

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session  
February 16, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 9:04 a.m. on Monday, February 16, 2009, in Room 2149 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 Terry Care, Chair  
Senator Valerie Wiener, Vice Chair  
Senator David R. Parks  
Senator Allison Copening  
Senator Mike McGinness  
Senator Maurice E. Washington  
Senator Mark E. Amodei

**GUEST LEGISLATORS PRESENT:**

Senator Steven A. Horsford, Clark County Senatorial District No. 4

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Brad Wilkinson, Chief Deputy Legislative Counsel  
Janet Sherwood, Committee Secretary

**OTHERS PRESENT:**

Darren Proulx, Chief Executive Officer, Land Resource Investments, Incorporated.  
Ralph "Stephen" Coppola, General Counsel, Land Resource Investments, Incorporated.  
Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada  
Julianna L. Ormsby, MSW, Nevada Women's Lobby

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CHAIR CARE:

The meeting is called to order. Senator Stephen Horsford will want to present Senate Bill (S.B.) 113.

**SENATE BILL 113**: Creates statutory subcommittees of the Advisory Commission on the Administration of Justice. (BDR 14-626)

Senator Horsford is in the Senate Committee on Finance right now, so I am going to take these out of order. I do not anticipate a lengthy presentation on S.B. 121.

**SENATE BILL 121**: Makes various changes concerning the sale of subdivided land in certain circumstances. (BDR 10-250)

Will the proponents of S.B. 121 please come forward? I understand this is your first experience testifying before the Nevada Legislature. Tell us why we need to support S.B. 121.

DARREN PROULX (Chief Executive Officer, Land Resource Investments, Incorporated.):

Our company, which started in 1999, is based in Nevada. We offer undivided interest land subdivision sales for property in California. We applied to the California Department of Real Estate (DRE) to obtain a public report for our undivided interest land subdivision projects. This process takes anywhere from six to seven months. After we receive approval from the California DRE, we are authorized to offer our product to the public.

We would like to offer our product to the public in the State of Nevada. We have done the research, and there is some confusion to the law. When we approached the Department of Business and Industry, Real Estate Division, we were told we would need to go through the same six to eight month process as we did in California. This has hindered the business and kept us from progressing. We learned there was a process to change the law, which brings us before you today.

RALPH "STEPHEN" COPPOLA (General Counsel, Land Resource Investments, Incorporated.):

Nevada Revised Statute (NRS) 119.130 provides service of process to any lot, parcel, unit or interest. Interest is a broad term that would cover an undivided

interest, a divided interest and a lot. Subsection 1 of NRS 119.160 refers only to lots or parcels in the subdivision. According to my understanding of NRS 119.160, subsection 1, we cannot apply for a public report because subsection 1 only authorizes the Real Estate Division to issue a public report for a lot or parcel in a subdivision. For our purposes, however, since we obtained a public report from the state of California, we would like to be exempt from the public report process in Nevada. We contacted Senator Washington, and he referred our request to the Legislative Counsel. Senate Bill 121 was drafted, and here we sit today.

CHAIR CARE:

I did not see any case annotations or case law under the relevant sections. I sent this bill to a county assessor to make certain there were no tax implications, and this was confirmed. Describe the product that you want to sell in Nevada.

MR. PROULX:

Our product helps people buy land in the path of growth. The concept of urban growth has been happening for 200 years. Individuals have not been able to land bank property in the path of growth. In 1999, we were the first to apply to the state of California for an undivided interest land subdivision. This allows us to subdivide the ownership rather than the parcel. The parcel is valuable in its size. For example, if an 80-acre parcel of land is sold off into 2-1/2-acre parcels, these parcels now become of little value to a builder or developer. To bring the land back together and reassemble would be difficult. The concept that we applied to the California DRE was an undivided interest land subdivision. The property stays 80 acres, but there may be 100 or 200 owners on that piece of property. Each person receives a grant deed. The grant deed shows that you own one one-hundredth or one two-hundredths undivided interest in that parcel. The property is managed with a homeowners or property owners association. The property is fully transferable. You can will it, sell it, trade it, give it away or do whatever you want with the property.

