

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

**Seventy-Fifth Session
April 10, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:12 p.m. on Friday, April 10, 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 Chairman
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:

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30
Assemblyman David Bobzien, Washoe County Assembly District No. 24
Assemblywoman Peggy Pierce, Clark County Assembly District No. 3

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:

Harold Cook, Ph.D., Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services
Diane J. Comeaux, Administrator, Division of Child and Family Services, Department of Health and Human Services
Fred Hillerby, representing Hometown Health, Reno, Nevada
Linda Wicksten, Private Citizen, Sparks, Nevada
Daniel J. Costella, representing Ironworkers District Council and Ironworkers Local #118, Sparks, Nevada
Randy Soltero, representing Nevada State AFL-CIO and Sheet Metal Workers Union Local 26 and Local 88, Las Vegas, Nevada
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Washoe County Public Attorneys Association, Reno, Nevada
Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Jon Sasser, representing Washoe Legal Services, Reno, Nevada
Randall C. Robison, North Las Vegas, Nevada, representing Indoor Tanning Association, Washington, D.C.
Michael L. Brunson, representing Coalition of Appraisers in Nevada, Las Vegas, Nevada
Steve Rank, representing ironworking contractors, ironworkers, and their insurance carriers, Sacramento, California
Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada

Lea Tauchen, representing Retail Association of Nevada,
Carson City, Nevada

Jeanette Belz, Reno, Nevada, representing Nevada State Board of
Cosmetology, Las Vegas, Nevada

Chairman Conklin:

[The roll was taken and a quorum was present.]

We have a very busy schedule today. We will open the hearing on
Assembly Bill 515.

Assembly Bill 515: Requires policies of health insurance and contracts for
health care services providing coverage for treatment by certain
professionals to also cover treatment by interns. (BDR 57-1175)

**Harold Cook, Ph.D., Administrator, Division of Mental Health and Developmental
Services, Department of Health and Human Services:**

I am here to support A.B. 515 which would expand mental health services
covered by insurance and contracts to include services provided by clinical
interns who are supervised by licensed professionals. This bill is consistent with
Nevada Revised Statutes (NRS) Chapter 641 in specifying the internship
qualifications for social workers, clinical professional counselors, and marriage
and family therapists as well as a supervision requirement. Interns are
individuals who have completed their academic requirements and need
supervised hours as a prerequisite for licensure within the State of Nevada. It
requires the intern to be directly supervised by a licensed professional within the
field qualified by the appropriate board of examiners.

This bill would help the State of Nevada address mental health workforce issues
at mental health service clinics in rural Nevada communities. The addition of
rural clinics as approved internship sites will attract interns who are seeking jobs
to provide them with the experience and hours they require for licensure. The
interns will be able to provide services to individuals in rural communities while
being mentored and supervised by an experienced, licensed professional at the
clinic. Interns who spend time in rural communities and develop relationships
there are more likely to choose to remain after licensure, increasing the stability
of the rural workforce.

This bill provides the means for mental health agencies to be reimbursed by
insurance providers for the care provided by interns. They will provide
additional sources of revenue for rural clinics. The Division is communicating
with graduate programs and with social work, marriage and family therapy, and

other counseling professionals in Nevada and nearby states to increase their awareness of internship opportunities in Nevada.

Passage of this bill will greatly improve the Division's ability to establish these relationships by partially funding internship positions in the clinics.

Chairman Conklin:

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

**Diane J. Comeaux, Administrator, Division of Child and Family Services,
Department of Health and Human Services:**

I am here to speak specifically to section 9 of this bill which was added to Mr. Cook's bill. Section 9 of A.B. 515 would allow for the accrual of interest on the revenues collected in the Account for Aid for Victims of Domestic Violence. Any interest earned on this account would be credited to this account to be used for domestic violence services.

Chairman Conklin:

Is there any interest for the Account for Aid for Victims of Domestic Violence; does that already go somewhere?

Diane J. Comeaux:

I can answer that. Currently the interest on that account is deposited to the General Fund. The projections that are included in the agency's budget for the first year of the biennium are \$3,800, and for the second year of the biennium the interest is projected to be \$10,000.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to get on the record in support? I see none. Is there anyone wishing to get on the record in opposition? I see none. Is there anyone wishing to get on the record in the neutral position?

Fred Hillerby, representing Hometown Health, Reno, Nevada:

I have some questions. I congratulate Mr. Cook for speaking so quickly; I find I did not hear so quickly, so perhaps I did not hear the answer to my question. I am not clear if the intern, who is not a licensed professional, will be billing, or if the supervisor who is a licensed professional will be billing, or will the agency be billing? That is of concern to me. We need to know who would be authorized to bill. For example, in the medical field where you have interns and residents, the physician who is the supervising physician bills because he is involved in supervising the care, not the residents or the intern. I need to be

clear on this bill, which way this is intended to work. I thought I heard Mr. Cook say the agency would be billing for these services.

Secondly, it seems to me there is patient protection that appears to be missing. I think there ought to be informed consent from the patient so they understand they are being treated, and their insurance will be billed, for services by an unlicensed professional. It needs to be clear to the patient, to provide coverage for both the supervising therapist and the intern.

I understand what they are trying to accomplish; it is just the mechanics of how to get there that has me somewhat concerned.

Chairman Conklin:

As I understand in reading the bill, sections 1, 2, 4, and 5, it is clear that the intern will not work alone and will work only under the direct supervision of a licensed professional and that they are pursuing, at least in the social work field, a postgraduate degree. So you have a postgraduate, degree-bound intern working for a licensed professional. Is that correct?

Harold Cook:

That is correct.

Chairman Conklin:

The question is will that postgraduate student be able to bill, or will all the billing under this come from the agency or the licensed professional?

Harold Cook:

Within the purview of Mental Health and Developmental Services the billing is done by the agency. If it is a private provider I would anticipate that the billing would be under the licensed professional.

Chairman Conklin:

Mr. Hillerby, does that satisfy your concern?

Fred Hillerby:

In that regard, yes.

Chairman Conklin:

Then your only other concern would be the informed consent provision?

Fred Hillerby:

Yes.

Chairman Conklin:

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

Fred Hillerby:

I was wondering if you could ask your staff whether this language is clear enough that it reflects who would bill.

Chairman Conklin:

Mr. Yu, would you look at this while we move through other things and get back to us?

Daniel Yu:

Yes.

Assemblywoman Gansert:

It seems like this is probably derived from when you do Medicare or Medicaid billing—that you have to have a resident or an intern being supervised to be able to bill. This is trying to mirror that language, is that correct? It sounds like you are trying to bring that to the private sector so that an individual could come in for counseling. Who would they be reimbursing for the services?

Harold Cook:

In the bill, we would anticipate that the billing will be for private insurance as well as Medicare and Medicaid.

Assemblywoman Gansert:

So these services are still being provided by the governmental agency, and this internship program is under the school of medicine under your Division, is that right? This is somewhat like a training program; could you expand on that?

Harold Cook:

The internship program is through the accredited university that the individual is attending and the agreement would be with the agency in terms of the Mental Health and Developmental Services (MHDS) Division which would be the agency to host internship programs at various sites. We would provide for the licensed staff who would supervise and mentor the intern.

Chairman Conklin:

Ms. Gansert, does that satisfy your concerns? Are there any questions from the Committee? I see none. Is there anyone else wishing to get on the record in the neutral position? I see none.

We will close the hearing on A.B. 515.

We will open the hearing on Assembly Bill 436.

Assembly Bill 436: Provides for the payment of certain death benefits under industrial insurance under certain circumstances. (BDR 53-1083)

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:

I have forwarded to your staff an amendment ([Exhibit C](#)). This bill relates to the concept of cost-of-living increases for the surviving spouses of people who are killed while on the job, so they are covered by Workers' Compensation. I was contacted by Linda Wicksten and a group of other surviving spouses, including former Lieutenant Governor Sue Wagner, who have been working on this issue for some time, to no avail. Their spouses were killed in on-the-job accidents, and Mrs. Wicksten will testify. There is no provision in our statute that provides any kind of cost-of-living increase. You will hear about a 29-year surviving spouse who has never had a cost-of-living increase and so is still receiving a little over \$1,000 a month, and yet, her young husband left behind a family when he was killed. It is very sad. I committed to this group because I think it is a tragedy that this state needs to address.

