

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

**Seventy-fifth Sessions  
May 27, 2009**

The Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 1:46 p.m. on Wednesday, May 27, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Maggie Carlton, Chair  
Senator Michael A. Schneider, Vice Chair  
Senator David R. Parks  
Senator Allison Copeney  
Senator Dean A. Rhoads  
Senator Mark E. Amodei  
Senator Warren B. Hardy II

**STAFF MEMBERS PRESENT:**

Kelly S. Gregory, Committee Policy Analyst  
Daniel Peinado, Committee Counsel  
David S. Ziegler, Principal Research Analyst, Research Division, Legislative Counsel Bureau  
Carol Allen, Committee Secretary

**OTHERS PRESENT:**

Megan Jackson, Government Affairs Liaison, Associated Builders and Contractors, Inc., Sierra Nevada Chapter  
Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15  
Samuel P. McMullen, Altria Client Services Inc. & its Affiliates  
David Goldwater, former Assemblyman, Mortgage Advisory Council  
Alfredo T. Alonso, HSBC North America

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Joseph L. Waltuch, Commissioner, Division of Mortgage Lending, Department of  
Business and Industry  
Bill Uffelman, President and CEO, Nevada Bankers Association

Chair Maggie Carlton opened the hearing on Senate Bill (S.B.) 269.

[SENATE BILL 269 \(3rd Reprint\)](#): Makes various changes to provisions governing  
physicians and certain related professions. (BDR 54-757)

SENATOR HARDY MOVED TO NOT CONCUR WITH AMENDMENT  
NO. 905 TO S.B. 269.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SCHNEIDER WAS ABSENT FOR THE  
VOTE.)

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Chair Carlton opened the hearing on Assembly Bill (A.B.) 140.

[ASSEMBLY BILL 140 \(2nd Reprint\)](#): Makes various changes to provisions  
relating to foreclosures of real property. (BDR 2-228)

SENATOR HARDY MOVED TO NOT RECEDE FROM AMENDMENT  
NO. 771 TO A.B. 140.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Carlton opened the hearing on A.B. 24.

[ASSEMBLY BILL 24 \(2nd Reprint\)](#): Revises provisions governing claims for  
compensation under industrial insurance. (BDR 53-423)

SENATOR SCHNEIDER MOVED TO NOT RECEDE FROM AMENDMENT  
NO. 599 TO A.B. 24.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Carlton opened the hearing on A.B. 202.

[ASSEMBLY BILL 202 \(2nd Reprint\)](#): Makes various changes concerning the  
State Board of Cosmetology. (BDR 54-681)

SENATOR HARDY MOVED TO NOT RECEDE FROM AMENDMENT  
NO. 812 TO A.B. 202.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Carlton opened the hearing on A.B. 454.

[ASSEMBLY BILL 454 \(2nd Reprint\)](#): Revises certain provisions relating to  
housing. (BDR 10-839)

SENATOR SCHNEIDER MOVED TO NOT RECEDE FROM AMENDMENT  
NO. 763 TO A.B. 454.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Carlton opened the work session on A.B. 148.

**ASSEMBLY BILL 148 (2nd Reprint)**: Requires certain health and safety training for construction workers and supervisors. (BDR 53-276)

Senator Copenig asked if there was any opposition to the bill in the last hearing. Kelly S. Gregory, Committee Policy Analyst, said she did not recall any opposition. Chair Carlton invited anyone with opposition to come forward and speak.

Megan Jackson, Government Affairs Liaison, Associated Builders and Contractors, Inc., Sierra Nevada Chapter, said they were not in opposition to the bill but wanted to remind the Committee of their previous comment on the termination of employees as addressed in section 11 through section 14 of A.B. 148. Rather than requiring employees to be terminated if not presenting a valid Occupational Safety and Health Administration (OSHA) completion card to the employer after 15 days of being hired, they requested the employer have the option of suspending the employees or giving them office duty. She explained they did not want to terminate employees, just pull them from field positions until they completed their OSHA training.

