

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-fifth Session
May 20, 2009**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 5:23 p.m. on Wednesday, May 20, 2009, in Room 2144 of the Legislative Building, Carson City, 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 John J. Lee, Chair
Senator Shirley A. Breeden
Senator William J. Raggio
Senator Randolph Townsend
Senator Mike McGinness

COMMITTEE MEMBERS ABSENT:

Senator Terry Care, Vice Chair (Excused)
Senator Steven A. Horsford (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Mo Denis, Assembly District No. 28
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Heidi Chlarson, Committee Counsel
Michael Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT:

David K. Morrow, Administrator, Division of State Parks, Department of Conservation and Natural Resources
Leticia Bravo, Ombudsman for Minority Consumer Affairs, Consumer Affairs Division, Department of Business and Industry

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Tim Tetz, Executive Director, Office of Veterans' Services
RG Smith, Operations Manager, Nevada Property Maintenance; Field Manager,
Helsel Construction Operations, Inc.
James M. Helsel, President, Helsel Construction Operations, Inc.
Robert F. Joiner, Government Affairs Manager, City of Sparks
Gustavo "Gus" Nunez, Manager, State Public Works Board
David McTeer, Division Chief, Information Technology Division, Department of
Administration
Mendy K. Elliott, Deputy Chief of Staff, Office of the Governor
Louise Bush, Chief, Child Support Enforcement, Division of Welfare and
Supportive Services, Department of Health and Human Services
Steven L. Aldinger, Deputy Administrator, Real Estate Division, Department of
Business and Industry
Todd Westergard, Chief, Administration Division, State Gaming Control Board
Dino DiCianno, Executive Director, Department of Taxation
Lisa A. Gianoli, Washoe County
Ben R. Graham, Administrative Office of the Courts
Maureen Brower, Southern Nevada Home Builders Association
Diane Cornwall, Director, Department of Business and Industry

Chair Lee opened the meeting with the introduction of Assembly Bill (A.B.) 550.

ASSEMBLY BILL 550 (1st Reprint): Requires the establishment of a commercial wedding program at the Boulder Dam-Valley of Fire State Park. (BDR 35-1309)

Chair Lee said a State Parks representative was in the meeting to explain the bill. He said the representative could not speak in favor or against the bill.

David K. Morrow, Administrator, Division of State Parks, Department of Conservation and Natural Resources, said because of the Governor's strict policy on no new fees, the Department and the Division were unable to support this piece of legislation. He said he would present a general overview of the bill. The intention of A.B. 550 was to create a fee that could be charged to commercial wedding groups at Valley of Fire State Park. He said there were about 1,070 weddings annually at the Park.

Chair Lee said areas in a state park cannot be rented for a wedding. He asked if the bill was appropriate for the Valley of Fire State Park, why not make it available for all Nevada State Parks?

Mr. Morrow said the Governor was strongly opposed to the idea. He said the general premise of having commercial weddings in State Parks would probably work in other locations.

Chair Lee asked if there were any questions concerning A.B. 550. He said he wanted to add all the parks in the State Park system to the bill. He said the Division of State Parks could use the help. He closed the hearing on the bill. Chair Lee opened the hearing on A.B. 254.

ASSEMBLY BILL 254 (1st Reprint): Makes the Ombudsman of Consumer Affairs for Minorities a permanent position within the Office of the Director of the Department of Business and Industry. (BDR 18-830)

Assemblyman Mo Denis, Assembly District No. 28, offered an overview of A.B. 254. He said he represented the district with the largest percentage of Hispanics and other minorities. He said the Hispanic and Asian communities had a problem with consumer fraud issues. He presented a bill last Session that gave the community the Ombudsman for Minority Consumer Affairs to assist with problems. He said the position was filled two years ago. It was funded for two years and again in the budget for this two-year term. He said the Consumer Affairs Division was to be discontinued on July 1 under A.B. 561, and the fraud continued in minority communities. The Ombudsman was able to help in those situations.

