

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

**Seventy-Fifth Session  
April 15, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 3:17 p.m. on Wednesday, April 15, 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/](http://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](mailto: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  
Assemblywoman Heidi S. Gansert  
Assemblyman Ed A. Goedhart  
Assemblyman Mark A. Manendo  
Assemblywoman Kathy McClain  
Assemblyman James A. Settelmeyer

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Chad Christensen (excused)  
Assemblyman William C. Horne (excused)  
Assemblywoman Marilyn K. Kirkpatrick (excused)  
Assemblyman John Ocegura (excused)

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Brenda J. Erdoes, Legislative Counsel  
Dave Ziegler, Committee Policy Analyst  
Dan Yu, Committee Counsel  
Andrew Diss, Committee Manager  
Karen Fox, Committee Secretary  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Gina Spaulding, Executive Director, Nevada State Board of Architecture,  
Interior Design and Residential Design, Las Vegas, Nevada  
James Wadhams, representing Nevada State Board of Architecture,  
Interior Design and Residential Design, Las Vegas, Nevada

**Chairman Conklin:**

[Meeting called to order.] Let the record reflect we do not have a quorum, so we will open as a subcommittee and start with the hearing on Senate Bill 15.

**Senate Bill 15:** Ratifies corrections of certain errors in real estate provisions and revises related provisions in a legislative enactment from a previous session. (BDR 54-661)

**Brenda J. Erdoes, Legislative Counsel:**

This bill was brought to you by the Legislative Counsel Bureau pursuant to Chapter 220 of the *Nevada Revised Statutes* (NRS). This bill is to correct a mistake we made. Before the passage of Senate Bill No. 476 of the 74th Session, subsection 2 of NRS 645.240 exempted the various entities that you see listed in section 1, subsection 2, of the current bill. It listed them as exempt from the requirements of Chapter 645 NRS which provides for the regulation and licensing of real estate brokers and salespersons.

This bill is half ratification and half "revisers bill." Section 1 is ratification. If you look at NRS, this section actually appears as it does in the current bill. If you do not pass this bill, we will go back and change that. We felt strongly enough that this is what you intended and made the change in the statute. We

did not, however, change the repealed provision in section 2, although it was actually the inverse of what we did here.

I do not know if you remember the original bill, but it came to this Committee. It took the provisions of NRS 645.606 through NRS 645.6085, which dealt with exchange facilitators, repealed them, put them in a new chapter, and put them under the Division of Financial Institutions. In that process the bill draft took out the exception provision language in subsection 2 on the top of page 3 of the current bill, and put it into NRS Chapter 645G. On the top of page 3, there is an exception that goes to the same sections that were moved. Instead of leaving the exception provision in NRS 645.240 where it was necessary, we put it into what became NRS 645G.070.

The only thing this bill does is remedy that error. We feel that the digest and title were correct and did not indicate any attempt to take those individuals and put them back into the Real Estate Division's regulation. Rather, it pointed out that they would be in the exchange facilitator's chapter. So this attempts to remedy that situation.

**Chairman Conklin:**

Ms. Erdoes, what is an exchange facilitator?

**Brenda Erdoes:**

I do not know.

**Chairman Conklin:**

Mr. Ziegler, what is an exchange facilitator?

**Dave Ziegler, Committee Policy Analyst:**

When you want to sell a piece of real estate and you want to do a tax free exchange, you park the money with an exchange facilitator while you are lining up another piece of property.

**Chairman Conklin:**

Thank you. Are there any questions from the Committee on the bill? There are none. Madam Secretary, please recognize that at this time we have a quorum. We will close the hearing on Senate Bill 15.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS  
SENATE BILL 15.

ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUCKLEY,  
CHRISTENSEN, HORNE, KIRKPATRICK, AND OCEGUERA WERE  
ABSENT FOR THE VOTE.)

**Chairman Conklin:**

We will open the hearing on Senate Bill 49 (1st Reprint).