Jack Mallory, Assistant Business Manager/Secretary-Treasurer, Director of Government Affairs, International Union of Painters and Allied Trades, District Council 15, said leaving an employee in working status makes it hard to verify if he has actually been transferred off the job site. He recommended an employee suspension would create fewer enforcement problems for the employer and the Division of Industrial Relations, Department of Business and Industry.

Chair Carlton said amending the bill to suspend an employee until he complies with the OSHA requirements would not create a hardship on the employee or the employer.

Senator Hardy said he would be abstaining from voting because the Sierra Nevada Chapter of the Associated Builders and Contractors, Inc., has been involved in the bill negotiations. He pointed out putting the requirement that an employer only be able to suspend an employee in statute would limit the ability for employers to terminate their employees.

Chair Carlton requested an opinion from the Committee's legal counsel if adding the words "suspend or terminate," to section 12, subsection 1, of A.B. 148 would address everyone's concerns. Daniel Peinado, Committee Counsel said

that would be fine. Chair Carlton got a nod of agreement from Danny Thompson, Advisory Council to the Division of Industrial Relations, Department of Business and Industry, who was sitting in the audience.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 148.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY ABSTAINED FROM THE VOTE.)

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Chair Carlton opened the work session on A.B. 229.

[ASSEMBLY BILL 229 \(1st Reprint\)](#): Enacts provisions governing fire-safe cigarettes. (BDR 42-568)

Senator Hardy inquired about the effective date of the bill. Samuel P. McMullen, Altria Client Services Inc. & its Affiliates, said there were advance dates for purposes of developing the regulatory and compliance scheme for the governmental agencies, but the actual effective date does not occur for one year ([Exhibit C](#)).

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED A.B. 229 WITH PROPOSED AMENDMENT 5213.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Carlton opened the work session on A.B. 430.

[ASSEMBLY BILL 430 \(2nd Reprint\)](#): Prohibits certain activity regarding unsafe cribs and other children's products. (BDR 52-464)

Senator Parks submitted a proposed amendment to section 3 of A.B. 430 ([Exhibit D](#)). He indicated in section 9 through section 17 of A.B. 430 that statute has been added to comply with the federal Infant Crib Safety Act. He said the bill deals with second-hand children's products. He gave an example of a charity thrift store in Las Vegas that received a large shipment of child car seats that were defective. He explained when an item is recalled, the resale of that item will be prohibited. Senator Parks added, in section 7 of A.B. 430, the U.S. Consumer Product Safety Commission issues recall bulletins that retailers can check with when products are donated.

In answer to Senator Copenig's question, Senator Parks said the effective date of legislation for A.B. 430 will be October 1, 2009. Chair Carlton asked who will enforce the law after it takes effect. Senator Parks said store managers should be informed of any violations and buyers should be aware at yard sales and swap meets. The Office of the Attorney General will assist retailers.

SENATOR RHOADS MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 430.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Carlton opened the work session on A.B. 523.

**ASSEMBLY BILL 523 (1st Reprint)**: Implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. (BDR 54-773)

David Goldwater, former Assemblyman, Mortgage Advisory Council, explained the Committee needs to pass A.B. 523 to conform to the federal Secure and Fair Enforcement (SAFE) Mortgage Licensing Act, which is Title V of the Housing and Economic Recovery Act of 2008. He explained in 2004 the American Association of Residential Mortgage Regulators and the Conference of State Bank Supervisors developed the nationwide mortgage licensing system. He said Nevada was ahead in licensing requirements at the time, but now needs to bring licensing standards in line with current national standards. If we do not,

the U.S. Department of Housing and Urban Development (HUD) will take over regulating our mortgage licensing.

Chair Carlton inquired if anything in the deleted sections of A.B. 523 would put Nevada in jeopardy with the HUD requirements of the SAFE Act. Mr. Goldwater said no, the commissioner of the Division of Mortgage Lending had worked with Assemblyman Marcus Conklin and his committee on A.B. 523. He assured the Committee the bill would improve the existing standards in the State's mortgage licensing program.