The issue is the funding source and the money, and I know that these are very difficult times. I wanted to start this discussion so we can begin exploring ways that we can try to address this issue. I think my information says we have about 600 surviving spouses who are in this situation. That seems high, so I will continue to research that while Mrs. Wicksten testifies.

Basically, it is a simple idea. The amendment is a clarification; I put in the wrong language when I originally submitted the bill. Mrs. Wicksten contacted me and advised me that there had been several versions of how you could address this issue. This amendment clarifies that we are talking about a retroactive cost-of-living adjustment for these surviving spouses. I was looking at the current language in the bill which calls for an annual lump sum adjustment. If I may, I would like to introduce Mrs. Wicksten and ask her to testify.

Linda Wicksten, Private Citizen, Sparks, Nevada:
[Spoke from written testimony ([Exhibit D](#)).]

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Oceguera:

I do not have a question. It is more of a statement. We have tried to do some things here, and I know we have let you down. The situation that we have

placed you in is inappropriate. We do not have any money, but if there is anything that we can do, I would be supportive of anything that would give one more nickel to someone who has not had a nickel in more in 29 years. I am sorry.

Chairman Conklin:

Are there additional questions or comments from the Committee?

Assemblywoman Gansert:

I appreciate Assemblywoman Smith coming today and you coming today to testify. Former Lieutenant Governor Sue Wagner has talked to me about this also.

Chairman Conklin:

Ms. Wicksten, I think most of us agree with your testimony and the bill's sponsor and her remarks. It would have been the right thing to do at the beginning. The problem is the longer it is not addressed, the bigger the price tag becomes. In our current financial crisis it makes the decision very difficult. I think we all feel this needs to be fixed. We appreciate your testimony and sharing your story with us. I have also shared some emails with you over the past several months on this issue. I appreciate Ms. Smith bringing it forward and carrying the torch for those of us who want to participate as well.

Assemblyman Settlemeyer:

Would you mind just going over the amendment; are we just taking out the date?

Assemblywoman Smith:

The amendment makes it retroactive. The way the original bill was written just gave an annual lump sum increase. This actually makes the cost-of-living adjustment retroactive.

If I may follow up, Mr. Chairman, when I went back to the research staff, they said that in 2007 when they did a survey, about 600 persons were receiving death benefits under Workers' Compensation. In 2003 the law had changed to give people from that point forward a cost-of-living increase. We are only talking about those people who need the retroactive adjustment and we do not have an exact dollar figure at this point.

I suggest that we could move this bill to Ways and Means, and let us have some time to explore whether there is any available funding through the Workers' Compensation system. I know there are some funds that have been

mentioned to me just recently that have been used for similar purposes in the past.

My commitment to this group is that I would continue working on this, but I certainly wanted to introduce the problem to this Body this year and not let it go away just because we do not have any money. I think we have to talk about those things that we are responsible for. In my mind we are clearly responsible for doing a better job in this regard.

Chairman Conklin:

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

Linda Wicksten:

We have tried to get this before in past legislative sessions, and we have always been turned down. I want to thank all of you for whatever help you can give us.

Chairman Conklin:

Is there anyone else wishing to get on the record in support of this bill?

Daniel J. Costella, representing Ironworkers District Council and Ironworkers, Local #118, Sparks, Nevada:

I just want to say we are in support of anything that can be done.

Randy Soltero, representing Nevada State AFL-CIO and Sheet Metal Workers Union Local 26 and Local 88, Las Vegas, Nevada:

We support this bill, including the amendment.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada; and representing Washoe County Public Attorneys Association, Reno, Nevada:

We stand in support of everything that you heard today and ask that you support A.B. 436.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone else wishing to get on the record in support? I see none. Is there anyone wishing to testify in opposition? I see none. Is there anyone wishing to testify in the neutral position? I see none.

ASSEMBLYMAN OCEGUERA MOVED TO WITHOUT
RECOMMENDATION REREFER ASSEMBLY BILL 436 TO WAYS
AND MEANS.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Ms. Smith, I assume you will shepherd this bill into Ways and Means.

I would like to follow up on Assembly Bill 515. Legal has informed me on the questions from Mr. Hillerby that under *Nevada Revised Statutes* (NRS) Chapter 689A.105, the only people who can bill on the uniform form for services under both the family therapists and the social workers are licensed professionals or the agency. An intern would not be able to bill under this. We should take this matter up sometime during work session.

We will take up Assembly Bill 95.

Assembly Bill 95: Revises certain provisions concerning the investigation and prosecution of unfair trade practices. (BDR 52-268)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit E](#)).]

Chairman Conklin:

The mock-up provided by the Attorney General's Office is the last known mock-up from negotiations with the parties involved. I think there is still some opposition, we are getting closer, but it is deadline day and this bill is important. It needs to be moved on in order to protect the interests of all Nevadans in case of mergers. My recommendation would be an amend and do pass motion.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 95.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will turn our attention to Assembly Bill 140.

Assembly Bill 140: Makes various changes to provisions relating to foreclosures of real property. (BDR 54-228)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit F](#)).]

Chairman Conklin:

There is some history for the Committee. All of the things that were discussed during the hearing on this have been taken into consideration. The majority of them have been placed into the amendment. What took a while for us to work out was the concept of notification to the renter prior to the notice of sale. There was some discussion and some agreement that it should be 90 days. What is in the bill is that they will give notice at the same time that everyone else is noticed of the default. That way there are only two time frames of notice, the Notice of Default and the Notice of Sale. But everybody will get noticed at that time. That should clear up the communication in terms of default and, hopefully, clean up the fact that some people are not aware that the home they are living in is in foreclosure.

Are there any questions from the Committee?

Assemblywoman Kirkpatrick:

I want to thank you for fixing the certified mail issue in section 4, subsection 3. I had asked about the certified mailing and how it would get to the responsible party.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Ocegüera:

On page 10 of the mock-up, subsection 4 states, "notice must be served in the manner set forth in NRS 40.280 and must include, without limitation:" Who does that?

Chairman Conklin:

I think I have it, but I will let Mr. Ziegler tell me if I am wrong. Notices can be served currently by either the court, through the Justice of the Peace, or by private service. There was testimony by some Justices of the Peace that they would like to have that exclusively. I think that would create a problem in terms of getting all of the notices out that need to be noticed.

Assemblyman Ocegüera:

That was what I was worried about Mr. Chairman. There may be a lot of these notices.

Chairman Conklin:

Mr. Yu, am I correct on *Nevada Revised Statutes* (NRS) 40.280?

I am getting a nod yes. Are there any questions from the Committee about the mock-up? I see none.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 140.

ASSEMBLYMAN ARBERRY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will turn our attention at this time to Assembly Bill 162.

Assembly Bill 162: Requires certain policies of health insurance and health care plans to provide coverage for screening for and treatment of autism.
(BDR 57-44)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit G](#)).]

Chairman Conklin:

This has been worked on ad nauseam by the autism folks and also the insurance industry, Mr. Kim, Mr. Hillerby, and Mr. Ostrovsky. The language that you have before you is a mock-up from the conceptual agreement that they have for the bill to move forward. I commend all the parties who worked for hours, including the bill's sponsor, Mr. Ohrenschall, Assemblywoman Leslie, and myself, to get this as tight as we can and take a step forward, finally, for parents and their children with autism.

Are there any questions from the Committee?