[Senate Bill 49 \(1st Reprint\)](#): Creates a requirement for a written contract  
between a client and an architect, registered interior designer or  
residential designer under certain circumstances. (BDR 54-353)

**Gina Spaulding, Executive Director, Nevada State Board of Architecture, Interior  
Design and Residential Design, Las Vegas, Nevada:**

Senate Bill 49 (1st Reprint) creates a requirement for a written contract  
between design professionals and clients. We support this because it is a  
powerful consumer protection tool. Most complaints filed against our  
registrants are rooted in the fact that there is an inadequate contract or there is  
not one at all. We believe the provisions of this bill will protect the consumer as  
well as the registrant by providing a clear understanding of the services to be  
provided, the compensation to be paid, and the means for resolving disputes.  
The provisions of this bill also allow work to begin prior to the contract  
execution if agreed to by both parties. It also provides an exemption from the  
written contract requirement if both parties agree in writing that a contract is  
not required. It also provides an exemption from the requirement if the design  
professional is not receiving compensation.

[Distributed summary of S.B. 49 (R1) ([Exhibit C](#)).]

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblyman Anderson:**

Is it good enough for an architect to just shake hands for an agreement to  
design a house?

**Gina Spaulding:**

This bill requires that you sign in writing that a contract is not required.

**Assemblyman Anderson:**

Would I still have to sign that I do not need a contract?

**Gina Spaulding:**

The architect would have to explain to you that a contract is not necessary to design the house.

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblywoman Gansert:**

Why are landscape architects and professional engineers, who are registered, excluded from this?

**Gina Spaulding:**

Typically when an architect, interior designer, or residential designer is working on a project, it is very common for them to enter into consultancy agreements. We did not feel it was necessary to have a written contract to describe the scope of the design services. It is a very common practice for architects, engineers, and landscape architects to work together on projects.

**Assemblywoman Gansert:**

Are you saying that there is not a need for a contract between those two types of professionals?

**Gina Spaulding:**

Yes.

**Chairman Conklin:**

Is it possible for a person who holds multiple licenses to escape this contract requirement because they have a landscape design license even though the services provided are not landscape services, but residential design?

**Gina Spaulding:**

Are you asking whether someone who is both a residential and a landscape designer would not have to have a contract with themselves?

**Chairman Conklin:**

I am questioning whether there is a loophole. Subsection 4, paragraph (c), says, "a person who holds a certificate of registration as a landscape architect

pursuant to Chapter 623A of NRS or a person who is licensed as a professional engineer...." We have excluded people who have certain licenses, but what if a person holds two licenses? The fact that they hold one allows them out, despite the fact that the service they may be rendering is something for which you intended this to apply. I am curious if paragraph (c) should have a phrase following it that says, "so long as the services provided are services that they provide under those licenses."

**Gina Spaulding:**

To my knowledge we do not have any registrants who have dual or triple licenses, and the intent of the written contract is between a design professional and a client.

**James Wadhams, representing Nevada State Board of Architecture, Interior Design and Residential Design, Las Vegas, Nevada:**

There is a compound question. Let us say a person holds an architect's license and a landscape architect's license. The landscape architect license is issued by a different regulatory body, but if that person holds both, which is not likely because of overlapping elements, this board would require that the licensee comply with the contract requirement even though it might not apply under the other license he holds. As Ms. Spaulding pointed out, the purpose of this bill is to protect the relationship between the design professional and the homeowner of the property who is seeking to have the design done. If the architect registrant has a relationship with a landscape architect, that does not need to be in writing. The other element is the relationship between the owner of the property and the architect, which needs to have an agreement in writing because it is typically going to involve safety issues.

**Chairman Conklin:**

So, paragraph (c) reflects not whether the architect, interior designer, or residential designer has a license but rather the person on the other end of the contract. Is that correct?