The state of California came up with the undivided interest land subdivision after our submission to them. It took nearly two years to get approval from the California DRE for our first project. Each of our projects is now submitted to the DRE, and we gain approval after a six- or seven-month process. The California DRE does a good job of protecting the consumer. A nine- or ten-page public

report advising the consumer as to things they should be aware of in that subdivision is issued. That is our product.

MR. COPPOLA:

The product has worked well. It allows the individual consumer to purchase fractional interest at a price they can afford. It is the power of group purchasing applied to land.

CHAIR CARE:

When you package something like that in Nevada, would you come under the Uniform Securities Act?

MR. PROULX:

In California, we are regulated by the Department of Real Estate because we submit a request for a public report.

MR. COPPOLA:

In California, there is a specific exemption. Since we are regulated by the DRE, we never looked into the registration issue. In Nevada, we submitted paperwork to the Office of the Secretary of State's Securities Division stating that we believe we are not a security. We are waiting to hear back from them. We also are going through the process of seeking a public opinion from the state of California stating that we are not a security. In the concept of Securities Law, for an investment to be a security, the profit potential needs to come through the efforts of the promoter. In the case of real estate, once the land has been sold to the individual investors, we step back and do nothing. Whether there is a profit or not depends solely upon the natural appreciation of the land. The general economics of land has nothing to do with our efforts. Therefore, we do not believe we are a security.

CHAIR CARE:

I do not know when NRS 119.130 and NRS 119.160 were last amended. Nobody has come forward—that I can recall—and sought this amendment to existing statute.

MR. COPPOLA:

I think this is true because we have a unique product. We know of two other companies that sell a similar product. One is out of Canada.

MR. PROULX:

People who do this same thing in a limited liability company or limited partnership would be securities. By getting our subdivision approval through the California DRE and being regulated by the DRE, we are not a security. Why have other people not done this? I do not know.

SENATOR WASHINGTON:

I should disclose that I have worked with my friends Mr. Proulx and Mr. Coppola in the past dealing with subdivided land, but this bill will not profit me. It will not change my financial condition or situation in any way. I will say this, Mr. Chair, it is a unique product. It does allow for first-time landowners to be able to purchase subdivided parcels or lots at a reasonable rate to help increase their portfolio and their investment dollars. Land Resource Investments, Inc. is one of two companies throughout the United States which allows those individuals to exchange land or purchase land in a quick manner. Senate Bill 121 will help them do so in the State of Nevada in an expedient and efficient way.

SENATOR AMODEI:

Because you are not a subdivision, S.B. 121 seeks to get you out of the requirement of NRS 119.140 that requires filing a report with the Real Estate Division. Is this correct?

MR. PROULX:

We are a subdivision.

SENATOR AMODEI:

Forget the nomenclature. You are trying to get out of having to comply with NRS 119.140 because you are not a subdivision as you do not have lots.

MR. PROULX:

We are a subdivision, but we are a subdivision without lots.

SENATOR AMODEI:

You are a subdivision of owners?

MR. PROULX:

Exactly.

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SENATOR AMODEI:

How does a potential buyer find out information about your subdivision if a report has not been filed according to NRS 119.140? Is that up to an individual's due diligence?

MR. PROULX:

All of our properties are in California, and the DRE issues a public report which outlines the information specific to that project.

SENATOR AMODEI:

Do you have any properties in Nevada?

MR. PROULX:

We do not. At this point, we do not have any intent to offer any products in Nevada.

SENATOR AMODEI:

If that changes, what would you expect to do if you have a Nevada property?

MR. PROULX:

I would expect to apply for a public report from the State of Nevada.

CHAIR CARE:

That would explain why there is nobody here from the Real Estate Division. We will close the hearing on S.B. 121. Let the record reflect that all Senators were present for the hearing on S.B. 121.

Our second bill this morning, S.B. 113, creates statutory subcommittees of the Advisory Commission on the Administration of Justice. We are pleased to have Majority Leader Senator Horsford.

