MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-sixth Session
May 16, 2011

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:38 a.m. on Monday, May 16, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Valerie Wiener, Chair
Senator Allison Copening, Vice Chair
Senator Shirley A. Breeden
Senator Ruben J. Kihuen
Senator Mike McGinness
Senator Don Gustavson
Senator Michael Roberson

GUEST LEGISLATORS PRESENT:

Assemblyman William C. Horne, Assembly District No. 34
Assemblyman Tick Segerblom, Assembly District No. 9
Assemblyman Lynn D. Stewart, Assembly District No. 22

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Policy Analyst
Bradley Wilkinson, Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Bob Faiss, Cantor Gaming
Lee M. Amaitis, President and CEO, Cantor Gaming
Philip Flaherty, Cantor Gaming
Dan R. Reaser, Association of Gaming Equipment Manufacturers

Mark A. Lipparelli, Chair, State Gaming Control Board
Venicia Considine, Legal Aid Center of Southern Nevada
Pat Sanderson, Nevada Alliance for Retired Americans
Jon Sasser, Washoe County Senior Law Project; Washoe Legal Services
Jim Berchtold, Supervising Attorney, Clark County Civil Law Self-Help Center
Barry Gold, AARP Nevada
Karen Dennison, American Resort Development Association
Jonathan Friedrich
Steve Kilgore, Deputy Director, Henderson Constable's Office
Lou Toomin, Las Vegas Township Constable's Office
John P. Sande, IV, Nevada Collectors Association

CHAIR WIENER:
I am opening the hearing on Assembly Bill (A.B.) 294.

ASSEMBLY BILL 294 (1st Reprint): Revises various provisions governing mobile gaming. (BDR 41-1042)

ASSEMBLYMAN WILLIAM C. HORNE (Assembly District No. 34):
I sponsored this bill at the request of Bob Faiss, who is a preeminent gaming attorney. He represents Cantor Gaming in this matter.

BOB FAISS (Cantor Gaming):
We have an amendment to offer to A.B. 294 (Exhibit C). The amendment proposes to delete section 2 of the bill and restore the original language to section 1.

LEE M. AMAITIS (President and CEO, Cantor Gaming):
I have written testimony describing the history of this issue and the need for this bill (Exhibit D).

CHAIR WIENER:
When this matter came up in a previous session, I had concerns about young people accessing mobile gaming devices if we allowed them to be used in guest rooms. That is why we allowed these devices to be used outside the casino but not in the guest rooms. But as you said, technology has made great advances in security.

Based on your survey work, is there an anticipation of how much more your patrons would engage in gaming if this bill were passed? Can we expect additional revenues from this bill?

MR. AMAITIS:
These surveys go on constantly. All the surveys have indicated that patrons would prefer to play in the privacy of their rooms. From a revenue perspective, we are looking at an increment of $5 a day, which would mean some $18.5 million of new tax revenue for Nevada annually. We think that is an easily attainable target for the State.

CHAIR WIENER:
Would this be in addition to the gaming that goes on in the casino, or would it replace it?

MR. AMAITIS:
All the games we offer on the mobile device today are similar to those on the casino floor. All the games we are in the process of rolling out in the future are not available in the physical casino. We consider this a supplement to gaming on the casino floor.

The other interesting factor is that some people who come to Nevada are intimidated by the casino games, and those who go to the casino floor may or may not actually gamble. A considerable number of people who checked out a mobile device were people who had not gambled before. They used it as a method to learn how to play casino games. We think there is going to be a big uptick if we are allowed to extend mobile devices to the guest rooms.

CHAIR WIENER:
Another piece to the measure is about the security that must be located within Nevada but not necessarily on the premises. Would you address that?

MR. AMAITIS:
Six years after the first bill was passed, technology has taken leaps and bounds. We can now pinpoint people to within two or three meters. This means we can now be sure that guests are using the devices in permitted areas. The servers for casino-style games and race and sports wagers are located on the casino premises in secure areas within the casino's data rooms. All of the game play is done on the casino property.

CHAIR WIENER:
Would the use of the mobile device be limited to the casino property?

MR. AMAITIS:
The State Gaming Control Board (GCB) is presently considering allowing us to use a third party secure server location. In theory, all the game play will still be on the floor of the casino footprint.

CHAIR WIENER:
The mobile game activity itself would be limited to that casino footprint?

MR. AMAITIS:
Yes. Although the devices are called smart phones, they are actually dumb. They are merely communication devices that see the result and game play; they do not actually determine game play. The game is actually on a secure server within the property.

CHAIR WIENER:
If I had one of these devices and I crossed the street, I would not be able to play with that device.

MR. AMAITIS:
The device would not work outside the footprint of the resort.

SENATOR ROBERSON:
Just to clarify, the intent of this legislation would be to permit mobile gaming in restaurants and nightclubs as well, as long as they are within the footprint of the resort, whether they are leased by a third party or owned by the hotel. Is that correct?

MR. AMAITIS:
That is correct.

CHAIR WIENER:
With regard to Exhibit C, could you explain what was in the sections you want to delete?

PHILIP FLAHERTY (Cantor Gaming):
In the original sections, particularly in section 2, we had sought greater clarification in the definition of mobile gaming. In *Nevada Revised Statute* (NRS) 463.0191 in particular, we were looking to get more refinement in the separate definitions. We have run into issues at the federal level. Often, people will have the idea that mobile gaming devices are nothing more than portable slot machines, and they are far from that. However, in subsequent conversation with the GCB, we felt the added language was unnecessary and unduly redundant, and it might cause further confusion down the road. We are therefore withdrawing that request.

DAN R. REASER (Association of Gaming Equipment Manufacturers):
I have written testimony (Exhibit E). We support A.B. 294 and the amendments offered by Mr. Amaitis. I have a proposed amendment (Exhibit F).

As this bill was departing the Assembly, there were discussions between the Association of Gaming Equipment Manufacturers (AGEM), the GCB and Mr. Faiss regarding additions we felt would be appropriate for this bill. These would be used in connection with other technological changes to support the manufacturing and distribution of gaming devices and harnessing technology.

Our proposed amendments to A.B. 294 are intended to eliminate barriers to locating new gaming technology businesses in Nevada. They would also allow access to competitive and innovative sources of components and technology that licensed gaming manufacturers need to produce the type of games demanded by casino patrons. Our amendment would allow firms and individuals providing components and technology to licensed manufacturers to forego licensing because licensees would accept all the legal obligations relative to that component or other work incorporated into the regulated products.

The proposal would also allow firms to locate in Nevada and employ Nevadans without the cost and delay associated with licensing as a manufacturer-distributor if they do not sell products to Nevada casinos. This would allow those companies to be sited here and use the technology, the human resources, and the conducive corporate tax climate of Nevada as a location.

