

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

**Seventy-Sixth Session  
March 9, 2011**

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 1:36 p.m. on Wednesday, March 9, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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 Kelvin Atkinson, Chair  
Assemblyman Marcus Conklin, Vice Chair  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblyman Richard (Skip) Daly  
Assemblyman John Ellison  
Assemblyman Ed A. Goedhart  
Assemblyman Tom Grady  
Assemblyman Crescent Hardy  
Assemblyman Pat Hickey  
Assemblyman William C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Kelly Kite  
Assemblyman John Ocegüera  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Richard Carrillo, Clark County Assembly District No. 18  
Assemblyman Randy Kirner, Washoe County Assembly District No. 26

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Committee Policy Analyst  
Sara Partida, Committee Counsel  
Andrew Diss, Committee Manager  
Patricia Blackburn, Committee Secretary  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Louis Ling, Counsel, Nevada State Board of Optometry  
Keith Munro, Assistant Attorney General, Office of the Attorney General  
Margi Grein, Executive Officer, State Contractors' Board  
Dan Hammack, Chief of Enforcement, State Contractors' Board  
George Hicks, President, Southern Nevada Air Conditioning Refrigeration  
Service Contractors Association  
Jeffrey Westover, representing Southern Nevada Chapter, National  
Electrical Contractors Association  
Peter Krueger, representing Nevada Subcontractors Legislative Coalition  
Greg Esposito, representing Plumbers, Pipefitters, and HVACR  
Technicians Local 525 in Las Vegas and Local 350 in Reno  
Randy Soltero, representing Sheet Metal Workers Local Union No. 88  
Judy Stokey, representing NV Energy  
Lindsay Anderson, Director, Business Development and Research,  
Nevada Commission on Economic Development  
Stacey Crowley, Director, Office of Energy, Office of the Governor  
Joe Johnson, Private Citizen, Reno, Nevada  
Kyle Davis, Policy Director, Nevada Conservation League

**Chair Atkinson:**

[The roll was taken and there was a quorum.] We have a few business items before the Committee today. We will hear two bills, and we will have a work session. We will start with the introduction of some bill draft requests.

**BDR 53-100:** Makes various changes concerning fines and settlement agreements relating to occupational safety and health. (Later introduced as [Assembly Bill 253](#).)

**Chair Atkinson:**

I will entertain a motion.

ASSEMBLYMAN CONKLIN MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 53-100.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

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

**BDR 53-101:** Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (Later introduced as [Assembly Bill 254](#).)

**Chair Atkinson:**

I will entertain a motion.

ASSEMBLYWOMAN CARLTON MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 53-101.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

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

**BDR 53-102:** Revises procedures relating to certain accidents occurring in the course of employment. (Later introduced as [Assembly Bill 255](#).)

**Chair Atkinson:**

I will entertain a motion.

ASSEMBLYWOMAN CARLTON MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 53-102.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**BDR 53-1121:** Revises various provisions governing workers' compensation. (Later introduced as [Assembly Bill 256](#).)

**Chair Atkinson:**

I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 53-1121.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Atkinson:**

We will now open our work session. We are pulling one bill from our work session so if anyone is here only for that bill, we will not be dealing with [Assembly Bill 162](#). Ms. Paslov Thomas will go through the other bills for us.

**Assembly Bill 20:** Revises provisions governing the practice of optometry. (BDR 54-501)

**Marji Paslov Thomas, Committee Policy Analyst:**  
[Read from work session document ([Exhibit C](#)).]

**Chair Atkinson:**

Are there any questions from the Committee?

**Assemblywoman Carlton:**

I previously brought up a question about the ten- versus five-year provision in the bill. I had a discussion with Mr. Ling on this issue. Apparently the Board is fine with going to five years since that is language that has been used in other bills. We do agree on that issue. However, there are other issues about which I have concerns. For instance, on page 3, line 16, it states, "A license by endorsement may be issued at a meeting of the Board or between its meetings by the President and Executive Director." I have concerns about just those two individuals having the power to make those decisions. Also, in reviewing the requirements for obtaining a license under *Nevada Revised Statutes* (NRS) 636.150, I do not see a requirement for a background check or fingerprint documentation, which is typically required for licensing professionals in this state. Those components are necessary to verify that the wrong type of person is not being allowed to practice in the state.

**Chair Atkinson:**

Would Mr. Ling and Mr. Hillerby please come to the witness table to answer some of these concerns?

