ([Exhibit F](#)) that addresses areas of concern that need to be refined. We look forward to working with the stakeholders.

Chairman Conklin:

Are there any questions for the witness? There are none. It is the Chair's intent to turn this bill back over to the Majority Leader to refine the amendments.

Mark Edgel, Training Director, Southern Nevada Laborers' Local #872, Las Vegas, Nevada:

I have been involved in the construction industry since high school. I worked in the nonunion sector for quite some time earlier in my career. In 1980, I had the opportunity to join a union at which time I became aware of safety training. I have been buried, have fallen off scaffolding, and have been electrocuted, all as a result of lack of training. Once I received the training, I was much more aware of safety practices. In 1997, I received my first OSHA 500 Training card which I have kept current by being retrained every four years. I have since been hired as the Training Director for Southern Nevada Laborers' Local #872, and we currently are in the process of training close to 5,000 of our members. We feel safety training is so important that we have taken the initiative to make it mandatory that our members get retrained every four years.

Assemblywoman Gansert:

Does OSHA 10 mean it is a 10-hour course, and does OSHA 500 mean it is a 500-hour course?

Mark Edgel:

No, OSHA 500 does not mean 500 hours, but OSHA 10 does refer to 10 hours of training. I do not know why they call it OSHA 500.

Chairman Conklin:

Are there any other questions for Mr. Edgel? There are none. If you are in Carson City and are not testifying, could you please stand up if you are in support of this bill? [(Many stood up.)] In Las Vegas, for those of you who are in support of the bill, can you please stand? [(Many stood up.)] Is there anybody in opposition in Las Vegas? There is one person in opposition. If there is additional testimony different from what we have heard in support, I would like you to come forward at this time.

Micah Kennedy, Field Safety Representative, C. C. Myers, Inc., Reno, Nevada:

I am in support of A.B. 148. I think the ten-year renewal would defeat the spirit of the proposal. I feel it should be a shorter term because 10 years is too long. The definition of supervisor is too broad and should be defined more clearly, since a supervisor needs training as well. I think that suppliers should be included in the training also. We need to decide if safety training should be required for small landscaping jobs as well.

Chairman Conklin:

We like testimonies that are to the point. Could you please leave your business card with the secretary? Are there any questions from the Committee for Mr. Kennedy?

Vicenta Montoya, Chair, Sí Se Puede Latino Democratic Caucus, Las Vegas, Nevada:

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

Lou Salazar, representing United Association Local 525 Plumbers and Pipefitters, Las Vegas, Nevada:

I am in favor of this bill. Many of the deaths related to injuries on residential jobs have an impact on our taxes. We pay the medical bills for all the undocumented, uninsured workers that are building homes for Pulte Homes and KB Homes. Many of the injuries are related to not being trained in construction safety practices. Another factor is that many of the tools being used on residential sites are the workers' personal tools from home, which do not have safeguards or are electrically unsafe. Some of the construction companies do not provide safety training or tools for the undocumented workers. Many of the injuries at small job sites have large consequences on the taxpayers, since we ultimately pay for the medical bills that the contractors do not.

So, I would like sections 11 and 12, which say that you can put a worker on a residential job for a 60-day period without any safety training, to be changed. This is not acceptable because employers normally do not keep workers for residential jobs longer than 60 days. This also does not address the "day laborers" who are often injured. Although the OSHA safety program is a great program, it has to be implemented in a way that covers everybody. I would like to suggest that every bid submitted states that everybody is trained. The undocumented worker is the worker who is killed on the job, his body is sent to Mexico, and we are stuck with the bill. All taxpayers are responsible for the medical bills. We need to make sure that all contractors are aware that safety is an important issue.

[John Ainsworth, Apprenticeship Coordinator, Northern Nevada Carpenters Apprenticeship, submitted a letter in support of A.B. 148 ([Exhibit I](#)).]

[John Madole, Executive Director, The Associated General Contractors of America, submitted a letter regarding A.B. 148 ([Exhibit J](#)).]

Chairman Conklin:

Is there anyone who would like to testify? We appreciate all of those who came out today in support of workers' safety. Is there anyone in opposition of

A.B. 148 who would like to testify at this time? There are none. I am going to close the hearing on A.B. 148. The stakeholders need to be aware that the Majority Leader will be leading the work on the amendments as necessary, and we will look forward to having this back to Committee when it is ready.