Nevada's interest in protecting the reputation of games made and used in the State will be protected by requiring licensees to accept responsibility for the

components and technology of others. Those firms that site in Nevada for distribution outside the State will need to establish for Nevada regulators that they have complied with the requirements of the federal Johnson Act, governing their businesses. We have also included in the proposal a new type of criminal act, one that clarifies existing law and extends it. It says if you make a device in Nevada and transport or distribute it to a jurisdiction where it is illegal, that becomes a crime in Nevada. This enhances the criminal enforcement powers the GCB can use through the Office of the Attorney General.

I will briefly go through the three sections we propose to modify in the bill in Exhibit F.

In section 1 of Exhibit F, we are clarifying the term "control program," which is a concept the Legislature put in statute in S.B. No. 83 of the 75th Session. In that bill, the GCB included "control program" as both a component in section 3, subsection 2, paragraph (c), and in subsection 5 as a gaming device itself. In application, this has created some interpretive problems. A control program, a computer program or chip that runs the device and determines win or loss, cannot be both a component and a device. We believe the intent of the Legislature was to make it a device. In other words, someone who creates that computer program that actually decides win or loss should be subject to the full regulatory force of the Nevada Gaming Control Act. That has historically been the law of Nevada back to the 1983 Session, when the term "computer" first made its way into NRS 463.

In section 2 of our amendment, we amend NRS 463.01715, the definition of "manufacture," to do a couple of different things. First, in subsection 1, paragraph (a), we eliminate the requirement that merely maintaining a copyright over technology used in a gaming device makes you a manufacturer. That has created a number of difficulties, as you might expect. For example, if a licensee wanted to use a copyrighted television game show in a gaming device, we do not need statute to require the licensee to license the studio responsible for the television show. The gaming manufacturer, under our amendment, will be responsible for everything in the device. That will capture the manufacturer's responsibility to make sure that copyright protection is taken care of.

The second thing we do in section 2 of Exhibit F is make a distinction in subsection 1, paragraphs (a), (b) and (c) that the act of manufacturing is producing the product and being responsible for the product "for use or play in

this state." In section 3 of our amendment, we make a change in NRS 463.650, subsection 1, where we eliminate those products intended for distribution outside of Nevada.

Taken together, these two sections make clear that we are proposing to eliminate the requirement to regulate products only going out of the State. For those products, regulation will be under the Johnson Act, and Nevada will no longer need to expend the resources to regulate products going to another jurisdiction.

Section 2, subsection 2, paragraph (b) of our amendment makes it clear that the manufacturer will have continuing legal obligations for the gaming device and all its components.

In section 3 of our amendment, deleting subsection 9 eliminates the independent contractor regulatory authority that was given in the 2009 legislation. That is no longer necessary if the manufacturer is going to assume all the obligations of the independent contractor. That will make the technology available to Nevada licensees. The example I gave in 2009 was the many applications available for the iPhone. Most of these applications are produced by independent contractors. Regulating the manufacturer rather than the independent contractors is the better approach, and we think the GCB has come to the same conclusion.

Section 3, subsection 10 of Exhibit F contains the requirement that incumbents who are only sending their product out of the state demonstrate compliance with the Johnson Act to the GCB. Subsection 11 contains the criminal provision I outlined that would make it a crime to send a product to a jurisdiction where it was unlawful.

We believe these amendments are consistent with A.B. 294 and its purpose, which is to make the technology available to the manufacturing-distributing community and thereby making the casino industry more robust. Notwithstanding its current difficulties, it is still the main driver of our economy. We believe this will be a projobs, procompetition and probusiness development for the industry.

CHAIR WIENER:
Mr. Lipparelli, what impact will these changes have on the State, fiscally and otherwise?

MARK A. LIPPARELLI (Chair, State Gaming Control Board):
Are you asking about cost savings or the opposite?

CHAIR WIENER:
I was hoping for cost savings, but I had heard that this may be a financial benefit to the State. What kind of fiscal impact will it have on Nevada and your office?

MR. LIPPARELLI:
There are several manufacturers in the State that would continue to be considered licensed entities under this legislation. The potential benefit to the State, as it is being argued, would be that other nonlicensed manufacturers-distributors would establish their bases of operation here, hiring staff and conducting operations for the distribution of games outside the State if they did not intend to be licensed to sell within the state. Given the way the bill is crafted, those individual companies would not necessarily come under our jurisdiction as entities we would have to monitor or approve. You would potentially have the economic benefit without the regulatory cost.

CHAIR WIENER:
Do you have any comment as to how these two amendments would impact the GCB?

MR. LIPPARELLI:
I will take them in reverse order. With respect to the amendments offered by AGEM and detailed by Mr. Reaser in Exhibit F, I can see a good balance of interests here for the State. There are a number of gaming companies that come to the GCB seeking guidance regarding the kinds of activities in which they might engage. This is an area of the law that can sometimes be confusing because it involves a spectrum of activities. They will often decide not to found themselves in Nevada. We have companies that operate in Truckee, California, and across the United States and even the world because of concern and respect for the Nevada regulatory process. Both from my private industry experience and my experience as a GCB member, I can say that this is a tremendous benefit to the State and to the manufacturers that reside here. In

turn, it would be a tremendous benefit to the operators who seek the latest and greatest technology. To the extent that there is a desire to call someone forward, the State still has that ability.

One of the things that came to light in the rule-making process was the complexity of establishing regulations as to what kinds of activities would constitute gaming development. In the end, the State's interest is what ultimately makes it to the casino floor. If we have a licensee prepared to assume that responsibility, the State's interests are widely protected.

There is also a tremendous competitive race going on with technology development. Nevada remains the only state with this kind of regulatory restriction. With the structure as it is written today, we do ourselves a disservice by dissuading entrepreneurs or developers from locating here because of the cost associated with manufacturing. In that respect, I support Mr. Reaser's ideas. We may have some minor comments to what he suggested, but generally speaking we support it.

With respect to the comments made by Mr. Amaitis regarding mobile gaming within hotel rooms, the Enforcement Division of the GCB has some concerns about its ability to regulate underage gaming in hotel rooms with mobile devices. I might suggest that if the legislation merely removes the statutory prohibition against mobile gaming and allows the Nevada Gaming Commission to consider that under a set of rules, we would not be opposed to it as long as the Commission is satisfied it can be protected.

CHAIR WIENER:
Does the bill language give the Commission and the GCB comfort about addressing underage gambling?

MR. LIPPARELLI:
My question is whether the bill merely removes the prohibition against mobile gaming in guest rooms or mandates that mobile gaming in a hotel room shall be allowed. In either case, the Commission and the GCB would suggest robust regulation. I would like some clarity on that.