ASSEMBLY BILL 561 (1st Reprint): Eliminates the Consumer Affairs Division of the Department of Business and Industry for the 2009-2011 biennium and transfers certain duties and powers of the Division. (BDR 18-1201)

Leticia Bravo, Ombudsman for Minority Consumer Affairs, Consumer Affairs Division, Department of Business and Industry, said her primary duties were to provide for continued educational, outreach and service programs for minority groups pertaining to consumer fraud. She appeared on radio and television discussing resources available to minorities. She worked with the Asian, Latin and urban chambers of commerce and other nonprofit community organizations. She said she worked with individual consumers on a one-on-one basis. Her

office received 1,350 consumer telephone calls. She said consumer problems were often for small sums of money, \$750 to \$2,500. She said these small quantities of money made a vast difference to the individuals.

The Office of the Ombudsman was able to function as a resource for people who might not know or expect to find the help they needed. She said over \$69,000 had been returned to consumers who were defrauded. She said foreclosure rescue fraud was the area where she received the most complaints. Ms. Bravo received 16 complaints this week against one foreclosure rescue firm. She said the Ombudsman also served as executive secretary to the Nevada Commission on Minority Affairs. The nine members of the Commission were appointed in 2008 by the Legislature. She urged approval of A.B. 254.

Chair Lee asked Ms. Bravo if the Ombudsman position was a trial program.

Assemblyman Denis said that last Session, the bill did not become statute, but it did get into the budget. The position was created for the interim. He said he brought A.B. 254 forward to make it a permanent position. Assemblyman Denis said no additional funds were available for the Commission on Minority Affairs. He said the Commission was still meeting without funding.

Chair Lee said there was a fiscal note on the bill.

Assemblyman Denis said the budget was approximately \$100,000 per year.

Chair Lee asked if the \$200,000 for two years was in the current budget.

Assemblyman Denis replied it was in the current budget. He said it was approved by both the Senate Finance Committee and the Assembly Ways and Means Committee.

Senator McGinness asked Ms. Bravo where her office was located.

Ms. Bravo said she was in the Consumer Affairs Division within Business and Industry in Las Vegas.

Senator McGinness asked how she did outreach to rural Nevada.

Ms. Bravo said it was limited. Most of the outreach to rural Nevada was in the form of telephone calls.

Senator McGinness asked if she had any plans to expand the outreach to other agencies that could provide information about her office for people located in the rural areas of the State.

Ms. Bravo said she sent constant e-mail updates and stories and visited as many places as she could. She distributed a variety of brochures about the program.

Senator McGinness asked what the second level of minority population was in Nevada.

Ms. Bravo replied African American was the next largest population group in Nevada.

Senator McGinness said there were many temporary farm workers in his district.

Chair Lee asked if there was further testimony on the bill. He closed the hearing on A.B. 254 and opened the hearing on A.B. 223.

ASSEMBLY BILL 223 (2nd Reprint): Revises provisions concerning preferences for bidders on certain state purchasing and public works contracts. (BDR 27-857)

Tim Tetz, Executive Director, Office of Veterans' Services, said a debt was owed to service-disabled veterans. He said A.B. 223 allowed Nevada to give service-disabled, veteran-owned businesses a 7-percent preference on purchases and State Public Works Board contracts when bidding on projects for the State. He said two other states had a preference for disabled veterans. He said Assemblywoman Debbie Smith sponsored the bill.

Chair Lee said a 5-percent bidder preference was offered on many bids. He asked why 7 percent was requested for the veterans.

Ms. Tetz said it was part of an amendment that originated in the Assembly. He said originally it was 5 percent for disabled-veteran-owned businesses and 5 percent for being local, so they could have been combined for 10 percent. He

said it was reduced in the Assembly to 5 percent with a 2-percent bonus for service-disabled businesses.