SENATOR STEPHEN HORSFORD (Clark County Senatorial District No. 4):

I submitted S.B. 113 at the request of the Advisory Commission on the Administration of Justice. The Committee had a joint hearing with the Assembly Committee on Judiciary last week, but I was not able to present my slides ([Exhibit C](#)) on juvenile justice. There is a coordinated effort led by Chief Justice James W. Hardesty to develop a strategic plan as it relates to justice throughout the state. My primary role was related to juvenile justice.

Senate Bill 113 does two simple things. Under the Advisory Commission it creates a permanent Subcommittee on Juvenile Justice and a Subcommittee on the Victims of Crime. The Commission made and approved these two recommendations because the juvenile justice and victim rights issues that come before the Commission are too numerous to address through the full Commission.

Concerning juvenile justice, we deal with improving mental health services for juveniles in the system, alternatives to detention and incarceration, after care and re-entry services, aligning evidence-based programs that focus on reducing recidivism and out-of-home placement. We also attempted to tackle such issues as certification of juveniles as adults, jurisdictional issues with juvenile offenders who are not identified until after their 21st birthday, difficulties in incarcerating youth in the adult prison and supervising youthful offenders released on probation or parole. These issues that emerged during the 18 months of the Advisory Commission's work still linger.

The Subcommittee on Victims of Crime deals with issues pertaining to programs for victims of sexual violence, such as establishing the rape crisis center in Las Vegas; the crisis call center in Reno; the sexual assault advocates based in Carson City; programs dealing with funding and reduction in services because of capacity issues; and complaints that have been brought forth to those agencies.

These are all issues and concerns which both subcommittees could address with the approval of S.B. 113. I do understand that there is a fiscal note from the Legislative Counsel Bureau (LCB) primarily because of the Legislators' roles on these two subcommittees. Other than that, the other agencies indicate no fiscal impact to the state.

CHAIR CARE:

I just looked at that fiscal note. I know times are tough, but I would call the travel and the salary associated with the meetings as nominal fiscal impact.

SENATOR WIENER:

You have provided me an appropriate segue on the modest fiscal impact. I see Legislators would receive salary for the first 60 days. I do not see a provision for travel for Legislators. Was that intentional? There is a provision for the nonlegislative members' per diem and travel. I am looking at page 2, subsection 6.

SENATOR MCGINNESS:

I do not mean to focus on the fiscal note. Both of these subcommittees are needed. It appears the biggest question on the fiscal note is whether the LCB or Attorney General will staff the committees. I know the Legislative Commission, in order to trim back the LCB budget, trims the number of interim studies. Although this is not an interim study, it adds to the work of the LCB. It might have to go to the Senate Committee on Finance to determine staffing.

SENATOR HORSFORD:

According to the director of the LCB, any time a Legislator chairs a statutorily created subcommittee, our staff will support the work of the committee. This is the way it has been treated in the past. If S.B. 113 was to move forward, it would need to go to Finance. While there is not much money available, we would try to make this among the priorities considered.

SENATOR WASHINGTON:

Do you perceive that this subcommittee will work in tandem with the proposed statutory committee that is being created for juvenile justice and child welfare?

SENATOR HORSFORD:

Yes. The Subcommittee on the Victims of Crime includes the Attorney General, driving-under-the-influence (DUI) programs, victim-rights advocates, crisis call centers and witness-protection programs. The Subcommittee on Juvenile Justice includes juvenile judges, district attorneys, public defenders, juvenile justice administrators as well as child welfare administrators. There is a huge nexus between child welfare and juvenile justice. These subcommittees would have a broader mix of stakeholders, but ultimately the work and recommendation they make would go before the proposed Legislative Committee on Child Welfare and Juvenile Justice.

SENATOR PARKS:

I served with Senator Horsford on the Advisory Commission on the Administration of Justice, and I am in support of S.B. 113. My concern deals with section 2, subsection 2 and section 3, subsection 2. Each subsection states the Chair of the Commission shall appoint the members of the subcommittee. We can see from the handout that was given to us, [Exhibit C](#), there is a wide selection of individuals who have served. Should the chairs of these subcommittees be members of the Advisory Commission on the



Administration of Justice? I am trying to tighten this down so we keep it as a nexus to the Advisory Commission's role.