CHAIR WIENER:
How would you deal with manufacturers whose products are sold both in Nevada and elsewhere? Are you comfortable that you could separate products solely for export and those to be used internally?

MR. LIPPARELLI:
That is a fundamental requirement. Once an entity begins the process of wanting to sell in Nevada, it subjects itself to the Nevada process, which is where it essentially begins and ends. When manufacturers seek to do business in Nevada, they subject themselves to manufacturing and distribution regulations of the State. When you cross that barrier and want to do business within the State, you subject yourself to the licensing process. The other alternative is to do business with an established manufacturer, which would allow you to avoid those costs and expenses.

MR. FLAHERTY:
It has always been the position of Cantor Gaming that we would only do that which the GCB and Commission approve, inclusive of security systems and locations.

CHAIR WIENER:
Mr. Lipparelli, what language would you suggest?

MR. LIPPARELLI:
I would suggest the statutory prohibition against the use of mobile gaming devices in guest rooms be removed, and that upon approval of the Commission, if the industry can prove it can be effectively managed, it would be permissible to allow mobile devices to be used in guest rooms.

MR. AMAITIS:
That is acceptable to us.

BRADLEY WILKINSON (Counsel):
My interpretation of the bill as written is that it would not require that gaming be allowed in guest rooms. The GCB and the Commission would still have the authority to set whatever limits they want without any type of amendment.

CHAIR WIENER:
Are we lifting the prohibition to which Mr. Lipparelli referred?

MR. WILKINSON:
Yes. Removing the prohibition would allow the regulators to have the authority to establish what they want to do.

MR. LIPPARELLI:
That satisfies me.

CHAIR WIENER:
I will close the hearing on A.B. 294 and open the hearing on A.B. 223.

ASSEMBLY BILL 223 (1st Reprint): Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-989)

ASSEMBLYMAN TICK SEGERBLOM (Assembly District No. 9):
This bill is the same as A.B. No. 491 of the 75th Session, which was approved by the Legislature in 2009 and vetoed by the Governor. It basically exempts certain monies in bank accounts from garnishment or attachment procedures. The fight at this point is over what is being called a $1,000 wild card. That means you can exempt $1,000 in your bank account. The bank cannot freeze that $1,000 when a garnishment comes.

Venicia Considine will review the bill in detail, but I want to mention one irony. This Committee passed Senate Bill (S.B.) 348 earlier this year.

SENATE BILL 348: Eliminates limits on the amounts of certain property that is exempt from execution. (BDR 2-779)

That bill said that any proceeds from life insurance policies are exempt from garnishment. It also lifted the cap on annuity benefits and said they too are exempt from garnishment. If S.B. 348 passes and A.B. 223 does not, a millionaire can have limitless garnishment protection for annuity benefits or life insurance, but the poor guy who is down to his last $1,000 cannot have that same protection. It is part of what we are seeing in this society: the little guys are constantly being squeezed and everyone is after their little bit of money, but the rich guys are being protected by the law. All this bill does is say banks cannot freeze or garnish bank accounts with a balance less than $1,000. I want to point out that in the Assembly, we agreed on everything in this bill except the $1,000 wild card. That is essentially the fight we are hearing about today.

CHAIR WIENER:
In section 3, subsection 1, there is a reference to $2,000 or the entire amount in the account. Then in subsection 2, it refers to $1,000. Could you explain the distinction between these two references?

ASSEMBLYMAN SEGERBLOM:
I cannot explain the $2,000. Federal law declares funds from specific sources exempt from garnishment. This bill codifies that and adds an additional exemption of $1,000 in section 3, subsection 2. If you get a judgment now, the bank freezes your account, and if you write checks on that account, they bounce. Even if you are eligible for exemption, the creditor may still take your money.

CHAIR WIENER:
Section 3, subsection 5 refers to " ... the standard that the first money deposited in the account is the first money withdrawn from the account." Could you explain that? Also, how does the bank isolate exempted funds?

ASSEMBLYMAN SEGERBLOM:
I would like to defer your questions to Ms. Considine.

CHAIR WIENER:
The bill also makes many changes to the time allowed for processing exemptions. I see one change from 8 judicial days to 20 calendar days, and one from 10 days to 8 days, and one from 10 days to 7 days. I am curious as to what those changes reflect and why we made those changes. We have amendments that want to change them further. Were all the amendments considered in the other House? Have you seen them?

ASSEMBLYMAN SEGERBLOM:
Yes, we have seen them. There is nothing new. We tried to negotiate on the $1,000 wild card issue; we offered to change it to $500, but we did not reach agreement. The $1,000 exemption is in statute. However, banks do not have to tell customers they can file for an exemption. We are not trying to add an additional $1,000 protection. But if this bill passed, banks would not be able to freeze that first $1,000, and if you had written a check on the $1,000, it would not bounce.

CHAIR WIENER:
If a debtor's account has $500 in it and the person deposits $600, could the creditor go after that extra $100? If the person starts with $500 and fills it up to $1,000, would it still be protected?

ASSEMBLYMAN SEGERBLOM:
I do not know.

SENATOR ROBERSON:
I take exception to the statement that S.B. 348, which was my bill, somehow helps the wealthy. That is not the case at all. My bill simply protects retirement vehicles, life insurance and financial products for all classes of people who are trying to save for their families long term. It is very different from A.B. 223, which deals with fungible funds in bank accounts. My bill talked about retirement vehicles, saving for the future, the public policy of encouraging people to save and put their money in products that will provide for their retirement and provide for their heirs. It is not a bill to protect the wealthy or anyone other than the little guy.

ASSEMBLYMAN SEGERBLOM:
I appreciate that, but the fact is we can remove the cap in S.B. 348 so you could have unlimited amounts protected, whereas in A.B. 223 we are just trying to protect $1,000. This seems to say that a hotel maid does not deserve the same protection as someone who has enough money to invest in an annuity. I am not opposed to annuities; I just want to make sure we all get treated fairly.

VENICIA CONSIDINE (Legal Aid Center of Southern Nevada):
I have written testimony (Exhibit G) giving some of the highlights of A.B. 223.

In previous sessions, the Legislature determined that funds covered by the existing exemption process cannot be taken by creditors. The question is not whether debtors deserve this exemption. That was decided when the exemptions were put into law. One of these existing exemptions is a $1,000 personal property exemption under NRS 21.090.

This same measure came before the Legislature in 2009 and was passed by both Houses, and then it was vetoed by the Governor. Since that time, the U.S. Department of the Treasury has seen the same issues we have been seeing. If a creditor gets a judgment and files a writ of execution, the bank

freezes the account. It does not matter that the money is exempt; that amount is frozen in the account. The person receiving the social security or VA benefits must first be aware that income is exempt. If the person knows this, he or she must get to the courthouse, fill out a claim of exemption and then wait for a ruling, all without having access to the funds in that account.