We will begin the work session and start with Assembly Bill 58.

Assembly Bill 58: Revises provisions governing residential landlords and tenants. (BDR 10-636)

Dave Ziegler, Committee Policy Analyst:

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

On the day of the hearing we received proposed amendments from Mr. Sasser of Washoe Legal Services and from the Nevada Association of Realtors, which are in the work session binder.

Chairman Conklin:

Are there any questions from the Committee?

Assemblywoman Gansert:

In looking at the amendments, the language that made sense was "upon request" versus having to always provide the statement.

Chairman Conklin:

Both of these amendments are necessary, but the second amendment is necessary because if you do not have the second amendment, then it does not matter where you put the statute since there is no enforcement mechanism. You can tell landlords what to do, but they are not obligated, since there is no recourse if they do not do it. Is that correct Mr. Ziegler?

Dave Ziegler:

The amendments do not conflict. It is not an either/or situation. You can adopt both amendments if you wish. The amendment Mr. Sasser submitted is addressing enforcement. The testimony was that there was not an agency to oversee the enforcement of these laws over landlords, so it would be a private enforcement. The Nevada Association of Realtors' amendment has to do with providing a copy of the bill upon request.

Assemblywoman McClain:

How is the new tenant going to know that they have an option to ask for a copy of the bill? I do not think it should be the responsibility of the tenant. I think it should be provided.

Assemblyman Settlemeyer:

What if we mandated that when a new tenant signs a rental agreement, they would be given a document informing them they can request a copy of the bill? That way, the landlord would not need to pass to the tenants the cost of distributing the bill. The concept of the \$1,000 fine seems steep to me. A landlord should not have to pay a \$1,000 fine for a \$20 bill.

Chairman Conklin:

Regarding Ms. McClain's statement, the proposed amendment, in *Nevada Revised Statutes* (NRS) 118A.270, already provides that this be noticed. So in each dwelling structure containing an elevator, a printed bill would be posted, or if it does not have an elevator, the bill would be displayed in two conspicuous places. The violation fee is not to be greater than \$1,000, which is necessary, so there is a cap.

Assemblyman Settlemeyer:

I understand the maximum to be \$1,000, but I feel the maximum should be a percentage of what is owed.

Assemblyman Ocegueda:

I am interpreting the amendment as stating: an "alternate" method of posting. Is that correct?

Chairman Conklin:

Ms. McKee, can you come up to clarify the amendment? Please remember this is not testimony, but for Committee questions only. We are asking for clarification on exactly how the renter is informed of the option of requesting a copy of a breakdown of the utility bill.

Theresa McKee, representing Nevada Association of Realtors, Reno, Nevada:

The intent was to allow posting in every case, and upon request, you could get the breakdown of the utility bill. We could add a provision stating that the posted notice must include language that the tenant has the option of getting a breakdown of the utility bill.

Assemblywoman McClain:

Will the actual utility bill be posted?

Theresa McKee:

Yes, that is the intent.

Assemblywoman McClain:

So, if a tenant lives in a building of 40 units where the utility bill was \$1,000 and they paid \$200, they need to request a breakdown from the landlord.

Theresa McKee:

Yes, that is the intent because we heard that in some cases for a bill that was \$100, the landlord charged 10 tenants \$20. To avoid someone making a profit, the landlord would post the whole bill, and if a tenant wanted the breakdown of the posted bill, he could request that from the landlord.

Chairman Conklin:

I want to clarify that the "shall" in the amendment supersedes the "may." So, are we saying you shall do it even though the provisions of NRS 118A.270 say "may"?

Theresa McKee:

That is correct, and if the Legislative Counsel Bureau feels we should change the language, I do not have a problem with that. We are agreeing that you can post the bill in these places, since it is already provided.

Assemblyman Ocegura:

This still does not read correctly to me. The "shall" is referencing NRS 118A.270, which states you "may post it."

Chairman Conklin:

So, what we are saying is, it needs to be fixed?

Assemblyman Ocegura:

Nevada Revised Statutes 118A.260 is referring to the disclosure of names, addresses, and emergency phone numbers of managers and owners, which has nothing to do with what we are talking about.

