

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

**Seventy-Seventh Session
May 29, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 2:26 p.m. on Wednesday, May 29, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Kelvin Atkinson, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Justin C. Jones
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator James A. Settlemeyer
Senator Mark Hutchison

GUEST LEGISLATORS PRESENT:

Senator Debbie Smith, Senatorial District No. 13
Assemblywoman Irene Bustamante Adams, Assembly District No. 42
Assemblyman Tom Grady, Assembly District No. 38
Assemblyman Cresent Hardy, Assembly District No. 19
Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Wayne Archer, Committee Secretary

OTHERS PRESENT:

George Racz, Las Vegas Distillery

Alfredo Alonso, Nevada Beer Wholesalers Association; Southern Wine and Spirits
Terry Care, Wirtz Beverage Nevada
Steve Walker, Douglas County; Gold Country Water Company, Inc.
David Goldwater, Nevada Craft Brewer's Association
Steve G. George, Chief of Staff, Office of the State Treasurer
Adam Plain, Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry
Fred Hillerby, American Council of Life Insurers
John Griffin, United Insurance
Christine McGill, Healthy Communities Coalition of Lyon and Storey Counties
Ernie Adler, Healthy Communities Coalition of Lyon and Storey Counties
Edrie LaVoie, Director, Lyon County Human Services
Pat Sanderson, Nevada Alliance for Retired Americans
Jim Wadhams, Nevada Captive Insurance Association
William McKean, Utilities Inc.
Jennifer DiMarzio-Gaynor, Utilities, Inc.
Sam Crano, Assistant Staff Counsel, Public Utilities Commission of Nevada

Chair Atkinson:

I will open the hearing on Assembly Bill (A.B.) 153.

ASSEMBLY BILL 153 (1st Reprint): Provides for the licensing and operation of craft distilleries in Nevada. (BDR 52-607)

Assemblyman Crescent Hardy (Assembly District No. 19):

I will read my written testimony (Exhibit C).

I want to point out the spirits produced by craft distilleries must utilize products grown in Nevada, with no more than 10 percent of the products coming from outside the State. There are several farms in Wells and Winnemucca that supply Las Vegas Distillery.

Pursuant to section 1, subsection 2, paragraph (e) of A.B. 153, a craft distillery may sell up to one-half case per month at retail for off-premises consumption. An amendment to limit the sale to two bottles may be entertained.

Senator Jones:

Why was the limit in section 1, subsection 2, paragraph (e) limited to one-half case? Do other states limit this to two bottles? Would you be willing to consider a lower limit?

Assemblyman Hardy:

The distilleries requested the limit of one-half case. I would accept an amendment to limit this to two bottles because it is a national standard.

Senator Hardy:

Section 1, subsection 2, paragraph (d) limits samples to 2 fluid ounces per person per day. In the field of medicine, physicians advise patients their blood alcohol content will exceed the legal limit after two alcoholic drinks. Is 2 fluid ounces enough to put someone over the legal limit?

Assemblyman Hardy:

I believe patrons would have the legal responsibility to stay below the legal limit, just as they would at any other establishment serving alcohol.

Senator Hutchison:

If the purpose of the tiered scheme for distribution of alcohol and distilled spirits is to collect the excise tax on alcohol, how will the excise tax be collected on spirits produced by the craft distilleries?

Assemblyman Hardy:

The regulatory scheme will not change. Craft distillers will have to report and record in the same manner. They will be audited in the same manner as well. Mr. Alonso will be able to provide additional information.

Senator Hutchison:

How does the 10,000- and 20,000-case limitation compare to other manufacturers in Nevada?

George Racz (Las Vegas Distillery):

I am the owner and distiller at Las Vegas Distillery. The case limits resulted from a compromise with the distribution companies. All parties agree the limit is fair for our industry and will encourage other distilleries to sell in Nevada.

Assemblyman Hardy:

Las Vegas Distillery has created custom blends for Zappos and the State's 150th birthday.