Under existing law, there is a discrepancy in the calendaring, which is something we have tried to work out here. Under NRS 21.075, banks or constables have five days before they can release the property. If they do not get something from the creditor in five days, the property is supposed to be released immediately back to the person who claimed the exemption. Under NRS 21.130, it says the creditor has ten days to oppose the claim of exemption. This bill attempts to clear that up.

Once the person receiving exempt benefits files a claim of exemption, if the creditor files an opposition to the claim, there will be a hearing in front of a judge who determines whether the funds are exempt. If the judge says they are exempt, the debtor will get the money back. In the meantime, however, the bank has taken a fee for executing the writ; the constable has taken a fee; any checks written on the account have bounced; and the bank charges a fee for each of those. None of those fees are returned. By the time the debtor has access to the account again, the funds are less than they were.

This problem has been seen across the Country. As of May 1, there is an interim rule from the U.S. Treasury that direct-deposited income that is Automated Clearing House (ACH) coded is automatically exempt. Even if there is a writ of execution on that bank account, the bank cannot touch the funds or freeze the account. The bank also cannot get paid for going through the process. Page 5 of Exhibit G lists the funds covered by the interim final rule from the U.S. Treasury.

When banks receive direct deposits from the U.S. Treasury that are ACH-coded, the banks automatically go through a process to see where the ACH codes came from. They have a 60-day lookback process. If there is more than one check received in that period, they add up the total of those checks, and that amount is automatically exempted. It is organized so it does not matter if there are commingled funds. It is an automatic exemption based on the 60-day lookback period. If there are funds in the account above that amount, they do

get frozen, and if the funds are exempt, the debtor would go through the process I just explained.

Page 5 of Exhibit G also lists some of the benefits not covered by the interim final rule. These include military retirement pay, military payments from the Navy, Air Force, Marines or Coast Guard, black lung benefits for miners and so on. At this point, military pay and military retirement pay are not exempt. Right now, everyone is talking about the Navy SEALs and what a great job they have done. However, if a Navy SEAL finds himself in debt, his exempt income can be frozen, and he has to go through this entire claim of exemption process to get it back.

We included these provisions in the bill in 2009, and we are including them again. As long as the funds are direct-deposited and ACH-coded, they have the same self-executing exemption as the ones the Treasury has already done. That is the difference with the $2,000. When we wrote the bill, we did not have this idea of a lookback period. Instead, we said that when banks get that writ of execution, they look to see if these were direct-deposited streams of income coded from the U.S. Treasury. If that is the case, they take $2,000 or less, and that is self-executing exempt. We did not go as far as the federal government, saying there are two paychecks or two streams of income. We just total those, and those are automatically exempt. We came up with the average of any of these direct-deposited incomes, and that average is $2,000.

We also included the exemption under section 7, subsection 1, paragraph (z) of NRS 21.090, which is a $1,000 personal property exemption. This is already in the law. The Legislature has determined that these funds cannot be taken. What we have done in this bill is make those exemptions self-executing as well. If there is no direct-deposited income, or the person deposits a paper check, or for some other reason the funds do not fall under the federal rule or the other direct-deposited amounts, he or she has that first $1,000 self-executing exemption. That is enough to pay the rent, keep the mortgage paid up and keep food on the table for families.

Right now, Nevada is in a financial crisis. We are the highest in unemployment and among the highest in foreclosures. Among those who still have mortgages, 85 percent are underwater. In Clark County, 1,500 schoolchildren are homeless. Gas is $4 a gallon. Under these conditions, priorities change. If you are on unemployment or living paycheck to paycheck, $1,000 can be the difference

between staying in your home for another month and being completely destitute. Not only is this $1,000 exemption important to help individuals, it is also important to help Nevada's recovery. It will keep people in their homes. It will avoid people being evicted because the rent check bounced because the account was frozen.

Page 6 of Exhibit G is a chart showing how the process proposed in A.B. 223 would work. The proposed process would decrease the number of court hearings on these funds. It would decrease issues with the constable and the bank where the funds have to be returned. For example, we currently have a client whose income was garnished on February 22. She filed a claim for exemption for that $1,000, and she still does not have that money back. It has been significantly more than 45 days. It is certainly more than the eight to ten days required by existing statute. There is a problem getting money returned, and we have tried to resolve it by changing the time line in this bill.

The bill also extends the time for a debtor to file a claim of exemption. Right now, if your bank account is attached or your wages are garnished, you have eight judicial days from the time you are noticed. Ideally, it is supposed to be eight days from the time you get the writ of execution or garnishment, which is a letter informing you that your income will be garnished. You have eight days from the receipt of that letter to arrange for time off and transportation to the courthouse, losing even more income to do that, to file your claim on time.

We had someone come into our office whose wages were garnished on December 20. He attempted to file a claim of exemption on December 27, within those eight days, but he did it wrong. By the time he came back on January 4 to file it correctly, the creditor had filed an opposition to his claim. The sole opposition was not that the funds were not exempt, but that the claim was filed more than eight days after notice was given. He lost his money and could not pay his mortgage for that month. Assembly Bill 223 would extend the deadline to 20 calendar days. This is just a few more days than eight judicial days, which does not include weekends; but it gives someone who is living paycheck to paycheck the opportunity to file a claim of exemption on time and have a shot at getting the money back.

Page 7 of Exhibit G shows the process to file a claim of exemption.

Existing statute does not require the creditor to reconcile accounts with the debtor until the judgment is satisfied. Often, debtors believe the judgment is satisfied because they do not realize interest and fees are still accruing while their wages are being garnished. This bill adds requiring an accounting to debtors every 120 days so they know exactly how much more they owe.

I want to address some of the arguments made in opposition to this bill. Opponents of A.B. 223 have expressed the fear that the personal property exemption will allow deadbeats to stash $1,000 in several different bank accounts to avoid having to pay their debts. This is not true. The way the bill is set up, this has already been resolved. Section 3, subsection 3 of A.B. 223 says if a debtor has multiple accounts in one bank, the exempted $1,000 is an aggregate of those accounts. It is not $1,000 in each account that is protected; it is $1,000 total. Anything above that amount is frozen and forwarded to the creditor. Section 4 of the bill stops someone from being able to protect $1,000 in many banks. It says that when judgment creditors file writs, they need to file affidavits stating that the debtor has accounts in multiple banks. In that case, the $1,000 exemption does not kick in because we would not know to which bank account it applies. A debtor in that situation must file for the exemption that is in statute.