Assemblyman Settlemeyer:

When we first heard the bill it was my hope that we could actually help all autistic children, as well as those with other mental illnesses, across the state. We heard that this would only affect those with insurance, and that brought the numbers down to 60 percent. Then we were told that it would not affect others, because of federal Employee Retirement Income Security Act (ERISA) laws and the Taft-Hartley Act, and the number was down to affecting only about 25 percent of the children in this state. Now, it seems that we are even below that. We should be trying to find a way to help all autistic children in the state, and now we have exempted state and local employees. I think it is wrong to take the state out of this. I think the autistic children of state employees count too. I think we should leave the state in.

Chairman Conklin:

Are there any remarks from any other Committee members?

Assemblywoman Buckley:

What is the fiscal note for leaving the state in; do we know?

Chairman Conklin:

We do not have a fiscal note, as of yet. Both Ms. Leslie and I requested a fiscal note yesterday on the Medicaid portion. Concerning the other portion that Mr. Settelmeyer is referring to, to the best of my knowledge, there is no such mandate. We could check for a fiscal note.

Assemblywoman Buckley:

What about for Medicaid?

Chairman Conklin:

We do not have it yet.

Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:

It looks like an amendment was added to exempt Medicaid, but I do, in fact, have an estimated fiscal note if Medicaid is in. But, the amendment that was just distributed looks like it exempts Medicaid.

Assemblywoman Buckley:

What was the fiscal note?

Elizabeth Aiello:

We just got the new proposed amendment yesterday afternoon that moves the start date. It also added a section that says "medically necessary habilitation services." That is more than just Applied Behavior Analysis (ABA); there are other services. We had to cost out other habilitation services; I do not know if that was the intent, but those services are now in this bill. What we came up with in the move back for this biennium is \$4 million, and for the future biennium it is \$26 million.

Chairman Conklin:

And that is with the cap?

Elizabeth Aiello:

That is with the cap for ABA, but the amendment added other things, because there was a section added that says "may include medically necessary habilitative or rehabilitative care." The rehabilitative care was already covered

under state plans. But, with "medically necessary habilitative care," there are more services in habilitative care than just ABA. I do not know if the intent was that the amendment should have said "medically necessary ABA," but it says "habilitative" so we have all those other things that are under our current waiver such as supportive living arrangements and those service packages. We had to cost out more services within that. It does appear that the amendment was added that exempts Medicaid at this time.

Assemblywoman Buckley:

Just in response to Assemblyman Settelmeyer, we do not have the power to regulate insurance companies that are preempted by federal law. We do not have the power to regulate Taft-Hartley trusts. That is true for every measure that we consider and we have enacted many, so why treat autism for children differently would be my point. Interestingly enough we usually see the Taft-Hartley trusts follow our lead in the state because they want to remain competitive for their members. So when others in the community have that insurance, they usually follow suit. I believe the largest Taft-Hartley trusts in Las Vegas and some segments of Washoe County have indicated that they believe they will provide similar services to their members. We see our work resulting in even more children being helped.

For myself, I would love to have this be included in Medicaid so that the state provides that same service. But, we have an over \$2 billion shortfall, and our limited money has to be used to prevent those children who are already receiving treatment from being cut off. We are struggling. The Joint Subcommittee did approve restoring that to the Governor's budget, but basically the money committees have decided where we are drawing our line in the sand and coming up with an essential budget. We are not adding new programs at this time. We are looking at those programs where there will be significant harm or we will lose more money in the long run, as we make our decisions. There is not going to be any money.

By insisting that the state fund this through Medicaid we are killing the bill. I cannot support that. I think this is a step, and I am pleased that the parents of children with autism and the sponsor worked so hard on making sure that this is the first step by establishing a cap. They bleed for these children and they wanted everything. But everyone said: Let us try this; let us try a reasonable cap; let us see how it works; and if it works well, and hopefully our state is out of financial crisis, we will expand it to Medicaid next time. That is how I evaluate it, and I think that Nevada should join the growing list of states that are supporting this because our children need us.

Chairman Conklin:

I agree with all of those comments and I might also add, without treatment the cost to us is going to be far greater in the long run. We have heard that these programs work.

Assemblyman Goedhart:

This has been a learning experience for me listening about this issue as well. My heart goes out to all of those who have autistic children. When we carve out so many different sectors from that coverage, it turns out that the folks who will lead the way are the small businesses with 5 to 50 employees. As we heard from the Speaker, in this era of extremely tight budgets, there is a reason the state has a shortfall: businesses are hurting, and when they are hurting, they are not able to pay the taxes they normally do.

I know several businesses that are actually taking money out of their savings just to keep people employed. As we put these additional obligations upon them and their health coverage, they will have a choice of either ending the health coverage or laying off additional employees, which will lead to even higher unemployment. We have a situation where there are a lot of difficult decisions to make. I would feel more comfortable if Taft-Hartley and Medicaid would lead the way and then the private sector follow behind. I know that at this point in time there are too many excluded groups. It seems to be singling out one group for a disproportionate level of care as opposed to the other groups.

Assemblywoman Gansert:

The stories of the children with autism are heart wrenching. We know that if they receive care earlier they will be greatly helped and their chances of living a highly productive life will be great. I also know that this bill is not effective until 2011 because there will be an effort to get a lot more providers into the system, and if we increase the supply, hopefully the cost will go down. I think this is important legislation. I am concerned about the cost and the impact on health care, but I think it is something that we need to do at this time.

Chairman Conklin:

I would entertain an amend and do pass motion.

ASSEMBLYMAN ATKINSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 162.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN GOEDHART AND SETTELMAYER VOTED NO.)

We have three bills that we are going to send out without recommendation to Ways and Means, so we could take those at this time. The first is Assembly Bill 178.

[Assembly Bill 178](#): Makes various changes to provisions relating to industrial insurance. (BDR 53-221)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit H](#)).]

Chairman Conklin:
This is a rather substantial Workers' Compensation bill. The parties are working on it on all sides. It is probably easier at this time to send it out without recommendation and send it to Ways and Means. I will entertain a motion.

ASSEMBLYMAN ANDERSON MOVED TO WITHOUT RECOMMENDATION REREFER ASSEMBLY BILL 178 TO WAYS AND MEANS.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN GOEDHART VOTED NO.)

We will turn our attention to Assembly Bill 522.

[Assembly Bill 522](#): Makes various changes relating to energy. (BDR 58-1139)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit I](#)).]

Chairman Conklin:
You may recall that this bill was referred to subcommittee.

Assemblywoman Kirkpatrick:
I would like to report back to the Committee that there was no recommendation, and I believe we need to rerefer it to Ways and Means for further discussion.

Chairman Conklin:

The report out from the subcommittee was to send it back without recommendation.

Assemblyman Goedhart:

Just a quick question, what I am hearing now is based upon the recommendation of the subcommittee, and there have been no changes to the original bill draft language, is that correct?

Chairman Conklin:

That is correct.

This is also one of those bills where all the parties who are interested are making good progress and are working on the issues. What would be most appropriate at this time would be to rerefer it to Ways and Means without recommendation and let the parties continue to work on the bill.

ASSEMBLYMAN OCEGUERA MOVED TO WITHOUT
RECOMMENDATION REREFER ASSEMBLY BILL 522 TO WAYS
AND MEANS.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

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

The last one of this group is Assembly Bill 523.

[Assembly Bill 523](#): Implements the federal Secure and Fair Enforcement for
Mortgage Licensing Act of 2008. (BDR 54-773)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

We have the original bill version, and a mock-up version that was presented to us by Mr. Goldwater and the Mortgage Lending Division, and they look completely different. Several members raised some questions, and I have not had a chance to go through it and pull the groups together to find a compromise on this. It is very important that we get it right because if we do not, when the federal government audits us, if we are not in compliance they will just take it away. This is another one of those bills I would like to send to Ways and

Means. It will have a fiscal note anyway, and that would give us the opportunity to continue to work with the parties.