**James Wadhams:**

If the architect has a subcontract with a landscape architect, the requirement for a contract does not apply. The intent of the Nevada State Board of Architecture, Interior Design and Residential Design was that the contract is between the owner of the property and the architect. We are suggesting that the Legislature adopt this policy so the contract will reflect to the homeowner what the professional is supposed to do for them.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone wishing to testify in support of S.B. 49 (R1)? Is there anyone in opposition? Is there anyone in the neutral position? We close the hearing on S.B. 49 (R1). We will bring the bill back to the Committee to review that issue and possibly clarify that language.

We will open the hearing on Senate Bill 90.

**Senate Bill 90:** Creates an emeritus title for certain architects, registered interior designers and residential designers. (BDR 54-352)

**Gina Spaulding, Executive Director, Nevada State Board of Architecture, Interior Design and Residential Design, Las Vegas, Nevada:**

The Nevada State Board of Architecture, Interior Design and Residential Design has recently adopted continuing education requirements for their registrants, which will be in effect for the renewal year of 2010. We want to allow an emeritus exemption status for continuing education. In the past the Legislative Counsel Bureau did not pass this because we did not have statutory authority to allow this, so we are here today to ask for statutory authority.

[Distributed summary of S.B. 90 ([Exhibit D](#)).]

**Chairman Conklin:**

Are there any questions from the Committee? Are you allowing someone who is at retirement age who has been a member in good standing for five years or longer to now be eligible for a lifetime exemption once they have applied and are admitted?

**Gina Spaulding:**

They have to ask for it in writing. There is no charge for it. Currently, once you become registered as an architect, interior designer, or residential designer in the State of Nevada, you may call yourself such, provided you continue to pay your registration fees each and every year. Part of the practice of architecture, interior design, or residential design is as much an identity as it is a profession. When the registrants are ready to retire, they want to continue to call themselves an architect, registered interior designer, or residential designer, but if they do not continue to pay their registration fees, this statute does not allow them to do that.

**Chairman Conklin:**

So will you continue to get your fees?

**Gina Spaulding:**

Once they become emeritus, there are no fees. When they retire, and should this bill pass, they can then call themselves an emeritus architect, registered interior or residential designer. They no longer have to pay registration fees.

**Chairman Conklin:**

Can they still operate under that license?

**Gina Spaulding:**

They may not.

**Chairman Conklin:**

This is a ceremonial title.

**Gina Spaulding:**

Yes, it is.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone wishing to get on record in support for S.B. 90? Is there anyone in opposition? Is there anyone in the neutral position? We will close the hearing on S.B. 90 and bring that bill back to the Committee.

We will open the hearing on Senate Bill 91.

**Senate Bill 91:** Revises provisions governing architects, interior designers and residential designers. (BDR 54-351)

**Gina Spaulding, Executive Director, Nevada State Board of Architecture, Interior Design and Residential Design, Las Vegas, Nevada:**

This bill is a minor housekeeping change to *Nevada Revised Statutes* (NRS) Chapter 623. The first change we are requesting is under NRS 623.190, section 1, subsection 6, paragraph (c), and changes the name of one part of our residential design examination from "Systems for environmental control" to "Building systems and life safety." It is essentially the same examination. Last year the Nevada State Board of Architecture, Interior Design and Residential Design did a major review of the existing residential design examination and brought all of the test questions up to the 2006 International Building and Residential Codes. After updating the questions, they realized the examination



was more about building systems and life safety than environmental control. [Distributed summary of S.B. 91 ([Exhibit E](#)).]

The next change we are requesting is under section 2, subsection 1(d)(1), to change the name of the interior design accrediting agency from "the Foundation for Interior Design Education Research" to the "Council for Interior Design Accreditation." It is the same organization, but we would like to change the name to more appropriately reflect their business.

The third change is in section 3 and amends it to require that every architectural office or registered interior or residential design office operating in the State of Nevada has a resident architect, registered interior designer, or residential designer regularly working in the office. That was always the intent and used to state that in NRS 623.350. But when the Legislature enacted NRS 623.349, which allowed architects, registered interior designers, or residential designers to enter into businesses with non-registrants, then the law was changed. It was always the intent that if you have an office in Nevada, it should be run by a licensed architect, registered interior designer, or residential designer.