Another objection to the bill is that making the $1,000 exemption self-executing will be so detrimental to collection efforts that creditors will stop trying to collect debts in Nevada and businesses will close. The argument seems to say that creditors obtain a significant amount of funds by executing on accounts with exempt funds in them, thus relying on the ignorance of the debtors who do not realize they have exemptions that should be claimed. Further, this bill only makes that first $1,000 exempt. Anything above that amount or in other accounts is still frozen. It still goes to the creditor or is held by the bank if the creditor files an opposition, even if a claim of exemption is filed.

CHAIR WIENER:
To clarify, debtors would only have $1,000 exemptions if they do not have all of these other federally recognized exemptions.

MS. CONSIDINE:
Yes. Many people do not have their funds direct-deposited. There is a huge movement for all of these funds from the U.S. Treasury to be direct-deposited, but not everyone does this. That $1,000 is for people who do not have those

payments direct-deposited and ACH-coded. It also covers those people who have none of these exemptions. If you have that direct-deposited, ACH-coded account, the $1,000 is not on top of that.

CHAIR WIENER:
If those funds are received as paper checks, are they treated the same way once deposited? Is it protected exempt money?

MS. CONSIDINE:
Are they exempt funds? Yes. Are they protected from being frozen by a creditor? No. It is only protected if it is direct-deposited. If someone gets a social security check in the mail and walks to the bank to deposit it, the funds are exempt by law; however, that does not stop the bank from freezing the account.

SENATOR ROBERSON:
It is my understanding that 75 percent of the bank accounts in Nevada typically have a balance of less than $1,000. To the extent that is true, I have a concern. This bill would make it impossible for creditors to obtain the money they are owed. It will therefore have a negative impact on low income people obtaining credit. You mentioned the terrible state of our economy right now, and I agree with you. I am just afraid this could make it worse by making it more difficult for low income folks to get any credit at all if you make it impossible for creditors to collect on what they are owed. Can you address that?

MS. CONSIDINE:
The idea that 75 percent of the bank accounts in Nevada have less than $1,000 is a scary notion to begin with. That makes that $1,000 even more important to pay for the priorities—keeping food on the table and a roof over your head.

I understand the concern. However, this is not a debate about whether that $1,000 should be exempt, whether those debtors who owe money and have none should be forced to pay. As noted, that has already been decided in NRS 21.090. The opposition to this bill tells me that creditors are aware that if debtors have less than $1,000, those funds are exempt, but they are taking the opportunity to get that money on the chance that debtors do not know they are exempt. That is not a good business plan.

For those who have less than $1,000 in the bank, their priorities are the immediate needs. How am I going to feed my family? How am I going to pay the bills? How am I going to put gas in my car to get to my job so I can keep my job so I can pay my bills and get myself out of this hole?

CHAIR WIENER:
There is a form in section 11 under the heading "Interrogatories." This looks like only language where the calculation is made. Is this new language? If it is, what are they doing now?

MS. CONSIDINE:
The original bill was not clear about how employers figure out what wages are garnishable. In the first draft of this bill, we had several paragraphs explaining how to figure that out. Constables had some issues with that, so we worked with them and came up with this form that is easier to fill out and understand.

CHAIR WIENER:
It looks like a tax return.

MS. CONSIDINE:
It is easier than it looks.

CHAIR WIENER:
What other changes were made in the Assembly?

MS. CONSIDINE:
There were some issues about additional proceeds that were removed. In section 6, subsection 2 of the original bill, we added that the exemption included "proceeds paid from" several sources. Since that exemption was not already in statute, we removed it.

CHAIR WIENER:
To restate, all of these changes on calendar days that you explained for the process, and there are many throughout the bill, are agreements reached in the processing in the Assembly.

MS. CONSIDINE:
These were the changes we had originally made. The reason it seems like there are so many is that the bill covers two statutes. It is the same language, but we

had to change it in both locations. One provision is the notice that goes out explaining the procedure, and the other lays out the procedure itself.

CHAIR WIENER:
I bring it up because amendments proposed will change that yet again.

MS. CONSIDINE:
Yes. One of those is we would like to go from 8 days to 20 days, as previously stated. There is another proposed amendment to go from 8 days to 12 days.

Page 8 of Exhibit G lists other states that have established automatic exemptions. I do not know if residents in those states have experienced greater difficulty getting credit as a result of this type of measure.

One of the proposed amendments has to do with notification to the debtor from the creditor. This includes information on how to fill out the claim of exemption form. In general, writs of execution are not sent to the debtor before the account is frozen. It makes sense from the creditor's point of view not to send these notices until after the bank account is frozen. For that reason, giving debtors an explanation about how to claim exemptions at that point is not too helpful. So while it would be great if we could get the notices sent earlier, it is probably not going to be acceptable to the opposing side.

I do not believe the amendments proposed by the opposing side work. They suggested adding Temporary Assistance for Needy Families (TANF) funds to the automatically exempt funds. We did not include it because TANF funds, being from the State, are not as easily identified by banks as monies coming from the U.S. Treasury. We would need to work with banks to find a way for them to identify those funds. We left it out at this point to keep the bill simple. If the U.S. Treasury codes funds, any bank can identify them. If the State codes a direct deposit, we would have to work out with the banks how to do that.

PAT SANDERSON (Nevada Alliance for Retired Americans):
We support this measure, as we supported it in the last Session. It is protection for seniors and others who are trying to live month to month on a fixed income. When you garnish the wages of people in that situation, they cannot pay for their medications. They cannot pay their rents or their mortgages. They cannot survive. The banks have lawyers, and so do the creditors, but the individuals who are trying to live month to month do not have lawyers. We need help for

these people, and this bill helps people protect money for their most important needs of food and shelter.

JON SASSER (Washoe County Senior Law Project):
I am also representing Washoe Legal Services in this matter. We support this bill. I have written testimony from Ernest K. Nielsen, Executive Director, Washoe County Senior Law Project, that he requests be made part of the record since he could not attend the meeting this morning (Exhibit H). His testimony points out that seniors in Washoe County have a difficult time dealing with this system. There are a few slightly different procedural problems in Washoe County than in Clark County, but A.B. 223 would solve them. In Washoe County, it is the sheriff rather than the constable who executes writs on bank accounts.

In the hearing in the Assembly Committee on Judiciary on this bill, Mr. Nielsen testified that many seniors in Washoe County come to his organization with garnishment or attachment issues. Even after they sit down with a lawyer and are told that they have the right to claim an exemption, they are loathe to get involved with the court process. It is intimidating to them to file the affidavit claiming exemptions to the court. Sometimes they just let it go rather than go into that process, even with the assistance of a lawyer.

I would like to cut to what I believe is the heart of the controversy surrounding the $1,000 wild card exemption provision of this bill. I have asked friends in the collections industry to explain their concern about accounts with less than $1,000 that are clearly exempt, since debtors who take the trouble to file for an exemption will always win. Their first answer was that the wild card exemption helps people who want to game the system. They feel such people hide and do not pay their bills, but sometimes if their accounts are frozen they give up and decide to pay. In my experience, people who really want to game the system are not going to give up that easily.