RG Smith, Operations Manager, Nevada Property Maintenance; Field Manager, Helsel Construction Operations, Inc., said he was a disabled veteran. He said he started a small business and learned it was extremely difficult to bid on State jobs with so many companies bidding on the jobs. He said A.B. 223 was designed to help level the field between large companies and small disabled-veteran-owned business. Mr. Smith referenced Senate Concurrent Resolution 336 of the 110th Congress ([Exhibit C](#)). He said the resolution passed both the United States House of Representatives and the Senate and asked the states to honor and recognize disabled veterans. He said California, Florida and Michigan had similar legislation in place. He said New York, Washington and Arizona wanted to introduce similar legislation. Governor Jim Gibbons had pledged his support to A.B. 223. He urged support of the bill.

James M. Helsel, President, Helsel Construction Operations, Inc., said he was a resident of Sparks and a small, local building contractor. He said he had 13 years of business experience. He was never in the military, but he supported military people. He said Nevada had a large population of disabled veterans. He said Mr. Smith gave a presentation at the Veterans Hospital last year, explaining how A.B. 223 could help disabled veterans. He said with the passage of A.B. 223, all disabled veterans would be helped. The three states with preferences for disabled veterans sent copies of their legislation to him. Systems in place in Nevada could be added to without the need for extra staffing.

Chair Lee asked Mr. Helsel what his trade was as a building contractor.

Mr. Helsel said he had a residential and small commercial B-2 license and was a remodeling contractor. He said his company also did commercial tenant improvements.

Chair Lee disclosed he was a tile and marble contractor and a plumbing contractor. He asked Mr. Helsel if he was business partners with Mr. Smith.

Mr. Helsel replied he was not a partner with Mr. Smith. He said he ran his construction company by himself. He worked with another company called Nevada Maintenance Operations, but he ran his own construction company.

Chair Lee asked Mr. Helsel if his other company had a service-disabled veteran. He asked if Mr. Smith was his partner in Nevada Property Maintenance.

Mr. Helsel replied yes.

Chair Lee asked Mr. Smith if he was a journeyman in a trade.

Mr. Smith said he was not a journeyman. He said he did real estate and property management and he started Nevada Property Maintenance last year in hopes of getting work from the State.

Chair Lee said a disabled veteran received 2 percent more than other people who received bidder preferences.

Mr. Smith said Nevada Property Maintenance did not have a contractor's license. They could only do noncontractor-related work, such as lawn and landscaping projects.

Chair Lee said landscaping contractors had licenses. He said it was not fair to other contractors when a larger preference was given to a special group.

Mr. Smith said he planned to shut down his business due to the economy. He said he believed in the bill, and it would help other disabled veterans.

Chair Lee said he could foresee someone finding a disabled veteran and using them for the preference.

Mr. Tetz said section 6 in the bill dealt with that problem. He said section 6 delineated the disabled veteran must own at least a 51-percent interest in the business. He said they were controlling partners of the business.

Chair Lee said that was fraught with problems. He could foresee a veteran using his service as a way to receive a check.

Mr. Tetz said it was not perfect but was based on other successful legislation. He said in order to receive a certificate from the U.S. Department of Veterans Affairs, documents had to be turned over to them. He said the 51-percent ownership limited fraud to some degree.

Chair Lee asked what the four states with veteran preferences were doing as far as the percentages offered to veterans.

Mr. Smith said Michigan gave a 10-percent preference from the lowest bid. He said the language stated the Department shall give a preference of up to 10 percent of the amount of the contract to a qualified disabled veteran. He said Florida was similar to Michigan and their bill was enacted last year. He wanted his bill to be good legislation. The bill had language to protect the disabled veteran from shysters. He said Florida had several qualifications necessary to be a disabled veteran. He said A.B. 223 required a net worth of under \$5 million to qualify as a disabled veteran. He said the bill had a definition of a disabled veteran. Disabled veterans could be anywhere from zero to 100 percent disabled as recognized by the U.S. Department of Veterans Affairs. The disabled veteran had to have fewer than 100 employees.

Chair Lee said the bill stated local business meant a business that employed at least one person in the State.

Mr. Tetz said section 7, subparagraph 2 addressed the issue of local business. It said the person had to be employed in the State for not less than two years. He said they were trying to limit problems.