**Louis Ling, Counsel, Nevada State Board of Optometry:**

Would you like me to address the fingerprinting issue or another issue?

**Assemblywoman Carlton:**

We discussed the five-year concern. I guess this bill moved quicker than I thought it would. I had hoped to get answers to my other concerns. I would like to know about the background check and fingerprinting requirements. If the Board currently does not do that and we are extending licensing to people by endorsement without adding those public safeguards, I would be absolutely opposed to the bill.

**Louis Ling:**

After having the discussion with Ms. Carlton, I looked through our practice act. Historically, this Board does not require fingerprints or a background check. That is not part of our practice act up to this point. I do not know why or how this has not been done, but that is current practice.

**Assemblywoman Carlton:**

I know over the years we have asked various other boards to institute these requirements, and a number of boards have done so.

With my concerns, I cannot support this bill.

**Assemblyman Daly:**

In the amendment presented by Sam McMullen, who represents Luxottica Retail North America, section 3 is amended so that the examination is limited to requiring only knowledge of statutes and regulations governing optometry in Nevada. If we felt it necessary, why would we not be able to test for things other than just our statutes, such as qualifications to practice?

The language in the amendment prohibits testing anything other than statutes and only uses the criteria of their endorsement to make sure they could practice. That is my concern with that amendment.

**Chair Atkinson:**

Are there any questions from the Committee?

I would entertain a motion.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND  
AND DO PASS ASSEMBLY BILL 20 WITH THE THREE  
AMENDMENTS AND ALSO CHANGING THE REQUIREMENT FROM  
TEN YEARS TO FIVE YEARS.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARLTON, GRADY, AND  
KITE VOTED NO.)

[Assembly Bill 62](#): Revises provisions relating to the Office of the  
Attorney General. (BDR 18-202)

**Marji Paslov Thomas, Committee Policy Analyst:**

[Read from prepared testimony ([Exhibit D](#)).] This is regarding authorization for the Office of the Attorney General (AG) to charge a fee for providing certain services.

**Chair Atkinson:**

Is there any discussion?

**Assemblyman Grady:**

The language of the bill states the AG may charge an hourly rate. What is the amount of the hourly rate? Can it be set at any amount they choose?

**Keith Munro, Assistant Attorney General, Office of the Attorney General:**

We charge a rate that is set by the Legislature through our cost allocation plan, which is approved by the money committees.

**Assemblyman Ellison:**

We discussed that this might go to a subcommittee during this session so that the cost would not go back to the counties. Is that provision included?

**Keith Munro:**

That provision is not in the amendment. However, fees would be charged only in providing assistance in the prosecution of category A and B felonies. These are the most serious types of cases that would be the most time-consuming for our office.

**Assemblyman Ellison:**

The problem is that these fees would create a financial burden for counties that could not afford them. I thought we needed a discussion to make that change.

**Keith Munro:**

There was a compromise made. The two district attorneys asked if we provide a good service for them. Our response was, "Yes, we do provide a good service, but our budget has been cut time and time again." We are trying to work out a compromise. The wording states "may" not "shall." We would work with the counties on those most time-consuming and serious cases.

**Assemblyman Ellison:**

My problem still is that we need something in the bill to protect the smaller counties. I was hoping this would go to a subcommittee. It was discussed that it would.

**Chair Atkinson:**

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

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 62.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, GOEDHART,  
HARDY, AND KITE VOTED NO.)

**Assembly Bill 217:** Repeals provisions governing the interstate sale of certain firearms. (BDR 52-596)

**Marji Paslov Thomas, Committee Policy Analyst:**  
[Read from prepared testimony ([Exhibit E](#)).]

**Chair Atkinson:**

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

ASSEMBLYMAN OCEGUERA MOVED TO DO PASS  
ASSEMBLY BILL 217.

ASSEMBLYMAN KITE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Atkinson:**

We will open the hearing on Assembly Bill 203.

**Assembly Bill 203:** Revises provisions governing the unlawful use of a contractor's license. (BDR 54-660)

**Assemblyman Richard Carrillo, Clark County Assembly District No. 18:**

Assembly Bill 203 will allow individuals who act as a contractor without an active license of the proper classification to be fined. Due to the economic downturn, there has been a significant increase in unlicensed work being performed throughout Nevada. When there is a lack of licensing, bonding, and insurance required for a contractor, homeowners and business owners alike are at risk of being unprotected.