People who do not claim the exemption fall into two categories. The first is those who do not know about the exemption. The other is the reluctant seniors who will not go to the trouble to claim that exemption. The business model of many collectors is to take advantage of both groups and get money they clearly know is exempt.

As to whether this will harm the availability of credit, as Senator Roberson suggested, there are nine states with limits on what can be touched in bank accounts, as noted on page 8 of Ms. Considine's testimony, Exhibit G. Some are higher than $1,000 and some are lower. My friends in the opposition have not come forward with any evidence that there is any more of a problem obtaining credit in those states than in Nevada.

The final objection to this measure by debt collectors is that they do not want Nevada to get a reputation as a debtors' state. If we have that reputation—and I do not know that we do—if people are moving here to avoid paying their debts, it is probably because of the more generous exemptions we have for higher income folks. We exempt $550,000 in equity in their homes. We exempt some $500,000 in retirement. Those are the kinds of protections we have for the higher income folks, rather than for those who might move here to protect their last $1,000.

SENATOR ROBERSON:
So we would be one of six states with a threshold of $1,000 or more that is exempt without applying for the exemption.

MR. SASSER:
That is correct.

JIM BERCHTOLD (Supervising Attorney, Clark County Civil Law Self-Help Center):
We support this bill. Of the 31,000 people we served in 2010, 4 percent, approximately 1,250, came to see us about some sort of garnishment or attachment issue. This is a fraction of the people who are dealing with this issue.

Based on what I see at the Center every day, I believe A.B. 223 will address a problem in the attachment procedure, specifically with respect to the $1,000 wild card exemption, which is already an exemption under Nevada law. Many of the people we see are of limited economic means. They do not have easy access to credit. They do not have credit cards to fall back on. They do not have multiple bank accounts to pull from. They do not have multiple sources of income to fall back on. If their bank accounts are frozen, they literally have no money for food or rent.

When I see them, the first time it is to help them fill out the affidavit of exemption. The second time I see them, it is frequently because they are being evicted. As a result of that first attachment, their checks are bouncing, and they have not been able to pay their rent. So I see them again because they are coming to court to fight an eviction so they do not end up on the street.

Not allowing a Nevada citizen to retain at least enough money to live has a trickle-down effect. It negatively impacts debtors because they do not have any money on which to live. They have to come down to the court to file for an exemption they are already entitled to have under Nevada law. But it also has a negative impact on the community generally. These people often end up applying for social service benefits from government, community or nonprofit organizations so they can pay the rent and put food on the table. In addition, it has a negative impact on creditors, forcing them to expend time and money chasing after funds they will not get because the funds are exempt under the law. And from seeing it every day, I can tell you that it has a negative impact on the judicial system. We help people fill out these affidavits of exemption every day. The clerk processes hundreds of affidavits of exemption. The judges hold hearings on these affidavits of exemption. All of this is over money already exempt under the law.

The Nevada Legislature has already decided that every citizen in Nevada is entitled to protect at least $1,000 as a basic level so they can live until their next paycheck. I believe this bill assists in this process, and I urge your support.

BARRY GOLD (AARP Nevada):
I support this bill. I have written testimony explaining the need for this measure (Exhibit I).

CHAIR WIENER:
In order to accommodate the sponsor of our last bill, we will recess the hearing on A.B. 223 and open the hearing on A.B. 246.

ASSEMBLY BILL 246 (1st Reprint): Authorizes candidates for membership on the executive board of an association of a common-interest community to obtain a list of the addresses of units' owners under certain circumstances. (BDR 10-1067)

ASSEMBLYMAN LYNN D. STEWART (Assembly District No. 22):
This bill came about because of a problem with the election of homeowners' association (HOA) board members. The problem was that those challenging the incumbents were not given access to the mailing lists, so they could not campaign by sending out materials to the unit owners in an HOA. This bill requires an HOA board either to provide a mailing list of unit owners to candidates for the board or to send out their campaign literature with the HOA's newsletter.

When we first presented this bill, we wanted HOAs to supply names and addresses. Police officers, judges and others who did not want their names and addresses provided testified this would be a problem for them. We therefore amended the bill so that only addresses were to be provided.

The bill passed the Assembly unanimously. Some amendments have been offered, but I am not too happy about any of them. One provides the opportunity for unit owners to opt out and not receive campaign literature. If you get mail you do not want, it is easier to just throw it away. I will leave it up to you, but I would prefer the bill be considered as is.

CHAIR WIENER:
We have several proposed amendments, one from the Commission on Common-Interest Communities and Condominium Hotels (Exhibit J) and two from the Community Associations Institute, Legislative Action Committee (Exhibit K).

ASSEMBLYMAN STEWART:
I have seen all three amendments, and they do not add anything to the bill. The bill gives opportunity for the HOA either to send out campaign material through e-mail or a newsletter, which the candidate would pay for, or to give the candidate the mailing list. In either instance, the intent is that the candidate is responsible for any costs incurred.

CHAIR WIENER:
And also that the identity of the homeowners or tenants is not part of this process.

ASSEMBLYMAN STEWART:
Right. Just reveal addresses, no names.

CHAIR WIENER:
Section 1, subsection 13, paragraph (b), subparagraph (2), sub-subparagraph (II) states the candidate must provide a signed written statement stating he or she will not use the mailing list for other purposes. What happens if the candidate does use the information for other purposes?

ASSEMBLYMAN STEWART:
We did not provide a penalty for that. It was the intent that the mailing lists would be used only for campaign purposes. I cannot imagine what else they would be used for.

CHAIR WIENER:
I was thinking of marketing.

ASSEMBLYMAN STEWART:
We would be happy to add some sort of penalty, if that would satisfy the Committee.

CHAIR WIENER:
It is a consideration. Some might choose to use the information for something else, and the only thing holding them accountable is Scout's honor.

ASSEMBLYMAN STEWART:
That certainly is not our intent.

KAREN DENNISON (American Resort Development Association):
We support the bill as written. The provision you refer to was added to conform to S.B. 200, which is another bill we have on the subject of lists of unit owners.

SENATE BILL 200 (1st Reprint): Makes various changes relating to time shares. (BDR 10-217)

The only thing different in S.B. 200 is that it included names and addresses. We are happy to go with just addresses as presented in this bill.

JONATHAN FRIEDRICH:
I support this bill. It is interesting to note that anything that allows more transparency or is homeowner-friendly is always fought by the Community

Associations Institute and the Commission. We all get a lot of campaign literature. If you do not like it, you just toss it. It is that simple.