ASSEMBLYWOMAN BUCKLEY MOVED TO WITHOUT
RECOMMENDATION REREFER ASSEMBLY BILL 523 TO WAYS
AND MEANS.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will turn now to Assembly Bill 224.

[Assembly Bill 224](#): Revises provisions relating to unfair practices in settling insurance claims. (BDR 57-923)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit K](#)).]

Chairman Conklin:

The mock-up on page 2, line 34, clarifies "except for claims involving a policy of health insurance" and, in effect, takes out health insurance and Workers' Compensation as well from the provisions of this bill. You may recall this is the bill that says if there is a part of a claim that is not in dispute, that part of the claim should be paid.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 224.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

Is there any discussion?

Assemblywoman Gansert:

I had a problem with having to accept the undisputed amount the way it was written. It is still in there, so I will be voting no.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, GOEDHART, AND SETTELMAYER VOTED NO.)

Chairman Conklin:

We will turn our attention to Assembly Bill 313.

Assembly Bill 313: Prohibits excessive late fees in rental agreements.
(BDR 10-912)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit L](#)).]

Chairman Conklin:

This is the landlord-tenant late fee bill. The bill, in its original form, was similar to language that was passed in other states. Are there questions or concerns from the Committee?

Assemblywoman Gansert:

In listening to the testimony, particularly from the people who have weekly rentals, I think the maximum they could charge as a late fee was 2 percent and then another 3 percent. I believe the testimony was that \$5 on a \$100 weekly rent was not a penalty and that those people typically move on if they do not pay right away. I would not be supportive of the measure because I think it is very constraining on their practices.

Assemblyman Settlemeyer:

What bothers me is in these economic times is so many people are counting on these types of rental payments to be able to pay their own mortgage, and I am afraid it might lead to more foreclosures. I am against the bill, as well.

Chairman Conklin:

I think, if I remember correctly, the testimony was that it does not limit penalties; it says the penalty on the rent. There are still, from the rental agreements that were provided, a plethora of other penalties associated with this. I think this is just a cap on the penalty on the money that is late.

Are there any other questions?

Assemblywoman Kirkpatrick:

I just want to note on the record that I will vote to get it out of Committee, but I have some concerns with it and would like to reserve my right to change my mind.

Chairman Conklin:

Okay.

Assemblyman Atkinson:

I have some concerns as well.

Assemblyman Horne:

I have some concerns as well.

Assemblyman Arberry:

I also have some concerns.

Assemblywoman Buckley:

The bill may need a little work before it has the support of the Committee or the floor. These issues plague so many Nevadans, middle class or low income, and the fact remains that 1 percent of merchants who use late fees and add-on fees use them as profit centers. I spoke with the realtors about this yesterday, and I think they recognize it. Most people want tenants to pay their rent; they want them to stay in the unit because vacancies, right now, hurt the rental business. Some use gouging on the back end as a profit center.

I support the principles of the bill in terms of trying to make sure it is reasonable. Can that be 6 percent or even 7 percent? You can work with the landlords and the realtors on what an appropriate amount should be. I think everyone who is doing it right supports the concept of trying to eliminate the gouging. For that reason I think we should support the bill and work with those who are trying to do the right thing in the industry in making sure that we achieve the right balance.

Chairman Conklin:

Are there any other remarks or comments on the bill? What is the pleasure of the Committee?

ASSEMBLYWOMAN BUCKLEY MOVED TO DO PASS
ASSEMBLY BILL 313.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, GOEDHART, AND SETTELMAYER VOTED NO.)

We will take up Assembly Bill 381.

Assembly Bill 381: Revises various provisions relating to arbitration.
(BDR 52-931)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

We had testimony on this bill, and if I remember correctly, Mr. Guild was in opposition. I have since been notified that he has removed his opposition to the bill because the bill did not do what he originally thought it did. Are there any questions from the Committee?

Assemblyman Settelmeyer:

I have a comment. I remember the testimony, and I am glad he removed his opposition. He was worried about the Federal Arbitration Act which we did not think was an applicable argument. I do believe, in my opinion, this bill has the potential to create more lawsuits and cause more problems. I think if people want to use arbitration it is a good thing, and I think it is okay to have a mandatory arbitration clause. The person has a right to enter into the contract or not.

Assemblywoman Gansert:

I still remember concerns from the insurance industry. I know that Joe Guild was one person who was here, and also Bob Compan, and someone from AAA was here as well. They were concerned about whether they could settle a claim given some of the contractual arrangements that they have.

Chairman Conklin:

Are there any additional questions or concerns? What is the pleasure of the Committee?

ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS
ASSEMBLY BILL 381.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, GOEDHART, AND SETTELMEYER VOTED NO.)

We will turn our attention to Assembly Bill 454.

[Assembly Bill 454](#): Revises certain provisions relating to housing. (BDR 10-839)

Dave Ziegler, Committee Policy Analyst:

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

You will note that sections 1, 2, 3, and 4 are deleted by amendment leaving sections 5 and 6.

Vice Chairman Atkinson:

Is there any discussion from the Committee members?

Assemblywoman Gansert:

It looks like the minimum amount to be paid is reverting back to what it was in the past, which I think was supposed to be fair market value? We are left with just the bond part at the end.

Vice Chairman Atkinson:

We will entertain a motion.

ASSEMBLYMAN MANENDO MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 454.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Gansert:

I want to make sure it does not extend the amount of time. I think it is just another way to provide money if you are still in the appeals process. But it does not extend the length of time if a person needs to leave a park, is that correct?

Jon Sasser, representing Washoe Legal Services, Reno, Nevada:

Yes. The change in the bill is to make clear that when you post the bond, you have to continue to pay your rent, and if you do not, then you can be removed. That was the change with the bond provision at the end.

Assemblyman Goedhart:

How, in effect, does this help the tenant of the mobile home park as opposed to the way the language was originally, before this session? What does this do to help the tenant?

Jon Sasser:

Before this bill was brought, there was a bond requirement that was hard for a lot of people to meet. This limits the "stay" bond to \$250 and makes it just like for people who appeal from a summary eviction of an apartment. This makes the same provisions available to mobile home owners in mobile home parks.

Assemblyman Goedhart:

So this just reduces the amount of the bond that the tenant has to pay when he is disputing his eviction?

Jon Sasser:

That is correct.

Vice Chairman Atkinson:

Are there additional questions? I see none.

THE MOTION PASSED UNANIMOUSLY.

Chairman Conklin:

We can take up Assembly Bill 511 at this time.

Assembly Bill 511: Revises industrial insurance provisions relating to insurers and third-party administrators. (BDR 53-115)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

We heard plenty of testimony on this. This is a bill that states that people have a right to justice when the system does not provide it to them. Are there any questions from the Committee?

ASSEMBLYWOMAN BUCKLEY MOVED TO DO PASS
ASSEMBLY BILL 511.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

Chairman Conklin:

Is there any discussion on the motion?

Assemblyman Settelmeyer:

I think these lawsuits can take a lot of time, and I think we would have been better off if we would have changed the regulatory process to make it work better rather than creating more lawsuits. I will vote no on this bill.

Chairman Conklin:

You may recall from the testimony that there were ample people on both sides who said that when we had previously added such statutes, there were no lawsuits.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, GOEDHART, AND SETTELMAYER VOTED NO.)

We will now take up Assembly Bill 470.

Assembly Bill 470: Prohibits noncompete agreements for persons who hold a professional license. (BDR 53-1021)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit P](#)).]

With the Chair's permission, I would like to make sure that the intent is clear. For the record, the idea is that a doctor, whether he is an at-will or for-cause employee, may be required to enter into a noncompete contract. Other professionals who work at-will have no noncompete agreements. Other professionals who work "for cause," that is, they can be dismissed but only for cause, may be required to enter into a noncompete agreement, but the period must not last for more than one year. For nonprofessionals who work at-will, there will be no noncompete agreements, and nonprofessionals who can only be discharged "for cause" may be subject to noncompete agreements. It is rather confusing. There are six different categories that we have worked through with the parties. I want to make it clear on the record.