There are several examples of how unlicensed contractors have harmed homeowners. In January of this year, four people without the proper licensing entered into several contracts, required the homeowners to pay money up front, and did some of the contracted work but never came back to finish it. These people charged in excess of \$2,000. As a result, these individuals were added to Nevada State Contractors' Board's ten most wanted list in southern Nevada. If you look at the Board's website, you will find that 90 percent of the people on that list are there because of work they performed without being licensed. This is just one of many such stories. It could happen to anyone. Currently, there are programs that have been put in place by the Nevada State Contractors' Board to protect a consumer from a licensed contractor that does less than quality work. However, there is nothing in place, except the attached

information ([Exhibit F](#)), to warn homeowners of the dangers associated with the use of unlicensed contractors or a person posing as a licensed contractor. This bill will give the Nevada State Contractors' Board the tools it needs to provide consumers with protection from unlicensed contractors.

Since receiving my Nevada Refrigeration and Air-Conditioning Contractor (C-21) license in 1997, I have witnessed work done by unlicensed contractors. This type of unlicensed work hurts everyone and every trade, from service to construction. Assembly Bill 203 makes changes to *Nevada Revised Statutes* (NRS) 624.341. Currently, section 1 of the bill reads, "If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of this Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person." This bill would amend section 1 to add subsections 1(a) and 1(b), and would read as follows:

If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has:

(a) Acted as a contractor without an active license of the proper classification issued pursuant to this chapter, the Board or its designee, as appropriate, shall issue or authorize the issuance of a written administrative citation to the person.

(b) Committed any other act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person.

You will find a proposed amendment to the bill ([Exhibit G](#)). This amendment deletes section 2, subsection 3. This was done in order to keep the penalties for violations under the new language added in section 1 consistent with other violations of NRS Chapter 624.

The current law authorizes the Board to issue a written administrative citation if there is reason to believe that there is some evidence that a person has violated NRS 624.341. The bill requires the Board to go after unlicensed contractors. This bill will give more teeth to what is currently in place and will help protect homeowners and business owners alike. I would be happy to respond to any questions you might have.

**Chair Atkinson:**

Are there any questions from the Committee?

**Assemblyman Hardy:**

I would like to make sure that this bill also penalizes contractors who are licensed in certain areas but step outside the scope of their work.

**Assemblyman Carrillo:**

Yes, it will. Basically, those contractors are working outside the classification of their license.

**Assemblyman Conklin:**

Mr. Carrillo, the way I read the bill, it will be subject to a fiscal note even though it says it will not be. You might want to consider that as you move forward. Anytime a penalty is added or increased, the bill is subject to being collected in the void of the Ways and Means Committee. We have seen this happen in the past, and my advice would be to consider how to reduce or minimize the fiscal note. I agree that this is an issue that needs to be corrected.

**Assemblyman Carrillo:**

I spoke to Legal regarding a fiscal note to see if there were any concerns that might be an issue. Of course, with the economic downturn, that would have to be addressed. At this point in time, they have given me the go-ahead and have stated that there was no fiscal note attached to the bill.

**Chair Atkinson:**

Are there any questions from the Committee?

**Assemblywoman Bustamante Adams:**

What is the initial cost for a contractor to get his license? Is it cost prohibitive? Is that why people are not obtaining proper licensing?

**Assemblyman Carrillo:**

As a contractor, you have to pay to be licensed, insured, and bonded. There are also certain things that you have to take care of and maintain to continue to be a licensed contractor. This process is in place to protect Nevadans from the unscrupulous people who work as unlicensed contractors. To get to the nuts and bolts of your question, these people perceive any money coming out of their pockets to pay for the licensing process as cost-prohibitive. If they do not have to pay these expenses, there is more money in their pocket.

**Assemblyman Hickey:**

I am a licensed contractor myself, and I appreciate you bringing forth this bill. If a fiscal note might endanger the passage of this bill as was suggested, are there additional elements of the bill that you feel add teeth to the Nevada State Contractors' Board? I am hoping that the bill is salvageable. Are there other things within the bill that help rectify the current problems with unlicensed contractors?