Alfredo T. Alonso, HSBC North America, submitted a summary to A.B. 523 ([Exhibit E](#)). He advised that section 6 of A.B. 523 includes all loans, not just new loans and that this will drastically slow down the process of adjusting foreclosure loans and the refinancing of existing home loans. His amendment would insert the word "new" before "residential," to loans mentioned in section 6, lines 24 and 25. He said this would clarify the intent of the legislation to cover new loans and protect consumers in foreclosure from avoidable loan processing delays. He added Assemblyman Conklin was in agreement with the proposed amendment.

Chair Carlton asked Mr. Goldwater about the removal of text from the repealed section. Mr. Goldwater said the original bill drafted was very onerous for the regulator and some of the people in the industry.

Joseph L. Waltuch, Commissioner, Division of Mortgage Lending, Department of Business and Industry, referred to *Nevada Revised Statutes* (NRS) 645B.455, saying that particular section, which is being deleted, deals with independent contractors. He said one of the problems they encountered was, under federal regulations, people originating mortgages must be paid as Internal Revenue Service Form W2 employees, and many of the agents have formed their own limited liability companies and cannot be paid because they are companies, not individuals. They have been circumventing the law by receiving compensation at the back end. Deleting the repealed section through A.B. 523 will avoid the problem.

Mr. Waltuch explained that the SAFE Act does not distinguish between purchase money loans and refinance loans; it only mentions taking a residential loan application. He said if the Committee is desirous of adding the proposed amendment to A.B. 523, it is conceivable that the amendment will throw this

bill out of compliance with federal law. He requested the Committee get an opinion from its counsel before they make the decision. Chair Carlton thanked the commissioner for the information and asked Mr. Peinado and Bill Uffelman to look into the matter.

Bill Uffelman, President and CEO, Nevada Bankers Association, said he supports the intent of A.B. 523. In regard to adding the word "new" to lines 24 and 25 of section 6 of the bill, he said a new loan could be a refinance. He said the amendment targets the servicers of loans; the people working for the lenders, communicating with the borrowers who have fallen behind in their payments. Chair Carlton asked how to distinguish the differences in mortgages. Mr. Uffelman said a refinance is a new residential mortgage, not a purchase money mortgage.

Mr. Waltuch directed the Committee's attention to section 21, subsection 3, paragraph (d) of A.B. 523. He said it refers to loans that are being serviced, which answers Mr. Uffelman's concern. He suggested the Committee look at amending paragraph (d) to make it broader in scope than it is currently. It pertains to existing loans, not new loans, as currently written. He added it would exempt loan servicers from the licensing requirement.

Chair Carlton asked if that would put Nevada out of compliance with the SAFE Act. Mr. Waltuch said it would not. He explained the State Bank Supervisors conference advised that HUD has deferred looking at the issue of whether a loan servicer, who is able to arrange for an extension of new credit, needs to be licensed. They have deferred making that licensing decision until mid-2011. He said unless the loan servicers in section 21, subsection 3, paragraph (d) of A.B. 523 try to arrange new credit, they are currently exempt from licensing. Mr. Uffelman said if that modification takes place, he is fine with it. Mr. Alonso also agreed.

Chair Carlton asked the Committee to consider processing the bill subject to the amendments committee counsel will be reviewing.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 523.

SENATOR COPENING SECONDED THE MOTION.



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Chair Carlton said there was also a cleanup amendment from Assemblyman Conklin he wants incorporated. David S. Ziegler, Principal Research Analyst, Research Division, Legislative Counsel Bureau, submitted a mock-up proposed amendment to A.B. 523 on behalf of Assemblyman Conklin, ([Exhibit F](#)). He said the amendment corrects minor drafting errors that made it through the first reprint of the bill. He pointed out on page 3, line 10, of the mock-up amendment, section 55 of the bill, the word guilty had been left out. He explained the change makes the language consistent throughout the bill.

Chair Carlton replied it currently says "guilty" or nolo contendere under the first reprint of the bill in section 55, subsection 3, paragraph (b), subparagraph (1). She asked Mr. Peinado and Mr. Ziegler to work together and incorporate the mock-up proposed amendment with the bill.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 523.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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There being no further business, the Senate Commerce and Labor Committee meeting was adjourned at 2:47 p.m.

RESPECTFULLY SUBMITTED:

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Carol Allen,  
Committee Secretary

APPROVED BY:

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Senator Maggie Carlton, Chair

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