Chairman Conklin:

Mr. Anderson, I know you have not had a chance to look at this mock-up, but I want to make sure we are on the right page.

Assemblyman Anderson:

I always feel more comfortable when Legal has had an opportunity to set it straight. I am afraid that we may not have hit the mark here. My opinion is that in trying to clarify the problems with the different groups, we may not have explained it precisely enough to the bill drafters for them to interpret the whole thing. I think the original suggested language would be more appropriate and if the Committee wants, we can work with the bill drafters to get further clarity for individual members who have concerns. Some people have difficulty recognizing that there could be a professional relationship that exists as a condition of employment. I see Mr. Ostrovsky, Mr. Hillerby, and Mr. Sharp are here; perhaps they can articulate what their concerns are with the way the bill has been drafted.

Chairman Conklin:

Mr. Anderson, I need to track down the previous mock-up. [Mr. Diss obtained copies for the Committee.] We will hold off on this bill.

We will take up at this time Assembly Bill 22.

Assembly Bill 22: Revises provisions relating to certain trade practices.
(BDR 52-428)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit Q](#)).]

Chairman Conklin:

The mock-up that you have for A.B. 22 is identical to Assembly Bill 366. The bill sponsor for A.B. 366 had not had the opportunity or the time to work out an agreement between the parties involved in that bill. I offered to take it upon myself to work on it and moved it to our Commerce and Labor bill which is A.B. 22. We would like to move it out in its current form so that I can continue to work with the parties involved to find some agreement.

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

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 22.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, AND SETTELMAYER VOTED NO.)

We will take up Assembly Bill 84.

Assembly Bill 84: Revises provisions governing unemployment compensation.
(BDR 53-546)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit R](#)).]

The mock-up was requested by the Chairman and removes the sections of the bill that had to do with withholding of wages, sometimes referred to as garnishments.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 84.

ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

Chairman Conklin:

This got a little complicated with trying to do a completely separate garnishment statute since we had it all cleaned up already in another statute. So this simply removes that portion of the bill and allows the bill to go forward to make sure that our unemployment trust fund is not susceptible to fraud.

THE MOTION PASSED UNANIMOUSLY.

We will go back to Assembly Bill 470.

I will not have Mr. Ziegler restate everything.

If I remember correctly there was one other word that needed to be inserted in subsection 5, paragraph (a), to describe a certain type of employee: "for cause." Is it "that for-cause employee" or "that employee is for-cause"? Where exactly do those two words go? So it is before the word employee; it will be "that for-cause employee." Is that correct Mr. Anderson?

Assemblyman Anderson:

It is.

Chairman Conklin:

Mr. Anderson is proposing that we would accept this amendment and would insert under subsection 5, paragraph (a) "for-cause employee" et cetera. That is what all the parties have agreed to. Are there any questions from the Committee?

Assemblyman Settlemeyer:

I feel that everybody has a right to enter into a contract or not. I remember my contract class talking about a requirement that they be reasonable as to time and place. I appreciate his comment about one year, but I think that people have a right to enter into a contract or not enter into a contract. I am voting no on this bill.

Assemblyman Goedhart:

I disagree with my colleague. In the rural areas I have seen circumstances where this noncompete clause unnecessarily gives the employer too much power and makes the employee a subject of that employer. In the area of rural health care as it relates to nurse practitioners, I received an email today from a lady in Elko. I am going to support the bill. I applaud the sponsor for bringing this forward.

Chairman Conklin:

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

What is the pleasure of the Committee?

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 470.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

[The roll was called for the vote.]

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY,
CHRISTENSEN, GANSERT, KIRKPATRICK, AND SETTELMAYER
VOTED NO.)

We will take up at this time Assembly Bill 150.

[Assembly Bill 150:](#) Provides for the regulation of tanning establishments by the
State Board of Cosmetology. (BDR 54-491)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

Mr. Robison, would you come up to the witness table? I know that you worked with the bill sponsor on this. I want to make sure we are on the same page.

**Randall C. Robison, North Las Vegas, Nevada representing Indoor Tanning
Association, Washington, D.C.:**

We did work with Ms. Koivisto on the amendment that Mr. Ziegler spoke of, and from what I can tell that is the agreement that we reached.

Chairman Conklin:

So, the Tanning Association is on board with this?

Randall C. Robison:

Yes.

Assemblywoman Gansert:

I think they commented that they were doing most of this work anyway, but I still think it should be parental responsibility versus legislation in this case. I will be voting no.

Assemblyman Settlemeyer:

I voted no last time, and nothing has changed.

Chairman Conklin:

Are there any questions from the Committee? I see none. I will pull this bill back to Committee.

We will turn to Assembly Bill 24.

Assembly Bill 24: Revises provisions governing claims for compensation under industrial insurance. (BDR 53-423)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

Members may recall this from very early on in the session. This was compromise language that the Nevada Attorney for Injured Workers put in first, and then the insurance industry and the group got together and worked out this language. It is pretty clean. Are there any questions from the Committee?

Assemblyman Settlemeyer:

I have some concerns with the bill, and I am not sure that they can be addressed. One of my concerns is it requires compliance within 30 days, no exception; yet what happens if someone does a motion to stay and it is filed with the decision and is appealed? It would go beyond those 30 days. I have some other issues as well, so I will be voting no on this bill.

Chairman Conklin:

Ms. Gansert, Mr. Goedhart, and Mr. Christensen, do you all have the same concerns? [They acknowledged that they did have the same concerns.]

Are there any further concerns?

ASSEMBLYMAN ATKINSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 24.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN, GANSERT, GOEDHART, AND SETTELMAYER VOTED NO.)

We will turn now to Assembly Bill 287.

Assembly Bill 287: Makes various changes concerning appraisals of real estate.
(BDR 54-1019)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit U](#)).]

Chairman Conklin:
Mr. Horne, do you have any remarks?

Assemblyman Horne:
Pass this good bill.

Chairman Conklin:
Are there any questions from the Committee?

Assemblyman Settelmeyer:
What exactly do you think the amendment does to the bill?

Michael L. Brunson, representing Coalition of Appraisers of Nevada, Las Vegas, Nevada:

It cleans up a lot of language. There were a few instances where the Real Estate Division and the Real Estate Commission were inappropriately switched. We worked with Gail Anderson, the Real Estate Division Administrator, and Mr. Ziegler and Mr. Yu yesterday to go through the entire bill page by page and line by line to make sure that everything was clear. All of the housekeeping issues were cleaned up.

Assemblyman Horne:
I know that Mr. Ziegler and Mr. Yu worked very hard in getting this together, and I appreciate them working with the parties in getting this large document and the amendments out.

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

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 287.

ASSEMBLYMAN SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will turn now to Assembly Bill 215.

Assembly Bill 215: Expands the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors' Board. (BDR 54-893)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit V](#)).]

I think the mock-up is self-explanatory. It requires contractors to have liability insurance; it establishes the applicable limits for that insurance based on the limits that they are allowed to bid on or contract for.

Assemblyman Ocegüera:

Although I do believe that the fund should be accessible, it seemed to meet some resistance. One of the questions that we asked of the Contractors Board was whether or not contractors were required to have insurance. They told us no. It seems reasonable to me that it would be a solution to the problem. We changed directions and took some model statutes from different states and came up with a solution that accomplishes the same goal.

Assemblywoman Kirkpatrick:

I was adamantly opposed to the original concept of the bill. I like this language much better. As long as all the contractors have insurance, that will alleviate some of the problems.

Assemblyman Settelmeyer:

I appreciate the amendments; they address my concerns.

Chairman Conklin:

Are there any questions from the Committee? I see none. I would entertain a motion.

ASSEMBLYMAN GOEDHART MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 215.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will turn now to Assembly Bill 378.

Assembly Bill 378: Revises provisions governing distributors of intoxicating liquor. (BDR 32-894)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit W](#)).]