**Assemblyman Carrillo:**

We are looking at the amount of the fine versus the amount of work that an unlicensed contractor can do without any type of overhead. As a licensed contractor, you know how much money you must invest before you can be in business. You must make sure all the loose ends are taken care of, from licensing to bonding to insurance and other administrative costs. If you just put a slap on their hand, they will not learn. However, if you hit them in the pocketbook, they will understand the concept of what they have done wrong. When the bill was initially written, I was looking for a harder punishment. I would love to see jail time, but trying to go after these people would create a problem for the Contractors' Board. They would have to pull in the district attorney for a gross misdemeanor. As currently written—as a misdemeanor with a \$1,000 fine and up to six months in jail—the amount is not as much as a licensed contractor would have to spend as a cost of doing business.

**Assemblyman Ohrenschall:**

Can you give us an everyday example of a contractor working outside of the scope of his license and how this bill might address this practice, if it becomes law?

**Assemblyman Carrillo:**

For instance, my license is a C-21 classification in air conditioning, refrigeration, and heating. If I even think about bringing electrical power from the main power box in the house to the unit, I would be working outside my classification. If I had a C-2 license, I would be classified as an electrical contractor, so performing that work would be covered. However, because I am not a licensed C-2 electrical contractor, I would be working outside the classification of my C-21 license. I am allowed to work only within the confines of the air conditioning or heating unit itself.

**Assemblyman Ohrenschall:**

Right now, with existing law, are there any penalties assessed if a contractor works outside his classification? Does this bill add more teeth? How does it help address the problem?

**Assemblyman Carrillo:**

This bill gives the Board more teeth. There is still a certain amount of contracting that is questionable. If a permit was pulled and the Board sees that an electrical contractor was never called to do the work, they would be curious as to who actually did the work. Was it the person with the C-21 license working outside the scope of his classification? That is where it becomes an issue. Perhaps the Contractors' Board could better answer this question. I know my trade, but they would know exactly what is currently in statute.

**Chair Atkinson:**

Mr. Ohrenschall, we will come back to your question.

**Assemblyman Hardy:**

I have a comment to address my colleague who inquired about the costs of licensing. A contractor needs to do a number of things to get a license. He has to have workers' compensation insurance, liability insurance, and a business license with the state and with the entity he is working with. He must pay benefits to his labor, and he has to provide bonds. It is expensive for a contractor to be licensed, and those who violate the law typically receive no penalty—they just walk away. To further answer Mr. Ohrenschall's question, the homeowner who hires a contractor assumes he is properly licensed. However, a licensed landscaper might also be performing electrical, underground utilities, and concrete work for which he is not licensed. I think this bill will help solve some of those issues.

**Assemblyman Ellison:**

This is a great bill. We need to give the Contractors' Board greater enforcement ability.

**Margi Grein, Executive Officer, State Contractors' Board:**

We support A.B. 203 and the proposed amendment. We look forward to having additional mechanisms to increase penalties against unlicensed contractors and also those contractors who are not playing by the rules.

Currently, NRS 624.3015, subsection 1, provides grounds for disciplinary action if a contractor acts in a capacity outside the scope of his license. The Board can impose a disciplinary fine, issue an administrative citation, suspend or revoke the license, or take a number of other measures. We would encourage the increased and additional penalties to help. With the downturn in the construction industry throughout this state, we have seen an increase in the

number of contractors who are working outside the scope of their license and also an increase in unlicensed contractors. I would be happy to answer any questions.

**Assemblyman Ohrenschall:**

Under existing law, what happens to a contractor who works outside the scope of his license and performs work he is not licensed to do?

**Margi Grein:**

The penalties range from an administrative fine to possible revocation of the license, depending on the severity and the findings made by the hearing officer. We can also issue an administrative citation at staff level, with penalties that range from \$250 to \$2,000 per offense.

**Assemblyman Ohrenschall:**

Are there many complaints about contractors working outside the scope of their license?

**Margi Grein:**

Yes. I think Dan Hammack, our Chief of Enforcement, could give you some statistics on that.

**Dan Hammack, Chief of Enforcement, State Contractors' Board:**

The number of out-of-scope violations seems to be increasing with the downturn in our economy. Many of our licensees are trying to expand their work scope by going into other areas that are not necessarily covered by their license. It is a definite problem. I think the language of the bill, which says "shall issue" an administrative citation instead of "may," will give us more enforcement teeth to go after those who violate that specific chapter.

**Assemblywoman Carlton:**

Does the fine go to the Construction Education Account?