Chair Lee requested Ted Olivas and Rob Joiner come to the table. He asked them if they testified in the Assembly on A.B. 223.

Robert F. Joiner, Government Affairs Manager, City of Sparks, said they did not testify on this bill. He said it was their contention the bill did not apply to them. He said they contacted the bill's sponsor and she said it was her intention it did not apply to local government. He said the proposed Amendment 5181 to A.B. 223, section 27, subparagraph (b), page 2, line 1, "... with respect to the State ... ," took the local governments out of the bill ([Exhibit D](#)). He said if the intention was to apply to State Public Works Projects only, they wanted it stated in testimony or through further amendments.

Assemblywoman Debbie Smith, Assembly District No. 30, said the bill intended to encompass the State. She said legal staff said the bill covered that issue. However, when local government raised the issue, she had the amendment drafted clarifying that it affected the State, [Exhibit D](#). She said the bill was needed to help keep people in the State employed. The bill honored the

sacrifices veterans made for the Country. She said the scope of the bill was narrow and impacted a small number of people.

Chair Lee asked if the bill was for work costing \$100,000 or less. He inquired what was available now for disabled veterans. He asked Assemblywoman Smith why she was giving a 2-percent advantage to service veterans.

Assemblywoman Smith said the bill was a small acknowledgment to the veterans of what they had contributed to the Country. She said it would help them become established in a business. She reiterated it affected a small group of people.

Chair Lee asked Mr. Helsel if he had further testimony.

Mr. Helsel said the limit of \$100,000 was small and not a threat to any big contractor. He said every job in the State had 10 to 20 people bidding on it. The bids were so low, they were under cost. He said he did not see any threat to the contractors. He said if the jobs were \$500,000 to \$1 million, then it would be a threat to the large contractors.

Chair Lee said he agreed it was a different and difficult economic time.

Gustavo "Gus" Nunez, Manager, State Public Works Board, said the Public Works Board requirements were outlined in section 23 of A.B. 223. He said it was something they already did, so it would just be another category in their prequalification process. He said State Public Works Board was set up to take into consideration the 5-percent bidder's preference. He said the 7-percent preference would not be that different. They had not submitted a fiscal note to A.B. 223. He said he did not understand why it was not applied to local government also. He said the State Public Works Board was neutral on the bill.

Senator McGinness asked if there were more jobs on the local level under \$100,000 than at the State level.

Mr. Nunez said he did not know how many public works contracts under \$100,000 local government put out in one year. He said State Public Works had some jobs under that amount every year. He said most of their contracts were much larger than that amount.

Chair Lee asked if there was further testimony on A.B. 223.

Mr. Smith said his bill did not require the State to give any jobs to disabled veterans. He said it allowed the State to make that decision. He said past performance was a consideration in awarding a contract. There were approximately 250 disabled-veteran-owned businesses.

Chair Lee closed the hearing on A.B. 223. He opened the hearing on A.B. 548.

ASSEMBLY BILL 548: Revises the provisions governing the fees charged by certain governmental entities for accepting payments by credit cards, debit cards and electronic transfers of money. (BDR 31-1178)

David McTeer, Division Chief, Information Technology Division, Department of Administration, said he was the administrator for the State of Nevada Enterprise ePayment System. He requested passage of A.B. 548. Mr. McTeer said when a government agency accepted a credit card or debit card for payment, the agency was known as a merchant in credit card vernacular and charged a series of fees by the card-processing entities. He said the fees were known as discount fees. Mr. McTeer offered Example A (Exhibit E) of five \$100 transactions each submitted with a different credit card type. He said each transaction had a different total discount fee. He said there were two models available to pay for these fees.