Chairman Conklin:

If we are going to move forward with this, we need to request that the bill be redrafted before it is sent to the floor. We need language that makes it clear that posting the bill must take place, and on the posting, it must state a tenant can request a breakdown of the bill.

Assemblyman Ocegura:

I am not sure everyone is agreeing with the concept.

Assemblywoman Gansert:

Can you please repeat it again?

Chairman Conklin:

We are working on the amendment from the realtors to state clearly that you must post the utility bill. The reference to NRS 118A.270 states you "may." We were referring to that provision to determine "how" the landlord will post the utility bill, not that you "may," but you "must" post.

Addressing Assemblywoman McClain's concern, there is a need for a provision stating a tenant can request more information regarding the bill, if he wishes.

Assemblywoman Gansert:

This looks like it is an alternate method of disclosure. Can someone have a choice of posting it at the elevator or somewhere else instead of sending a statement to individuals? I think we need to clarify whether the apartment owner is required to post the notice or send a statement.

Chairman Conklin:

The point of the provision is that the landlord does not have to send it to each individual. What you are saying is to give them the option of sending individual statements or complying with the provisions of NRS 118A.270.

Assemblywoman Gansert:

Yes, that is what I had in mind.

Assemblywoman McClain:

I interpret NRS 118A.270 to be discussing the posting in elevators. Can we use the language in 118A.270?

Assemblywoman Gansert:

It seems they are trying to say to put it in a couple of conspicuous places, or the option is to send it to each individual.

Assemblywoman McClain:

But that is just about elevators.

Assemblywoman Gansert:

It says "or two conspicuous places."

Assemblywoman McClain:

It is about an elevator.

Assemblywoman Gansert:

No, in subsection 2, page 3, of the work session document ([Exhibit K](#)), it says "in each dwelling structure not containing an elevator." I think everybody needs the information, so it can be accessible in a conspicuous area, or the landlord can send notices.

Chairman Conklin:

Mr. Ziegler, do you have any input on this?

Dave Ziegler:

As you know, we are impartial, and we do not advocate for or against legislation. What I am hearing is landlords should have two choices: (1) they can notify everyone individually, or (2) they can post the billing in a conspicuous place and allow someone to request their own copy. We can draft that appropriately.

Chairman Conklin:

Is that correct?

Assemblywoman Gansert:

That sounds right to me.

Assemblyman Manendo:

I am concerned about the two conspicuous places. If there is an apartment complex with 50 buildings, two notices is not enough. Are we talking about the office, one of the nine laundry rooms that someone may never go to, or the workout facility? There are some apartment complexes that have two to three buildings, and there are some that are so large, they have three different addresses.

Assemblyman Anderson:

I suggest at the time the rental agreement is signed, the tenant is made aware by conspicuous writing, not in fine print, that the utility bill will be divided and the methodology for the allocation to tenants. Then the subsequent posting is a reminder of what the overall bill is.

Assemblywoman Gansert:

Nevada Revised Statutes 118A.270 states, "in each dwelling structure" within a complex.

Chairman Conklin:

We will do a mock-up for the realtors. If the Committee members have questions or concerns regarding the second amendment from Mr. Sasser, please forward those to me.

We will now discuss Assembly Bill 124.

[Assembly Bill 124](#): Revises provisions governing unemployment compensation.
(BDR 53-667)

Dave Ziegler, Committee Policy Analyst:

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

On February 13, 2009, we received a set of amendments from Cynthia Jones, Administrator at the Employment Security Division of the Department of Employment, Training and Rehabilitation. Nevada is only one of two states that require employers to pay these taxes. There was a question on the day of the hearing as to whether the amendment was necessary. Ms. Jones directed an inquiry to the United States Department of Labor (DOL), which responded with an email ([Exhibit L](#)) stating that without the amendment, the bill would raise some concerns. Therefore, they would prefer to have the amendment included. Our legal counsel stands by Assemblyman Grady's initial opinion on the amendment, that the amendment does not change the meaning of the bill.

Chairman Conklin:

Are there any questions from the Committee?

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 124.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Chair Conklin left the room and Vice Chair Atkinson assumed the meeting.]

Vice Chairman Atkinson:

The next bill we will discuss is Assembly Bill 133.