**Margi Grein:**

Fines that are imposed from disciplinary actions under NRS 624.300 and from NRS 624.700, subsection 3, go into the Construction Education Account. In addition, fines imposed from recovery fund information go into the Residential Recovery Fund for failure to provide it. However, under NRS 624.341, the section on administrative citation, the statute does not direct that those funds go into the Construction Education Account. Only those fines imposed through disciplinary actions or under NRS 624.700 would go into the Construction Education Account.

**Assemblywoman Carlton:**

Then these fines do not go in the Construction Education Account?

**Margi Grein:**

That is correct.

**Assemblywoman Carlton:**

Where do they go?

**Margi Grein:**

They revert back to the Board's funds.

**Assemblywoman Carlton:**

So they do not go to the General Fund as other fines would normally do?

**Margi Grein:**

No, because they are imposed through the administrative citation, which includes an appeal process. If the contractor appeals the administrative citation, it goes to a hearing and the hearing officer makes a determination. All of those fines go into the Construction Education Account. However, funds from an administrative citation remain within the State Contractors' Board.

**Assemblyman Daly:**

I understand the use of "shall" rather than "may." Can you tell me the difference between an administrative penalty and public reprimand, which is allowed under NRS 624.300, subsection 1, paragraph (g)?

**Margi Grein:**

The public reprimand is issued following a disciplinary hearing by the authority of the Board. A public reprimand is used from time to time and normally it is a less severe form of disciplinary action. I believe if you look at our statistics over the past year, it is very seldom that we issue letters of reprimand. There is usually a more severe action when a hearing goes to the Board.

**Assemblyman Daly:**

I would like to give a scenario about contractors working outside the scope of their license. A contractor has a B-2 license, which is light commercial, three stories or under, but he is working on a 20-story building. Granted, he is working inside the building on the first floor of the 20-story building, but he is working in a 20-story building. The license limit for this contractor is \$200,000, and the building permit issuance for that project is for \$280,000. He is out of scope and over his limit. This is an actual case and complaint.

That is why I want to know the difference between an administrative penalty and a public reprimand. I think those types of violations need a greater penalty. The penalties that are currently available to the Board are not being utilized.

**Assemblyman Ellison:**

Could the hearing officer direct funds to the Recovery Fund, if they wished, during the appeal process?

**Margi Grein:**

The Recovery Fund investigation and complaint process is separate from the disciplinary complaint process. However, the Board has from time to time ordered the contractor to make restitution to the homeowner, and it will later come before the Recovery Fund Committee for an award of a claimant. Under NRS 624.300, the hearing officer or the Board may order corrective action to be taken by the contractor as well.

**Chair Atkinson:**

Are there any questions from the Committee? I see none. Mr. Carrillo, did you have anyone else you wished to testify?

**Assemblyman Carrillo:**

Yes, I would like George Hicks from Las Vegas to testify.

**George Hicks, President, Southern Nevada Air Conditioning Refrigeration Service Contractors Association:**

This bill is important to me and to the Southern Nevada Air Conditioning Refrigeration Service Contractors Association (SNARSCA) in general. We are concerned about the economic issues that have occurred due to unlicensed contractors. We need to stop this proliferation. Although unlicensed contractors cause harm to people, the economic issue is a bigger concern. It has created an underground economy of people who do not pay taxes and who do not contribute to the economy of the State of Nevada, and it hurts the licensed contractors. My contracting business is small, a two-man operation, and I have to constantly compete against unlicensed contractors. Anything that strengthens the Contractors' Board will help stop this practice and will benefit contractors who are trying to operate within the law.

**Chair Atkinson:**

Are there any questions from the Committee? I see none. Mr. Carrillo, do you have anyone else to testify?

**Assemblyman Carrillo:**  
No.

**Chair Atkinson:**  
Is there anyone else in the audience wishing to testify in support of A.B. 203?

**Jeffrey Westover, representing Southern Nevada Chapter, National Electrical Contractors Association:**

We are in favor of this bill. It will help resolve issues for homeowners and enforce penalties for those who are working outside their scope.

**Peter Krueger, representing Nevada Subcontractors Legislative Coalition:**

The Nevada Subcontractors Legislative Coalition is a group of management and labor organizations that looks out for the concerns of subcontractors. We are absolutely in support of A.B. 203. We want to see as large a penalty as possible for unlicensed contractors and for contractors who work outside the scope of their licenses. This is a huge problem, and this bill is a good start in giving some additional authority to the Board.