The first model he titled the Wal-Mart model which absorbed 100 percent of the fees as part of the cost of doing business. The model was appropriate in the public sector. The second model was to recoup all or part of the discount fee by charging a convenience fee to the cardholder. He said existing statutes allowed this, but they required the fee charged to the cardholder not exceed the fees charged to the agency for the individual transaction. Mr. McTeer said the second method was unworkable. He said some of the fees charged to the agency may be assessed after the fact as part of the transaction processing and would not be known at the time of the transaction. The other reason was shown in Example B of Exhibit E. He said an average or blended convenience fee must be charged to comply with major credit or debit card rules. The rules stipulated any convenience fee charged must be the same for all card brands and types. He said by charging an average or blended convenience fee at a level projected to recover 80 percent of the total fees assessed to the agency, there

was a cushion to ensure the agency did not exceed the 100-percent level as mandated by statutes.

Mr. McTeer said section 1 of A.B. 548 revised the limitation in section 1465 of chapter 353 of the *Nevada Revised Statutes* (NRS) to allow each State agency to aggregate the fees over the fiscal year in order to comply with the intent of the statute. He said it allowed the use of an averaged or blended convenience fee as shown in Example B of [Exhibit E](#).

Section 2 of A.B. 548 made the same revision to NRS 354.770 as applied to local governments. Section 3 of the bill made the same change to NRS 1.113 as it applied to the court system. Each of the three sections clarified any such fee charged to a cardholder was a convenience fee.

Chair Lee asked Mr. McTeer about Examples A and B of [Exhibit E](#). Chair Lee asked if he paid a debt with his standard Visa card, would the State lose \$1.54 on every \$100 transaction, according to Example A of [Exhibit E](#)?

Mr. McTeer said Chair Lee was correct.

Chair Lee used the same parameters of \$100 on a standard Visa card. He asked for an explanation of the "E-Payments Transaction Fee" as shown in Example B of [Exhibit E](#).

Mr. McTeer said the 20 cent "E-Payment Transaction Fee" had been added. He said every transaction run through the Enterprise ePayment System was charged that amount. He said that \$100 transaction cost a total of \$1.74. The average charge would be \$1.80, [Exhibit E](#).

Chair Lee asked what the "Card Holder Convenience Fee 80%" at \$1.39 and the "State Agency Absorbs 20%" at 21 cents meant.

Mr. McTeer said the bottom line of the "Card Holder Convenience Fee 80%" was the average convenience fee, [Exhibit E](#). He said it was the fee they would be charging as an average of all the fees. Mr. McTeer said the \$1.44 was 80 percent the State received back in a convenience fee. The 36 cents was the amount the agency absorbed in their budget. He said the bill was a budget bill. There was a pilot program for the Real Estate Division of the Department of Business and Industry to test the concept. He said the problem was projecting

the fees. He said it depended on how much volume was done with credit cards and which credit card people used. He said the Department of Administration decided to start with the 80/20 rule, and over time that amount might change.

Chair Lee asked why they chose \$1.44 rather than \$1.90 as the amount to charge the customer using a credit card.

Mr. McTeer said they could not charge \$1.90 because the agency would be constantly changing the fee. He said it was difficult to change the fees every week or even every day. He said the fee was for a period of a fiscal year and would only be changed one time in a year.

Mendy K. Elliott, Deputy Chief of Staff, Office of the Governor, said part of the challenge of the discount fee was the cost of funds changed on a nightly basis. She said what was charged to the merchant, the State, fluctuated on a nightly basis. They arrived at an average to create a baseline. The 80/20 rule allowed the creation of a baseline fee. She said the agency did not want to make money off the citizens, but they wanted to be whole. She said the discount fee could decrease based on the volume in some agencies.

Louise Bush, Chief, Child Support Enforcement, Division of Welfare and Supportive Services, Department of Health and Human Services, submitted her testimony in support of the bill ([Exhibit F](#)). She said passage of A.B. 548 would allow her Division to offer new payment options for parents who owed court-ordered child support paid through the State. She said the majority of the Nation's state child support programs offered payments through credit or debit cards and electronic transfers, [Exhibit F](#).

Steven L. Aldinger, Deputy Administrator, Real Estate Division, Department of Business and Industry, supported A.B. 548. He said the Real Estate Division looked forward to serving as the pilot program for the regulatory agencies to utilize online convenience transactions.