SENATOR HORSFORD:

I would agree with Senator Parks's recommendation that the chairs of the subcommittees should be members of the Advisory Commission on the Administration of Justice.

BRAD WILKINSON (Chief Deputy Legislative Counsel):

Since this is a subcommittee of the Advisory Commission itself, it would suggest the members have to be members of the Advisory Commission on the Administration of Justice, as opposed to an outsider who is not a member.

SENATOR HORSFORD:

It is not always the practice that the members of the subcommittee are members of the Advisory Commission on the Administration of Justice. There were several individuals on the Subcommittee on Juvenile Justice who were not initial members of the Advisory Commission. These members asked to be appointed. I asked Chairman Justice Hardesty that they serve in this capacity. We do have a broader mix of membership.

CHAIR CARE:

We would leave it up to you if you are content with the language. If you think it needs to be adjusted, let us know. I am sure we will accommodate you.

REBECCA GASCA (Public Advocate, American Civil Liberties Union of Nevada):

The board president of the American Civil Liberties Union of Nevada has had the honor of serving on the Advisory Commission on the Administration of Justice during this last interim. We thank Senator Horsford for championing S.B. 113. The recommendations put forward by the Commission in the form of BDRs are thoughtful and have offered some suggestions that will help focus Nevada resources in the most effective manner. Juvenile justice is one of the most important ways our state can focus on the prevention and lowering of recidivism rates. I am here to show support of S.B. 113.

JULIANNA ORMSBY, MSW (Nevada Women's Lobby):

Thank you goes to Senator Horsford and his committee for all the work they have done on juvenile justice. We urge your support for creating the

Subcommittee on Juvenile Justice and the Subcommittee on Victims of Crime.  
We hope that we will have your support of S.B. 113.

CHAIR CARE:

We will close the hearing on S.B. 113.

Regarding testimony on S.B. 121: I would like Chief Deputy Legislative Counsel Brad Wilkinson to check with the Real Estate Division. Under NRS 119.140, Senator Amodei asks that if one of the entities markets these parcels in the manner in which they want to, would they still have to seek a property report? I want to get some comment from the Real Estate Division if this is actually the case because someday that is going to happen. Mr. Proulx and Mr. Coppola also testified they believed they were exempt from the Securities Laws in Nevada. I am not sure if that applies only to selling properties in California or if that would apply when they come here. I just want to get that ironed out if we can.

SENATOR WASHINGTON:

I spoke to the gentlemen right after the testimony, and I think there may be some concerns with the language. The exemption may be a little harsh in S.B. 121. If the particular state dealt with subdivided, and they had to file within that state, their intent was to have reciprocity considered within this state, as opposed to going through the entire filing process. I need to meet with Mr. Wilkinson and clarify if the language exemption suffices for this particular bill or if there is additional language needed for reciprocity.

SENATOR AMODEI:

I think I understood what they were trying to do. Mr. Wilkinson, the language probably should read, "You are exempt if the property is not in the State of Nevada," and it should read, "if the state that it is in has a report on file that is available for potential purchasers."

SENATOR WASHINGTON:

I think that clears it up because it gives reciprocity if it is filed in that adjacent state which has the same filing requirement.

CHAIR CARE:

I will entertain a motion for the introduction of BDR 12-673. This was the request by me from this committee of the Uniform International Wills Act.

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**BILL DRAFT REQUEST 12-673**: Enacts provisions of the Uniform Probate Code known as the Uniform International Wills Act. (Later introduced as [Senate Bill 141](#).)

SENATOR AMODEI MOVED TO INTRODUCE BDR 12-673.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:  
We are adjourned at 9:51 a.m.

RESPECTFULLY SUBMITTED:

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Janet Sherwood,  
Committee Secretary

APPROVED BY:

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Senator Terry Care, Chair

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