[Assembly Bill 133](#): Establishes provisions concerning the disbursement of escrow money in real estate transactions. (BDR 54-647)

Dave Ziegler, Committee Policy Analyst:

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

Vice Chairman Atkinson:

Are there any questions from the Committee?

ASSEMBLYMAN ANDERSON MOVED TO DO PASS
ASSEMBLY BILL 133.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I assume Assemblyman Conklin will take his bill on the floor.

[Chairman Conklin reassumed the Chair.]

Chairman Conklin:

We will now hear Assembly Bill 173.

[Assembly Bill 173:](#) Makes various changes relating to occupational diseases.
(BDR 53-898)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Settlemeyer:

Is everyone being included considered category one?

Chairman Conklin:

To the best of my knowledge, this is the only bill on this particular issue. I cannot answer the question about category one.

Assemblyman Settlemeyer:

I do not think we should say anyone that is category one is included. There should be a presumption that if you gain more than 50 percent of your body weight since the time you retired, your condition is not due to work-related issues. I know of someone who worked for five years, started out weighing 200 pounds, and now weighs 350 pounds. If he has a heart attack, it most likely is not from his work.

Chairman Conklin:

Are there any questions from the Committee?

Assemblywoman McClain:

Are not arson investigators firemen already?

Chairman Conklin:

In almost all agencies, there is a component where you have to have been one for a certain number of years. The problem with arson investigators is in some cases they are covered and in some cases they are not. In most cases, if they have already been in the system, they are covered. This is bringing everyone to the same level of coverage for doing the same job.

Assemblyman Ocegura:

Under Rule 23, I wanted to disclose that I am a paid, professional firefighter and do not think this bill will affect me differently from any other firefighter.

Assemblywoman Gansert:

Is there not a fiscal note on this bill since most employees already qualify because they were firefighters at some point in time?

Chairman Conklin:

That was the testimony.

Assemblywoman Gansert:

I am concerned expanding this will result in a substantial cost, unless they are already covered. Is it going straight to the floor or is it going to the Ways and Means Committee?

Assemblyman Ocegura:

Can you have someone explain section 4, subsection 3, on page 6?

Dave Ziegler:

Nevada Revised Statutes 617.358 has to do with the idea that an employee is not entitled to receive compensation for occupational diseases unless he can "establish by a preponderance of evidence" that his disease arose out of and in the course of employment. Assembly Bill 173 creates a new subsection 3 that states this requirement, to "establish by a preponderance of the evidence," does not apply to situations under NRS 617.453, NRS 617.455, NRS 617.457, NRS 617.458, and NRS 617.487. As an example, NRS 617.455, which addresses lung disease, says, "Notwithstanding any other provisions of this chapter, diseases of the lungs, resulting in ... disability or death are occupational diseases." *Nevada Revised Statutes* (NRS) 617.455, subsection 5, states,

"a disease of the lungs is conclusively presumed to have arisen out of and in the course of employment of a person who has been employed as a full-time police officer or firefighter." So, the way I read the subsection that Assemblyman Ocegüera inquired about, it clarifies that NRS 617.358 is not the governing language. The governing language is in the other sections which create the various conclusive presumptions.

Chairman Conklin:

Are there any questions from the Committee?

ASSEMBLYMAN ATKINSON MOVED TO DO PASS
ASSEMBLY BILL 173.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Meeting adjourned at 1:42 p.m.]

RESPECTFULLY SUBMITTED:

Karen Fox
Committee Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 6, 2009

Time of Meeting: 12:13 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 148	C	Steve Ross	Written testimony
A.B. 148	D	Jack Mallory	(4) Photos
A.B. 148	E	Jack Mallory	Proposed Amendment
A.B. 148	F	John F. Wiles	Letter from John F. Wiles and proposed amendment
A.B. 148	G	Lesley Pittman	Written testimony
A.B. 148	H	Vicenta Montoya	Written testimony
A.B. 148	I	John Ainsworth	Letter
A.B. 148	J	John Madole	Letter
A.B. 58	K	Dave Ziegler	Work Session Document
A.B. 124	L	Dave Ziegler	Work Session Document
A.B. 133	M	Dave Ziegler	Work Session Document
A.B. 173	N	Dave Ziegler	Work Session Document