ASSEMBLYMAN STEWART:
I would note in closing that the purpose of A.B. 246 is to level the playing field and give challengers the same benefits as incumbents.

CHAIR WIENER:
I will close the hearing on A.B. 246 and return to the hearing on A.B. 223.

ASSEMBLY BILL 223 (1st Reprint): Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-989)

STEVE KILGORE (Deputy Director, Henderson Constable's Office):
As a brief background, in the 2009 Session, the Henderson Constable's Office worked with Mr. Sasser and others on A.B. No. 140 of the 75th Session, which gave protections for tenants in situations involving foreclosures. Our job is to administer justice and carry the papers from the courts. We got involved in the process in that session because it seemed to be fundamentally unfair for tenants to be evicted without notification in the foreclosure process. It just did not seem like a fair situation, so we jumped into the fray.

I mention this because we are in a similar situation in this Session, except this time we are jumping into the fray on behalf of fairness in the process. The position of the Constable's Office is that it is our responsibility to make sure the process is fair and unbiased, that people can access the justice system and get equal justice whether they are tenants or landlords, debtors or collectors. We do not take sides either way. We work diligently to keep the process fair. However, the protections provided in this bill pull the blanket far over to the side of the debtor, leaving legitimate collectors in a position where it is difficult for them to recover the judgments they have in hand.

The writ of execution is the end stage of a process that begins with small claims action. There are numerous points of notification to the debtor. We have served notices or summons along the way. A judge has thoroughly reviewed this matter, come to a decision and issued a judgment in favor of the creditor. The judgment is then handed to us to serve, and we try to collect the amount that has been thoroughly evaluated and decided by the court.

Our main sticking point with A.B. 223 is the $1,000 wild card exemption. The judge issues a judgment from the bench, and we try to recover the monies for the plaintiffs, but we are continually turned away. We have heard estimates that as many as 70 percent of the bank accounts in Nevada have less than $1,000. We go through the process of serving the paperwork, the plaintiff has gone through all of this process attempting to recover a just debt, we go out in the field to try to make that bank levy work, and then we turn around and walk away empty-handed.

There is not a week that goes by that I am not in the foyer of the Henderson Justice Court trying to explain to landlords or business owners that they need to trust the court process rather than take matters into their own hands. They need to go to justice court and need to file the paperwork. I tell them, "Once you get your judgment, come back to us. We will serve a writ of execution, a bank levy or a garnishment or whatever, and that is how you can recover your money." This is not something that only impacts the large collection agencies. It also affects the mom-and-pop organizations and the seniors who rent out a house or apartment as part of their income. When someone skips out on the rent, landlords go through the justice court system to recover the lost rents or damage to property. In the end, they are given a judgment that is difficult and sometimes impossible to satisfy. It makes it difficult to encourage folks to use the criminal justice system, to get in there and use the civil system, because in the end they are left with a signed check from the judge that they are unable to cash.

There are a couple of other factual corrections I would like to make on some earlier testimony. Ms. Considine pointed out that at the end of this process, no funds are returned in an exempt situation from the constable's office to the debtor. In actuality, the constable's office gets a 2 percent processing and handling fee for processing the execution of a writ, and we return all of that money. At the end of this process, if the debtor has been granted an exemption, all of the monies, including the 2 percent, are returned to the debtor.

Our position is that we want the system to be accessible, and we want it to be equitable and fair. The work Mr. Sasser and others do is commendable, but they mostly see the problem from the point of view of the debtor. We are in the precarious position that we talk to both the debtor and the creditor. We are not going to make anyone happy. That is the essence of justice as we see it. We are trying to protect the legitimate interests of both parties in this equation, not

slide it over so far to the creditors that the debtors are oppressed, and not slide it over so far to the debtors that it is impossible to recover a legitimate debt.

LOU TOOMIN (Las Vegas Township Constable's Office):
We are offering Proposed Amendment 6849 (Exhibit L). This amendment was prompted by two incidents. First, some of this language comes from a bill we presented, A.B. 264. That bill died a questionable death in the Assembly Committee on Judiciary without a hearing.

ASSEMBLY BILL 264: Revises provisions relating to constables. (BDR 20-1097)

The second incident took place in mid-April, when the Las Vegas Township Justice Court in Clark County dismissed $49 million worth of uncollected warrants. If we had been involved in an interlocal agreement with the Justice Court at the time, we could have collected a substantial amount of the money. But because the law states we could only collect $48 per warrant, we would have been operating illegally. We believe our predecessor in the Las Vegas Township Constable's Office had an interlocal agreement with the Justice Court to charge $200 for warrants. We did not renew that agreement because of its illegality, so we could not assist the Justice Court in collecting those funds. We think this amendment is sorely needed and will help us produce more revenue for the county.

CHAIR WIENER:
Which parts of this amendment came from A.B. 264?

MR. WILKINSON:
The proposed revision in A.B. 264 related to activities undertaken pursuant to an interlocal agreement. That provision is on page 3 of Exhibit L, lines 6 through 9. It is also incorporated in lines 3 through 5 with respect to warrants particularly.

CHAIR WIENER:
Was the amount also addressed in A.B. 264?

MR. WILKINSON:
The amount was not addressed. It simply said: "For exercising any power, privilege or authority or performing any service, activity or undertaking pursuant

to an agreement as authorized by NRS 277.080 to 277.180, inclusive, the amount set forth in such an agreement."

This was in section 2, subsection 2, paragraph (e) of A.B. 264. That provision would have said if you did something pursuant to an interlocal agreement, you could collect the amount set forth in that agreement.

CHAIR WIENER:
Is that amount set at $48?

MR. WILKINSON:
In section 12.5, subsection 2, paragraph (f) of Proposed Amendment 6849, Exhibit L, it has that provision. Paragraph (e) sets a default amount of $48 or a different amount.

SENATOR BREEDEN:
Would the amendment put in statute that constables would get an automatic $48 and then an extra amount on top of that?

MR. WILKINSON:
Existing statute sets a limit of $48 for warrants executed on page 2, line 21 of Exhibit L. The amendment would make it $48 unless there is an interlocal agreement, in which case it is the amount set forth in the interlocal agreement. In actuality, there are interlocal agreements in place now that provide different amounts into which the courts have entered. This would reflect what is occurring now.

JOHN P. SANDE, IV (Nevada Collectors Association):
We oppose this bill. I have written testimony (Exhibit M) and a proposed amendment (Exhibit N). This is not the first draft of A.B. 223 we have seen. We have worked hard with the proponents of the bill, and we appreciate their continued willingness to work with us in an effort to come up with good policy.