When NRS Chapter 622A was enacted, NRS 623.365 was inadvertently modified. *Nevada Revised Statutes* 623.270 is the existing statute that pertains to civil penalties that can be assessed against registrants. *Nevada Revised Statutes* 623.365 is a civil penalty statute for unlicensed persons. So we are asking that be amended.

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblyman Anderson:**

I thought the interior designers were trying to make sure they did not have to have an engineering degree in order to practice their profession. They were concerned that there are companies who sell furniture and other goods that have an interior design department. How will this affect that group of people?

**Gina Spaulding:**

Are you referring to the change from the "Foundation for Interior Design Education Research" to the "Council for Interior Design Accreditation?"

**Assemblyman Anderson:**

My question concerns your reference to the fact that you were under the impression that the Legislature had done something that it had not intended to do. When we created the statute on the difference between architectural

engineers and interior designers, we were trying to keep them as two separate groups. Are we now blending that line again?

**Gina Spaulding:**

No, sir, this has nothing to do with that. What you are referring to is that registered interior designers are a fairly new profession in the State of Nevada. In 1995 when that law was enacted, there were exemptions built in so no one was allowed to call themselves an interior designer or practice as an interior designer, along with other items that were exempted. This has not changed, and we are not asking to change that. When I referred to NRS 623.365, I was referring to the civil penalty statute that deals with unlicensed individuals but does not have anything to do with interior design. It deals with the protected practices of architecture, registered interior design, and residential design. If someone comes to the State of Nevada and offers services that are regulated, but not exempt, they can be found to be violating the law.

**Assemblyman Anderson:**

Can you give us an example of how this has been a problem in Nevada where the current statute is not meeting the requirement for you to handle the problem?

**Gina Spaulding:**

Section 4 of NRS 623.365, prior to the enactment of NRS Chapter 622A which deals only with licensees and registrants was only for non-registrants. We already have a separate statute that deals with registrants that includes architects, registered interior designers, or residential designers. Because NRS Chapter 622A deals only with registrants, it voided the statute for non-registrants.

**Assemblyman Anderson:**

Is there any case specifically where you have not been able to charge someone who you felt needed to be charged?

**Gina Spaulding:**

Yes, sir. We have had several cases where the only thing we could do was charge them under NRS 623.360 which does not allow the Board to go up to administrative civil penalties, which can be as much as \$10,000. It limits the penalty to \$500. When people come to the State of Nevada and provide regulated services without bothering to get registered, they are happy to write a \$500 check as a cost of doing business.

**Chairman Conklin:**

Are there any questions from the Committee on S.B. 91? Is there anyone wishing to get on record in support for S.B. 91? Is there anyone in opposition? Is there anyone in the neutral position? We will close the hearing on S.B. 91.

I will hold S.B. 91 and S.B. 49 (R1) and will do a little more research. As to S.B. 90, I would like to limit the number of bills on the last day.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS  
SENATE BILL 90.

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUCKLEY,  
CHRISTENSEN, HORNE, KIRKPATRICK, AND OCEGUERA WERE  
ABSENT FOR THE VOTE.)

**Chairman Conklin:**

This meeting is adjourned [at 3:49 p.m.].

RESPECTFULLY SUBMITTED:

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Karen Fox  
Committee Secretary

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Cheryl Williams  
Editing Secretary

APPROVED BY:

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Assemblyman Marcus Conklin, Chairman

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

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** April 15, 2009

**Time of Meeting:** 3:17 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
SB 49 (R1)	C	Gina Spaulding	Summary of S.B. 49 (R1)
SB 90	D	Gina Spaulding	Summary of S.B. 90
SB 91	E	Gina Spaulding	Summary of S.B. 91