**Greg Esposito, representing Plumbers, Pipefitters, and HVACR Technicians Local 525 in Las Vegas and Local 350 in Reno:**

I would like to make two points in support of this bill. First, this is really a bill for the protection of homeowners and property owners. Unlicensed contractors can do serious damage if they do not know what they are doing and if they have not been properly vetted. At least a couple of times a week we have homeowners who call and ask about contractors who have come to their homes and given them bids on plumbing or pipefitting work. As a courtesy, we go out to their homes and take a look. We find out that they are either going to be gouged or they have been quoted something completely incorrect about the quality of the plumbing in their home. Unlicensed contractors do a lot of damage to homeowners and the industry as a whole.

As far as education goes, chances are an unlicensed contractor does not have the skills necessary to do the work. Plumbing systems are the most dangerous systems in a home. A water heater that has been incorrectly installed could blow up a house and seriously damage both life and property.

We are in full support of this bill because it speaks to the quality of contractors and protects homeowners and property owners.

**Randy Soltero, representing Sheet Metal Workers Local Union No. 88:**

We are in full support of this bill with the amendment. We believe this bill gives the Contractors' Board the necessary tools to protect consumers. When consumers look in the telephone book, they want to hire somebody who is legitimate, knows the work, and can perform the work properly at a fair price. We feel that this bill is designed to protect consumers, and for that reason, we are in support.

**Assemblyman Ellison:**

I know that the Contractors' Board receives many complaints because of people saying they are licensed. These people are advertising on grocery store bulletin boards and posting on Facebook, among other places. They say they are licensed, when they are licensed only as handymen. Consumers are not aware that they are hiring people who are not actually licensed to do the work they are offering to do.

**Randy Soltero:**

I am not sure how the enforcement mechanism would work to eliminate those types of problems. I think this bill is a good start and takes care of a large part of the problem. If there is the possibility of a stiff fine, would it be worth the risk to go out and try to do some of this work without being properly licensed? We have to start somewhere, and this is a start.

**Chair Atkinson:**

Are there any questions from the Committee? I see none. Is there anyone else wishing to testify in support? I see none. Is there anyone wishing to testify in opposition? I see none. Is there anyone wishing to testify as neutral? I see none. We will close the hearing on A.B. 203.

We will open the hearing on Assembly Bill 202.

**Assembly Bill 202:** Establishes the Fund for Economic Development to provide assistance in paying for electricity costs incurred by certain new manufacturing businesses in this State. (BDR 58-652)

**Assemblyman Randy Kirner, Washoe County District No. 26:**

I am here today to talk about A.B. 202, which was intended as a job creation bill and an economic boost to the State of Nevada. After reviewing A.B. 202, I realize that the bill, as originally conceived, certainly supports economic development and provides an extra tool in the toolbox for the economic development folks; however, it does place the burden on utility ratepayers.

I am uncomfortable with that. There may also be a fiscal note included. I would respectfully request that I be allowed to amend the bill and speak on the new concept today.

**Chair Atkinson:**

Go ahead, Mr. Kirner.

**Assemblyman Kirner:**

As many of you may know, I am a retired executive from International Game Technology (IGT), which has been in business for approximately 30 years. Today IGT employs more than 5,000 people worldwide, including Reno and Las Vegas. There are a number of other companies that support IGT: metal fabrication companies, the woodshop business, game design businesses, and HSI (originally High Sierra Industries) in Reno, which is a company that supports physically and mentally challenged workers who assemble wiring harnesses for slot machines. I raise that point because manufacturing is a fundamental industry. I am sure most of us would agree that it is important to bring new manufacturing businesses to our state. At the same time, we have a dual objective to improve energy efficiency of our buildings and our environment.

Generally speaking, we have done a very good job in these pursuits. However, when it comes to attracting manufacturing businesses, we consistently hear that high energy costs pose problems for those businesses that consider moving to our state. Excluding California, Nevada historically has had the highest retail rate for electricity in the 11 western states. In 2007, the Legislature made changes to the provisions of the Green Building Rating System established under the Leadership in Energy and Environmental Design program, also known as LEED. One of these changes provided that the director of the Nevada State Office of Energy needed to wait two years to adopt any new LEED provisions. It is my understanding that, at that time, the Legislature wanted to ensure that Nevada residents and businesses were working in the best interests of the needs of the state. The state is currently using the 2009 LEED existing building document.