There are no amendments.

Assemblyman Ocegüera:

Although there is still some concern from some parties, they are working on this, but it is not completely done. They have authorized me to say that they think they are close enough to say okay and let us move forward. That is one group. With the other group, the wine people, there is an issue over a three-tier system and we will probably not agree on that.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Settlemeyer:

I have talked to people on both sides of this bill, and it would be very difficult to make everybody happy. One of my concerns with the final version is I think the person who sells something has a right to set the minimum level. Just to ensure the quality of their product, I have seen some organizations say, "You cannot sell this below this price." There should be no maximum. If they need to add more money, I think it is completely necessary. I support the bill, and hopefully in the final draft you can make it so that a person does have the right to set a bottom threshold. You would not want to have Coors Extra Gold being sold for below Keystone's price.

Assemblyman Christensen:

While I admit I am not an expert on the product, I want to address the business practice behind this. I listened to both sides as they spoke. I agree with the Majority Leader although I know there is work that needs to continue to be done on this bill. I will support the bill.

Chairman Conklin:

Are there any questions from the Committee? I see none. Is there anyone wishing to make a motion?

ASSEMBLYMAN CHRISTENSEN MOVED TO DO PASS
ASSEMBLY BILL 378.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will turn now to Assembly Bill 402.

Assembly Bill 402: Revises provisions related to resource planning by public utilities. (BDR 58-888)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit X](#)).]

These are the same amendments that we saw as a Committee on Wednesday.

Chairman Conklin:

I have given Assemblyman Bobzien the opportunity to talk to people, so hopefully questions and concerns have been answered.

Assemblywoman Gansert:

A long time ago I used to do resource planning, for Sierra Pacific and also for Louisville Gas and Electric. I know there are different times when you can intervene in this type of process and that the Public Utilities Commission of Nevada (PUCN) does have the authority to allow the intervention. I will vote no on this bill because I believe we do not need this.

Assemblywoman Buckley:

At the last work session, I asked why this was necessary since we had discussed it in previous sessions. Since then I received clarification from a couple of people who follow these issues and also someone from the PUCN. While we have had those discussions in committee, the statute still is not clear. They thought that the guidance was helpful. If you look at the language, I think it is the right standard. You should not be able to have someone intervene if they are not going to offer something relevant and material, or if it is going to be repetitious. Those are the standards that should govern all of our interventions. It seems as if the guidance is supportive and that you want decision makers to have relevant, material evidence, but you do not want to bog down a proceeding. Better decisions are made when people have information. That is what we do here all of the time. Someone will come up with something we never thought of. For those reasons I support the bill.

Chairman Conklin:

Are there any questions from the Committee? I see none. What is the pleasure of the Committee?

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 402.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, AND SETTELMAYER VOTED NO.)

We will turn our attention to Assembly Bill 410.

Assembly Bill 410: Makes various changes concerning workers' compensation.
(BDR 53-90)

Dave Ziegler, Committee Policy Analyst:

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

Assemblywoman Kirkpatrick:

What happens if some of these companies go out of business? Or, is that an issue?

Chairman Conklin:

I did have a chance to look into this a little bit; this bill does not change the insurer. This provides for the opportunity for an agreement between management and labor to help resolve the problems prior to a denial or a dispute. I will let these gentlemen respond as well.

Steve Rank, representing ironworking contractors, ironworkers and their insurance carriers, Sacramento, California:

It would not affect the claim at all. The claim would take its normal course of duration if a company did go out of business. The insurance carrier still has the responsibility to maintain that injured worker.

Assemblywoman Kirkpatrick:

So this is just enabling legislation; it is not forcing anyone, right?

Steve Rank:

Yes, this is on a voluntary basis. Those employers, insurance carriers, and groups of people who elect, voluntarily, to participate in this program have an opportunity to do so. There is nothing mandatory about this provision.

Assemblyman Settlemeyer:

This looks as if it will allow someone to come in as a third party. I understand that concept and am familiar with it because there are organizations who do that privately, but do it inside the scope of the *Nevada Revised Statutes* (NRS). It bothers me that we are letting one group of individuals, who are collectively bargained, outside of the scope of the NRS. I will be voting no on the bill.

Chairman Conklin:

Mr. Rank, I read this bill that it applies to anybody, is that correct?

Steve Rank:

Yes.

Chairman Conklin:

It is not limited to "collectively bargained"?

Steve Rank:

No.

Daniel J. Costella, representing Ironworkers District Council and Ironworkers Local #118, Sparks, Nevada:

Subsection 3 of section 1 reads "any organization of any kind or agency or employee representation committee or plan, in which employees participate." It is not limited to collective bargaining units.

Assemblyman Settlemeyer:

It says that A.B. 410 allows the provisions of the collective bargaining agreement in certain construction-related businesses to supersede certain statutory provisions.

Daniel J. Costella:

That is correct.

Assemblyman Settlemeyer:

Thank you.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

In response to Ms. Kirkpatrick's question, I want to get clarity for myself to make sure that I understand what you are saying. If the company goes out of business, who then stands to take care of the injured worker who remains after

the business closes? Does it remain the insurer, or does it fall by default to the state?

Steve Rank:

That claim will be handled through its entire duration by the insurance carrier, for the life of that claim. If that claim lasts for five years before you reach a permanent, stationary condition, it will go through the insurance carrier from the beginning to the end. There is nothing different in this system than there is in just a statutory system.

Assemblyman Anderson:

I am concerned about what used to be referred to as the tail. If that injured worker goes back to work and is carrying a preexisting condition with a company that has closed, would the new company pick up the whole problem? Or do you continue to pay from the first accident?

Steve Rank:

The compensation on any injury would be handled the same through this process as it would if a worker were injured for the first time or injured for the second or third time on a reoccurring accident. All this proposal does is expedite the process of a Workers' Compensation claim to try to get them back to work as soon as possible, with the cooperation of the insurance carrier, the employer, and the labor representatives.

Assemblyman Anderson:

The preexisting condition of an employee before they began rests with whom?

Steve Rank:

Are you asking if there is a preexisting condition to an injured worker? That would be handled the same way as it is now. If there is a preexisting condition with the worker and he goes to work for you, then whatever the statute is here in Nevada would govern what would happen. We are changing nothing in the Workers' Compensation statute.

Chairman Conklin:

Are there any questions from the Committee? I see none. What is the pleasure of the Committee?

ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS
ASSEMBLY BILL 410.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN, GANSERT, GOEDHART, AND SETTELMAYER VOTED NO.)

We will turn now to Assembly Bill 448.

Assembly Bill 448: Revises provisions governing incentive programs for renewable energy. (BDR 58-511)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit Z](#)).]

Chairman Conklin:

There is a large mock-up that people may have questions on. Ms. Wagner, the mock-up does not really change anything from the intent of the original bill, does it?

Rebecca D. Wagner, Commissioner, Public Utilities Commission of Nevada:

If you consider the intent to improve the solar generations program, then yes, the intent is the same. When it was heard on April 1st, we walked through, conceptually, what this mock-up intends to do.

Chairman Conklin:

Are there any questions from the Committee?

Assemblywoman Gansert:

When I looked at the amendments that were offered at the time, it looked like there was an expansion of the prevailing wage for these projects, and that is what one of my problems is with this bill.

Assemblyman David Bobzien, Washoe County Assembly District No. 24:

To clarify that, it is not the intention to expand it, merely to clarify that those public project situations are indeed subject to the prevailing wage.

Chairman Conklin:

So, the public projects are subject to the prevailing wage and everything else is not.

Assemblyman Settelmeyer:

So, if someone did something on their own property that makes it a public works project if they are using public money, right? How does that work?

Assemblyman Bobzien:

No. We are not making any sort of assessment as to the money; we are talking about the property itself, the project. If you are dealing with a school or public building, that would be a public work.

Chairman Conklin:

If I am not mistaken, that is the way it is now, is that correct? This does not change the current standard.