Todd Westergard, Chief, Administration Division, State Gaming Control Board, said the Gaming Control Board supported the bill. He said they hoped to start a program this summer allowing gaming employees to register online. He said it meant they would be using credit cards.

Dino DiCianno, Executive Director, Department of Taxation, was in support of A.B. 548. He said as a revenue collector, he had to turn away taxpayers who wished to pay with a credit card. He said the Department was in favor of the bill because it assisted in the revenue collection processes.

Lisa A. Gianoli, Washoe County, said the County had many people wanting to utilize credit cards for payments. She said the complexity of the fee structure was often difficult. She said the bill would assist in accepting more e-commerce.

Ben R. Graham, Administrative Office of the Courts, said he remembered when the authorization to accept credit cards was proposed. He said the courts were asked to support this bill. Clark County Justice Court estimated the courts absorbed approximately \$500,000 a year in service fees. He said A.B. 548 was a positive step for equal treatment.

Maureen Brower, Southern Nevada Home Builders Association, said A.B. 548 allowed the builders to move quickly and efficiently in order to pay the fees required by local governments, and they were in favor of the bill. She said it would save time, money and gas.

Chair Lee asked if there was further testimony on the bill. He closed the hearing on the bill. He asked the Committee if they were prepared to vote on A.B. 548.

SENATOR BREEDEN MOVED TO DO PASS A.B. 548.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee reopened discussion on A.B. 254.

Senator Townsend asked if there was a specific need the bill fulfilled.

Chair Lee said Assemblyman Denis mentioned there was money for the first two years for the Ombudsman position.

Ms. Bravo said there was money allocated in the last biennium for the bill. Assemblyman Denis testified there was a need in the minority community for a person to serve as a point of contact for concerns, complaints, questions and information.

Chair Lee said the money was currently budgeted for this Session and the budget was closed.

Senator Townsend said his concern was in southern Nevada. He thought there was someone inside Consumer Affairs able to communicate with those needing help in another language.

Diane Cornwall, Director, Department of Business and Industry, said the Division of Consumer Affairs was discontinued. It was not funded for the next biennium. She recommended retaining the bill. She said people throughout the State needed access to someone. She said her Department committed to taking the person into the Director's office in Clark County. She said there was a need for Spanish-speaking people in the Department.

Chair Lee asked for a motion on the bill.

SENATOR TOWNSEND MOVED TO DO PASS A.B. 254.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee said the next bill to revisit was A.B. 550.

Senator McGinness said it was a good bill, but it needed to be extended to the entire State Parks program. He said he recommended amending and passing the bill.

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 550 BY ADDING APPROPRIATE LANGUAGE TO COVER THE ENTIRE STATE PARK SYSTEM ON PAGE 2, LINES 38 AND 39.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee said the last bill to discuss was A.B. 337.

ASSEMBLY BILL 337 (1st Reprint): Creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General. (BDR 38-593)

Michael Stewart, Committee Policy Analyst, said A.B. 337 created the Office of the Statewide Coordinator for Children Who Are Endangered by Drug Exposure within the Office of the Attorney General (Exhibit G). He said the bill defined the meaning of children who were endangered by drug exposure, Exhibit G. Mr. Stewart said no amendments were offered on the bill.

Chair Lee said there was a lot of testimony given on the bill. He asked the Committee if they were inclined to support the bill.

Senator Townsend asked where the money came from for a Coordinator. He asked if it was from a stimulus package or was money set aside for the position.

Mr. Stewart said the testimony from Assemblywoman Sheila Leslie indicated she was working with U.S. Senator Harry Reid on some funding that would help the program. He said the bill was drafted so the Office of the Attorney General could receive federal funds to help support the program.

SENATOR TOWNSEND MOVED TO DO PASS A.B. 337.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Lee said he was not going to address Senate Bill (S.B.) 194.

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[SENATE BILL 194 \(3rd Reprint\)](#): Revises provisions governing the appointment and duties of public administrators and guardians. (BDR 20-181)

Chair Lee asked if there was any further discussion. As there was none, he adjourned the meeting at 6:57 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____