I am proposing that this bill be amended to permit the Division of Economic Development and Nevada State Office of Energy to allow LEED to cover existing buildings for new manufacturing businesses. Under these revisions, new manufacturing businesses would, at their own expense, be required to retrofit existing buildings to make them energy efficient. We are not talking about screwing in some new light bulbs. We are talking about a whole list of requirements to affect the operations and maintenance standards of LEED. Under the terms of LEED, a new manufacturing business could qualify for a loan

and a property tax abatement of 35 percent in the first year. Effectively, the county would pick up 65 percent in new property taxes that they did not have before. It is an additional income for the county. After the first year, the manufacturer would be charged full property tax. Of course, construction workers would be employed to do the retrofit. This is also valuable to our economy. This plan means additional jobs for the construction industry and new businesses for the state. Other advantages would be the creation of green buildings with lower maintenance costs. The U.S. Green Building Council estimates that the 2 percent in up-front investment for green building design results in a life-cycle savings of over 20 percent of the investment. That is a ten-fold return.

I have been working with other legislators, the Energy Office, and its staff to finalize amendments to the bill. I believe this is truly a win-win proposition. Manufacturers would receive a significant long-term energy cost savings, so their investment would be paid back. The existing inventory of buildings would be upgraded in our state, so Nevada would have more clean-energy standards. This change, and the opportunity it provides, would likely increase the value of properties that are currently sitting idle in our state, while creating jobs and increasing fundamental industries such as manufacturing.

**Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:**

For those of you who were not here in 2007 during the 74th Assembly Session, I worked on LEED abatements. I have been working with Mr. Kirner on this bill. I believe that he does have a very good idea. In 2007, when we adopted Assembly Bill No. 621 of the 74th Session, it included a provision that said the state could not adopt any regulations by LEED unless they had been in place for two years, because LEED was fairly new at that time. Those provisions are included in *Nevada Revised Statutes* (NRS) 701A.100, subsection 2, paragraph (a), subparagraph (1). During the discussion of LEED, we found that people were going in and literally changing out their light bulbs and making \$3 for every \$.10 that they spent. Since then, LEED has revisited maintenance and operation requirements for existing buildings, and it has very extensive rules on what is required in order to be termed energy efficient for the long term. For instance, buildings must also be water efficient.

In our state, we currently do not offer that LEED abatement with the other abatements offered, because of the two-year wait period. The two-year wait period would expire April 1, 2011; however, the State Energy Office would have to develop regulations. When the statute was passed, one of the concerns was that we were giving a property tax abatement for 10 years, which was a big win for businesses. I believe that Mr. Kirner's concept includes a one-year property tax abatement, which will offer a true payback of the

money invested. It is a win for the state, because there will be more energy efficiency. In Clark County, our residential homes are a minimum of 71 percent energy efficient. In the north, we are striving toward that goal as well, with a little over 50 percent of our homes energy efficient. However, there is no hard data to show energy efficiency for commercial property. We will be adopting some new energy codes. Most local governments have already passed new energy codes that will bring new construction very close to LEED requirements.

Assembly Bill 202 is specifically aimed at existing buildings rather than new construction. Most of these buildings are located in rural or redevelopment areas. This will help the buildings in these areas of the state become more energy efficient. There is a requirement in one of the amendments that the business must employ 25 full-time employees and be new to the state in order to receive the abatement. We have tightened up the language, and I believe it is a win to allow new businesses moving to the state to focus on energy efficiency for the long term while bringing energy efficiency to our older buildings. The required retrofits will be good for 10 years. I will be glad to answer any questions.

**Chair Atkinson:**

Are there any questions from the Committee members?

**Assemblyman Daly:**

When I read the original bill, I did not see anything covering compensation paid to workers and other various issues. Will these be included?

**Assemblywoman Kirkpatrick:**

Currently LEED abatements do not require this because significant investment of private dollars is required for the retrofit. The business will get a 35 percent tax abatement but will pay full property tax based on improvements thereafter. While this does not specifically answer your question, it does allow us to use LEED in our state.

**Assemblywoman Bustamante Adams:**

Is there a requirement that a portion of the employees are located in Nevada?

**Assemblyman Kirner:**

There is a requirement that at least 25 employees are located in Nevada. It is a new manufacturing business, brought to Nevada from out of state, with a minimum requirement of employing 25 people.