Assemblyman Bobzien:

This is intended as a clarification. Yes.

Assemblywoman Gansert:

I was thinking even with our current standard, at least with the first draft of this bill, the churches and nonprofits were listed. Sometimes a public building is not what you would expect a public building to be.

Rebecca D. Wagner:

I am not an expert on this section, but you are right, Ms. Gansert. There are components of this that are churches and nonprofits, just by the definitions that are in *Nevada Revised Statutes* (NRS) Chapter 701B. I think the intent of this envisions university, state buildings, and schools, anything that would go through the public works process and not those others things.

Assemblywoman Gansert:

It clarifies the point, but I still have some issues.

Assemblyman Goedhart:

I am in support of the concept of the bill. I would like to have some additional clarification. I would like some language drawn up that would not expand the definition or arena of prevailing wages. That still has me concerned.

Chairman Conklin:

I notice that the bill has an effect on the state. We could amend and do pass and rerefer to Ways and Means. Would that make you more comfortable Ms. Gansert?

Assemblywoman Gansert:

That would be fine. Thank you.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

I appreciate the concerns about the money, but it would appear to me that it would be possible to pass the bill and see whether it does have a fiscal impact to the state. If this is merely clarifying language on what is supposed to be practiced, I cannot see a fiscal note.

Assemblywoman Buckley:

Why not amend and do pass, and then ask Legal drafters to relook at the public works language? Perhaps it could be tightened up by referring to the existing statutes; then everyone would have an opportunity to look at it before it comes to the floor. If it does not have a fiscal note it would not be included in the motion, but, obviously, if Ways and Means wants to grab it then they can. Does that make sense?

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 448 RECOGNIZING THAT WE DO WANT THE
LANGUAGE TIGHTENED UP TO ENSURE THAT IT READS
PROPERLY.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Chairman Conklin:

I will bring the amendments back to the Committee before I send it to the floor. Is there any discussion?

Assemblywoman Gansert:

Reading this, it just refers to our current statutes. I think it is section 2. When you first provided it to us there was a list, but now there is not a list. That is part of the problem for me, the definition of prevailing wage, including nonprofits and churches, so I do not think it can be fixed for me. It is the larger issue of prevailing wage and what is included in public property.

Assemblywoman Kirkpatrick:

In Government Affairs we are trying to work with Legal to make the Committee feel better. We are trying to create a statute that is very clear, since it is unclear in so many portions of our statutes. I do not think we need this to make it clear as we are working on a bigger picture with Legal. It becomes very confusing because we always refer back to different portions of the chapter and the Labor Commissioner's enforcing it. That is why we are trying to create a whole new chapter so it is crystal clear. I think it is okay to go this way, and then when the new chapter comes in, it will define everything that is public works. That would address what your concerns are.

Assemblyman Bobzien:

For Ms. Gansert's edification, I believe perhaps part of the confusion was that the original bill had a lot of language that was specific to the different classifications of projects. There never was a tie-in between the enumeration of those classifications and public works. I can understand your confusion. It is not intended to broaden the definition.

Assemblyman Goedhart:

I would like to go ahead and vote yes, subject to being able to change my vote on the floor, as long as the bill does not have any affect on expanding the definition of public works.

Chairman Conklin:

Duly noted, and once I have the amendment, I will bring it back to the Committee.

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

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,
GANSERT, AND SETTELMAYER VOTED NO.)

We will take up Assembly Bill 430 at this time.

Assembly Bill 430: Prohibits certain activity regarding unsafe cribs and other children's products. (BDR 52-464)

Dave Ziegler, Committee Policy Analyst:

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

Chairman Conklin:

When the bill was presented, there was a mock-up presented, and this is an amendment to that mock-up, not an amendment to the bill. If you recall, the mock-up deleted a couple of sections that were not necessary and cleaned up the language. This amendment is just clarification because the Retail Association had some concerns, and I believe that inserting the words "knowingly violates" creates a standard that they were comfortable with. Ms. Pierce, when you presented this bill you had a mock-up, correct? I need to get that mock-up because it is not in the packet.

Assemblywoman Peggy Pierce, Clark County Assembly District No. 3:

There was not a mock-up. What the Retail Association and we agreed on was the wording "knowingly and willfully," on page 8, before the word "violate" on line 4.

Chairman Conklin:

Actually, "knowingly and willfully" is the same standard. To put both in the same line is unnecessary. Legal is telling me they are exactly the same. We could put them both in. I do not believe it changes the standard.

Lea Tauchen, representing Retail Association of Nevada, Carson City, Nevada:

The Attorney General's Office has been using the phrase "knowingly and willfully" in other bills, and that is why we stuck to that language.

Chairman Conklin:

Okay. So, we will insert "knowingly and willfully" in section 11. Ms. Pierce, just to be sure, that was the mock-up that you presented us, right?

Assemblywoman Pierce:

No. We just worked from this original bill when we were here.

Chairman Conklin:

So, it should be an amend and do pass with the mock-up you see in front of you.

Assemblywoman Pierce:

The only other thing that we were talking about was deleting section 8.

ASSEMBLYMAN SETTELMAYER MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 430.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

Chairman Conklin:

That was an amend and do pass, and the amendment is to delete section 8 and add the language in the mock-up in section 11, "knowingly and willfully violates section 7 or 14 of this Act."

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON AND
ARBERRY WERE ABSENT FOR THE VOTE.)

We will turn now to Assembly Bill 355.

Assembly Bill 355: Revises provisions related to certain public utilities that furnish water or sewage disposal. (BDR 58-693)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit BB](#)).]

These amendments were provided by Karen Peterson on behalf of the Pahrump Utility Company. I did not have time to convert them to a mock-up but did look them over, and I think they are self explanatory.

Chairman Conklin:

Mr. Goedhart had been working on this for a while and I think it reflects the original intent of the bill, because the Public Utilities Commission of Nevada (PUCN) would like to go forward and deal with this issue.

Assemblyman Goedhart:

We worked with all the parties. We worked with the Bureau of Consumer Protection, the PUCN, and the people on whose behalf we originally submitted the bill. It gives the PUCN regulatory authority to come up with regulations, and it does change the threshold up to \$2 million. We had heard in testimony that the last time that figure was changed was in 1991. It was a compromise that all of the parties were comfortable with.

Chairman Conklin:

Just for the Committee's reference, I did receive an email from the PUCN, with a link from Mr. Witkoski and some of the parties involved, stating that they thought this was a very good compromise and we needed to go forward and resolve some of these issues.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 355.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ANDERSON AND
ARBERRY WERE ABSENT FOR THE VOTE.)

Mr. Goedhart, I assume you will carry this bill on the floor.

We will take up Assembly Bill 202 at this time.

[Assembly Bill 202](#): Makes various changes concerning the State Board of
Cosmetology. (BDR 54-681)

Dave Ziegler, Committee Policy Analyst:
[Spoke from written testimony ([Exhibit CC](#)).]

There was an amendment submitted after the mock-up was prepared. It follows the mock-up at the very last page.

Chairman Conklin:

Are there any questions from the Committee? I would like you to know that there is a mock-up and an amendment. The amendment is to satisfy some of the concerns of my colleagues concerning education. I think this is a pretty clean bill. There are two issues here. One is to allow rural folks to have the opportunity to do their in-service or interning in their communities, and the second part is to help establish some guidelines for infection control, which I understand is becoming a bigger problem.

Assemblyman Settlemeyer:

I would like to disclose that my wife is a cosmetologist. This bill would not affect her any differently, more or less, than any other individuals. I will be voting on the bill. The concept of encouraging people to have a trade is a wonderful thing. I am in full support of the part of the bill that allows the rural areas to have a mentoring process. On the continuing education requirement, I received a letter from the State Board of Cosmetology stating that they have had no increase in infections or problems. I think it is unnecessary, and I will be voting no on the bill because of the continuing education requirement which will actually cost people more money and missed time when people are struggling to get by.