I would like to begin by discussing the policy implications of the bill so you can view them in light of what our amendment seeks to do. It is important to remember that we are talking about the levying of bank accounts, or what is commonly known as freezing. This is one of the last steps in a long and arduous process creditors go through to collect on unpaid debts. The process protects due process rights of both creditors and debtors. It allows creditors to secure

judgment for debts that are owed, and it allows debtors the opportunity to contest the validity or amount of the debt. A judge, an independent third party, hears the evidence presented and makes a ruling as to the amount owed by the debtor to the creditor. If there is an amount owing, that judge makes an order, and it is incumbent upon the creditor to seek collection of that legitimate debt.

In the vast majority of cases, once it gets to this point, the debtor and creditor get together and are able to arrange payment, either a lump sum or payment over time. However, in a few instances, the debtor continues to refuse to pay the debt. At that point, the creditor is left with a few limited remedies to seek redress. One of those is a levy on the bank account.

At this point, debtors fall into one of two categories. One is debtors who do not pay because they legitimately cannot pay, and the other is debtors who do not pay because they choose not to. We are in full support of legislation and the policy implications behind it that protect debtors who cannot pay, and we agree with the portions of this bill that do that. However, we are fundamentally opposed to legislation that would step over the bounds to protect people who can pay but choose not to—individuals who utilize the services or labor of others and do not pay for it, who purchase goods and do not pay for them, who do not choose to pay child support. They are included in this category. The sincerity of our stand can be seen in our proposed amendment, Exhibit N. We seek to protect senior citizens on a fixed income. We attempt to protect those individuals who are living a meager existence and do not have the ability to pay.

Our fundamental disagreement on this is why we were unable to come to a compromise in the Assembly. Mr. Sasser offered to reduce the $1,000 to $500. However, because we believe the policy of that is incorrect, we were unable to accept the offer. We did come to a lot of agreements on the bill otherwise.

Let me turn to my proposed amendment, Exhibit N, and go through it quickly.

SENATOR ROBERSON:
I would like to ask a question before you start. Could you elaborate on the effect on child support? How does this bill affect a deadbeat dad who is not paying child support?

MR. SANDE:
It would give them an additional protection. That is the effect of that $1,000 wild card. It applies to anybody regardless of whether they can pay or not. I understand the proponents' concerns about accounts with $1,000 or less, but allow me to use myself as an example. My fiancée and I have a joint account in a small community bank that we use to pay our bills. I have a separate account in a large national bank that I use for golfing and other activities, and it has less than $1,000 in it. A creditor coming after me would be more likely to look at the account in the large bank, which A.B. 223 would protect. If creditors were wise enough to make several levies on different accounts, they would ultimately get their money. However, will a creditor who is trying to collect on $200 want to file levies on several bank accounts? Maybe, but probably not.

That is our concern, that these privileges extend to those who choose not to pay. We think that policy should not be endorsed by the State.

SENATOR ROBERSON:
I am trying to keep an open mind about this bill, but I will never support a measure that protects deadbeat dads.

MR. SANDE:
I will continue with my amendment. I hope you realize as we go through this that we listened to the proponents of the bill and tried to address their concerns.

Section 3, subsection 1 of Exhibit N lists exempted federal benefits. Those benefits are generally going to people who fit in the category of debtors who cannot pay. They are senior citizens on a fixed income, veterans who have just returned from Iraq and Afghanistan and people with disabilities. These federal benefits are electronically tagged. When the funds go into a bank account, a bank can see that they are exempt. This is made possible by technology that did not exist 20 years ago. The question came up before of funds that are not direct-deposited. By 2013, the U.S. Treasury will require all federal benefits to be electronically deposited. At that point, all federal benefits will be protected.

You will note that we added paragraph (o) to this list. The Department of Health and Human Services typically makes welfare payments on a debit card, which would not be subject to levy in any event. However, we were informed that they do electronically deposit welfare funds into bank accounts occasionally,

and those are electronically tagged by the State. Bill Uffelman, President and CEO, Nevada Bankers Association, informed me that if they do contain that electronic tag, they can be identified and therefore could be included in this bill. We want to make sure we protect individuals living on welfare because they truly cannot pay.

The only deletion our amendment makes is to remove section 3, subsection 2. This is the $1,000 wild card exemption.

We tried to meet the needs of the proponents of A.B. 223. One issue was the inability of debtors to understand the documents and what they have to do next. To this end, we are adding two provisions. The first, section 6, subsection 1, includes two items with the writ of execution given to the debtor. The first is a copy of the judgment entered against the debtor to let the debtor know which debt the creditor is trying to collect, along with the amount and when the judgment was entered. The second is a blank claim of exemption in a format that is acceptable for filing with the court. I am informed that in Clark County and Washoe County, justice courts will allow individuals to fax those documents in. This would mean a debtor who gets notice of a bank account levy could claim that exemption that same day.

Our clients would be willing to reduce the time a creditor would have to object to an exemption from five days to three days. We are trying to have a system where at most these individuals would be without their funds for three to four days. That is incumbent on debtors filing affidavits of exemption the day they receive them.

In regard to the change from 8 days to 20 days or 12 days, the problem we saw with 20 days is that if no claim of exemption is made, the creditor has to go 20 days without being able to get that money, even though the debtor is not going to contest it. We understand the need for the debtor to have additional time to navigate the system, so we were willing to go to 12 days, as you see on page 7, line 23 of the proposed amendment. We feel that is adequate. It is a good balance between the needs of the debtor and the needs of the creditor.

If I may continue, there have been some issues about insurance accounts.

CHAIR WIENER:
We are out of time for today. We will have to come back to this bill at our next Committee meeting.

Is there any public comment or any further business to come before this Committee? Hearing none, we are adjourned at 11:01 a.m.

RESPECTFULLY SUBMITTED:

_____
Lynn Hendricks,
Committee Secretary

APPROVED BY:

_____
Senator Valerie Wiener, Chair

DATE: _____

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
A.B. 294	C	Bob Faiss	Proposed Amendment for A.B. 294
A.B. 294	D	Lee M. Amaitis	Written testimony
A.B. 294	E	Dan R. Reaser	Written testimony
A.B. 294	F	Dan R. Reaser	Proposed Amendments to A.B. 294
A.B. 223	G	Venicia Considine	Written testimony
A.B. 223	H	Jon Sasser	Written testimony from Ernest K. Nielsen
A.B. 223	I	Barry Gold	Written testimony
A.B. 246	J	Senator Valerie Wiener	Proposed amendment from the Commission on Common-Interest Communities and Condominium Hotels
A.B. 246	K	Senator Valerie Wiener	Proposed amendment from the Community Associations Institute, Legislative Action Committee
A.B. 223	L	Lou Toomin	Proposed Amendment 6849
A.B. 223	M	John P. Sande, IV	A.B. 223 Overview
A.B. 223	N	John P. Sande, IV	Proposed amendment to A.B. 223