**Assemblywoman Kirkpatrick:**

Section 15, subsection 2, paragraph (b) reads, "To be eligible to receive assistance from the Fund, an applicant must employ . . . at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive assistance from the Fund." So from that, I understand it to mean that we would get 25 brand-new employees to our state. So not just any person could come in and get this particular LEED. You have to be a brand-new business to our state and you would have to bring 25 new employees to our state who currently do not work here. There is also a provision stipulating that the manufacturer tells us the size of its manufacturing business, and there is a call-back provision, so that we can go back and audit. I apologize that the amendment is not available. There are some provisions that we have to add, such as NRS Chapter 361. We thought it was best to come and talk about the concept and then work on a full amendment. The concept is whether or not we decide to use LEED for existing buildings in our state.

**Chair Atkinson:**

The way I read this, the bill is leaning toward becoming a tax abatement bill. It appears the amendment would drastically change the bill.

**Assemblywoman Kirkpatrick:**

However, the definition of manufacturing in section 6 will remain. Also, in section 13, instead of having the Public Utilities Commission involved, it will be the State Office of Energy.

**Chair Atkinson:**

So, in section 13, Public Utilities will come out and it will say Office of Energy?

**Assemblywoman Kirkpatrick:**

Yes.

**Chair Atkinson:**

Will the Public Utilities Commission play a role?

**Assemblywoman Kirkpatrick:**

No, because it does not impact ratepayers at this time. Economic development, which is governed by *Nevada Revised Statutes* Chapter 274, falls within the guidelines of this Committee. I realize there may be a tax abatement portion, but we want the Committee to be aware of the concept prior to completing the amendment.

**Chair Atkinson:**

The only problem I am having is that we may have to have you back to testify to be fair to the Committee, because the bill does change drastically.

**Assemblywoman Kirkpatrick:**

We are happy to come back.

**Chair Atkinson:**

I do not think it is necessary to go on. It will be more appropriate to continue when the Committee members actually have the amendment.

Is there anyone in the audience who wants to testify in favor of this concept?

**Judy Stokey, representing NV Energy:**

We definitely support the concept of energy efficiency and conservation in all buildings. We would like to work with Assemblyman Kirner and Assemblywoman Kirkpatrick on the language needed for this bill.

**Lindsay Anderson, Director, Business Development and Research,  
Nevada Commission on Economic Development:**

We are in favor of the concept. We have been working with bill sponsors to try to draft the appropriate language, and we believe it will be another tool in the toolbox to attract manufacturing companies to the state.

**Stacey Crowley, Director, Office of Energy, Office of the Governor:**

I wanted to show our support for the concept of this bill. Our office would be supporting this program. I think the idea of having a year's worth of tax abatement in exchange for energy efficient projects is probably a good idea. There are some clarifications on the LEED for existing buildings program. We still have that as an effective program in our office, and I believe Assemblywoman Kirkpatrick said it was not, so that would be one clarification.

**Joe Johnson, Private Citizen, Reno, Nevada:**

I signed originally as opposed to the bill, but I would like to change that. I support the concept that was presented today.

**Kyle Davis, Policy Director, Nevada Conservation League:**

I am in support of the concept, and it will be exciting to work with the sponsors of the bill to come up with the appropriate language.

**Chair Atkinson:**

Is there anyone else who wishes to testify in favor of A.B. 202? [There was no response.] Is there any opposition? Is there anyone who is neutral? Is there anyone in Las Vegas who wishes to testify? [None was heard.]

We will give Assemblyman Kirner and Assemblywoman Kirkpatrick an opportunity to work on this and present the amendment to the Committee at a later date in work session, since there is quite a bit of language that is being changed in the bill.

Are there any other questions or comments regarding A.B. 202? Seeing none, I will close the hearing on A.B. 202. Is there any public comment, either in Las Vegas or Carson City? [There was none.]

I will adjourn the meeting [at 3:03 p.m.].

RESPECTFULLY SUBMITTED:

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Patricia Blackburn  
Recording Committee Secretary

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Mitzi Nelson  
Transcribing Committee Secretary

APPROVED BY:

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Assemblyman Kelvin Atkinson, Chair

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

**EXHIBITS**

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

**Date:** March 9, 2011

**Time of Meeting:** 1:36 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance roster
A.B. 20	C	Marji Paslov Thomas	Work session document
A.B. 62	D	Marji Paslov Thomas	Work session document
A.B. 217	E	Marji Paslov Thomas	Work session document
A.B. 203	F	Assemblyman Richard Carrillo	Warning sign samples
A.B. 203	G	Assemblyman Richard Carrillo	Proposed amendment