**Jeanette Belz, Reno, Nevada, representing Nevada State Board of Cosmetology,
Las Vegas, Nevada:**

I am here to answer any questions you might have.

Chairman Conklin:

It was my understanding that this is the Board's amendment, is that correct?

Jeanette Belz:

That is correct. It was the result of concerns presented by various members of the Committee regarding what continuing education we intended people to get. We provided Dr. Hardy with several examples of situations related to infections in other states where there have been some very serious consequences to patrons of establishments operated by cosmetology licensees. During the interim the Board worked with the Health Department and Dr. Azzam to try to tighten up some things in their regulation regarding single-use items. So, they are already well on their way to dealing with infection control and thought it would be a good idea to require licensees to get four hours of infection control

education for the first renewal of their license after the implementation of this bill.

Chairman Conklin:

I understand you have offered a second amendment to delete section 25, subsection 5, paragraphs (a) and (b), is that correct?

Jeanette Belz:

That was the amendment I just referred to.

Chairman Conklin:

Are there any questions or concerns from the Committee?

Assemblywoman Buckley:

You are deleting the portion of the amendment about the course work that Mr. Settlemeyer just referred to?

Jeanette Belz:

There was a lot of confusion about how broad we were attempting to make the requirements. If you notice there was an "or" at the end of paragraph (b), and there were several ways you could meet these requirements. People came up to Dr. Hardy and said: why would we want them to be able to take a foreign language course to meet this requirement? We narrowed down the continuing education units to eight hours, which would be four hours a year. It is a two-year license. It would be in the section which refers to establishment management, health, hair, skin, or nail care, and states that four of those hours in the first renewal would have to be on infection control.

Assemblywoman Buckley:

How many hours of continuing education are there now?

Jeanette Belz:

There are none. Twenty-four out of 50 states require continuing education. It is one of the ways to get at the infection control issue. There is no requirement now.

Assemblywoman Buckley:

It seems like a big jump to go from nothing to that much. It may make sense to do some, but I know that sometimes boards, when they first start this, will do things like an online course, so that people are not hit too hard. A lot of these individuals are independent contractors and are not making much. It seems like a lot to hit them with all at once.

Jeanette Belz:

We have done some research as to what courses might be available. There are online courses available. There are beauty schools who are talking about putting courses together. I am not sure if you are referring to the number of hours being overwhelming at four hours a year or what. What part of this is overwhelming? The cost, from what the Board staff told me, would be somewhere between \$10 and \$25. Some of them could actually be free, and some of them could be available online as well at a very low cost.

Assemblywoman Buckley:

And the eight hours every two years is because there is a two-year license?

Jeanette Belz:

That is correct.

Chairman Conklin:

I notice that section 25 becomes effective January 1, 2011. The requirement for that continuing education does not start until after that point?

Jeanette Belz:

That escaped me. Our intent was to have it start at a reasonable date when the Board could set up the process. That is a very long time.

Assemblyman Goedhart:

I suppose this relates to those doing pedicures and the rest, right?

Jeanette Belz:

That is correct.

Assemblyman Goedhart:

Some of the places my wife goes to in southern Nevada do an extremely good job and are very hard working, but many have little English skills. Is that language barrier going to put an undue burden on folks who already have a problem with English?

Jeanette Belz:

I am not sure how to answer that question.

Assemblyman Goedhart:

A lot of these courses will be offered in English, and I know that a lot of these people have a very limited grasp of the English language.

Jeanette Belz:

I wish I had the Board Chair with me. I cannot answer that question. I do not know whether this could become an opportunity for someone to provide courses in languages other than English.

Assemblyman Settelmeyer:

Cosmetologists are currently licensed and inspected regularly, they already have many hours of education to become licensed, and the problem of infection has not increased. Has there been an increase? From what I understand, we have not had an increase. If it is that serious and we do have infections occurring, then the date of 2011 should be changed to become effective tomorrow.

Chairman Conklin:

What might be better is if we take some more time to vet this bill. I do not want to hurt the rural portion of this bill. Why not consider taking out the Board's portion and running with the portion that deals with the rural areas. Ms. Belz, I will not ask you not to bring your portion to Commerce and Labor in the other house. I am currently at risk of losing this bill. Is that clear with everyone?

ASSEMBLYMAN SETTELMAYER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 202 BY STRIKING THE PORTIONS RELATED TO CONTINUING EDUCATION CREDITS AND JUST LEAVING IN THE SECTIONS ALLOWING MENTORING IN THE LOCAL AREAS.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ANDERSON VOTED NO. ASSEMBLYMEN ARBERRY AND CHRISTENSEN WERE ABSENT FOR THE VOTE.)

We will take up at this time Assembly Bill 490.

[Assembly Bill 490](#): Revises certain qualifications for the licensure of private investigators. (BDR 54-1102)

Dave Ziegler, Committee Policy Analyst:

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

ASSEMBLYMAN SETTELMAYER MOVED TO DO PASS
ASSEMBLY BILL 490.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

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

Chairman Conklin:

We will take up Assembly Bill 509.

Assembly Bill 509: Makes various changes to provisions governing certified
court reporters. (BDR 54-1101)

You may recall that we heard this bill earlier in the week. [Spoke from written
testimony ([Exhibit EE](#)).] There was no opposition.

ASSEMBLYMAN ATKINSON MOVED TO DO PASS
ASSEMBLY BILL 509.

ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

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

We have one other issue. Earlier today we took up Assembly Bill 515. This
came so late, and I already have let you know we have clarified that only those
who have a license can practice. It is probably a worthwhile piece of
legislation. It allows for more people to participate in the mental health arena so
long as they are governed appropriately. There is one item of informed consent.
We might want to amend and do pass this bill with Legal putting in some
informed consent language so that a person receiving treatment from an intern
knows ahead of time. How does the Committee feel about that?

ASSEMBLYWOMAN McCLAIN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 515.

ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

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

Assembly Committee on Commerce and Labor
April 10, 2009
Page 47

Are there any other questions or concerns? [There were none.]

[The meeting was adjourned at 3:52 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Blackburn
Committee Secretary

Cheryl Williams
Editing Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: April 10, 2009

Time of Meeting: 1:12 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B.436	C	Assemblywoman Debbie Smith	Proposed amendment
A.B.436	D	Linda Wicksten	Prepared testimony
A.B.95	E	Dave Ziegler	Written testimony
A.B.140	F	Dave Ziegler	Written testimony
A.B.162	G	Dave Ziegler	Written testimony
A.B.178	H	Dave Ziegler	Written testimony
A.B.522	I	Dave Ziegler	Written testimony
A.B.523	J	Dave Ziegler	Written testimony
A.B.224	K	Dave Ziegler	Written testimony
A.B.313	L	Dave Ziegler	Written testimony
A.B.381	M	Dave Ziegler	Written testimony
A.B.454	N	Dave Ziegler	Written testimony
A.B.511	O	Dave Ziegler	Written testimony
A.B.470	P	Dave Ziegler	Written testimony
A.B. 22	Q	Dave Ziegler	Written testimony
A.B. 84	R	Dave Ziegler	Written testimony
A.B.150	S	Dave Ziegler	Written testimony
A.B. 24	T	Dave Ziegler	Written testimony
A.B.287	U	Dave Ziegler	Written testimony
A.B.215	V	Dave Ziegler	Written testimony
A.B.378	W	Dave Ziegler	Written testimony
A.B.402	X	Dave Ziegler	Written testimony
A.B.410	Y	Dave Ziegler	Written testimony
A.B.448	Z	Dave Ziegler	Written testimony
A.B.430	AA	Dave Ziegler	Written testimony
A.B.355	BB	Dave Ziegler	Written testimony
A.B.202	CC	Dave Ziegler	Written testimony
A.B.490	DD	Dave Ziegler	Written testimony
A.B.509	EE	Dave Ziegler	Written testimony