Senator Debbie Smith (Senatorial District No. 13):

Existing law allows brewers in Clark County to produce up to 15,000 barrels of beer for sale each year. The State's largest brewers, which are located in Washoe County, are disadvantaged because brewers outside of Clark County are limited to 5,000 barrels. I have proposed an amendment to [A.B. 153](#) to give craft brewers in every county the ability to produce up to 15,000 barrels of beer ([Exhibit D](#)). This will help create jobs. Despite the recession, one of the most successful brewers in the State expanded its operations in Washoe County due to the demand.

Establishments that are sold or go out of business often sell leftover alcohol in bulk. Under the proposed amendment, establishments must provide the original wholesaler at least 30-days' notice. Additionally, retailers owing debts to a wholesaler must either assume the debt or provide the wholesaler with a signed affidavit that the debt will be paid by the retailer. Any bulk sale subject to this provision is void if the retailer fails to satisfy these provisions. Under subsection 5 on page 2 of [Exhibit D](#), a bulk sale means the sale or transfer to a purchaser of at least 50 percent of the liquor sold by a wholesaler to the retailer. This is a relatively generous definition because it excludes sales made during the ordinary operation of the retailer's business. There is no attempt to impede the business of restaurants or bars. This only prohibits retailers from wholesaling their leftover alcohol and keeping the proceeds if they still owe money to the wholesaler.

Senator Hutchison:

Has the bulk sale of alcohol been a problem in the past?

Senator Smith:

I believe this has been the case, but others can testify more specifically to your question.

Senator Hutchison:

I appreciate that this provision mirrors the bulk seller requirements in the State's Uniform Commercial Code which protects creditors.

Alfredo Alonso (Nevada Beer Wholesalers Association; Southern Wine and Spirits):

That is correct. This has been more a problem within the last 5 years than it has been in the past 30 years. When an establishment is sold to a bank, the inventory goes with it. Wholesalers pay the tax on the front end before they sell to the retailer, which is why it is important for them to recoup some of that cost.

I have proposed a friendly amendment to A.B. 153 that makes technical changes to the three-tier system ([Exhibit E](#)). It requires a person to have a valid license to act as a wholesale dealer of liquor. This prevents a craft distiller from also acting as a wholesaler. It requires distillers to use a wholesaler to distribute their product.

Chair Atkinson:

Does your amendment conflict with the amendment proposed by Senator Smith?

Mr. Alonso:

It does not.

Terry Care (Wirtz Beverage Nevada):

Wirtz Beverage Company is the second largest wholesaler in the State, and we support A.B. 153 with the amendments proposed by Senator Smith and Mr. Alonso.

Steve Walker (Douglas County):

Douglas County supports A.B. 153 and the proposed amendments because it will encourage economic development.

Senator Hutchison:

Do you know why brewers in Clark County are permitted to produce more than brewers outside of Clark County?

David Goldwater (Nevada Craft Brewer's Association):

The population differential was negotiated to prevent a bastardization of the three-tier system. The Nevada Craft Brewer's Association supports removing the lower cap on production for brewers outside of Clark County because it will bring equity to the craft beer industry.

Chair Atkinson:

I will close the hearing on A.B. 153.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 153 WITH THE AMENDMENTS FROM SENATORS SMITH AND JONES AND THE AMENDMENT PROPOSED BY ALFREDO ALONSO.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Atkinson:

I will open the hearing on A.B. 226.

ASSEMBLY BILL 226 (1st Reprint): Enacts provisions governing certain policies of insurance, annuities, benefit contracts and retained asset accounts. (BDR 57-588)

Assemblywoman Irene Bustamante Adams (Assembly District No. 42):

I was approached by representatives of the Office of the State Treasurer and the Division of Insurance, Department of Business and Industry, to address a problem with unclaimed life insurance benefits. Assembly Bill 226 would require life insurance companies to use the Social Security Administration's Death Master File to help find beneficiaries. I worked with stakeholders during the interim to adopt the national model.

Steve G. George (Chief of Staff, Office of the State Treasurer):

Assembly Bill 226 is patterned after multistate model legislation designed to offer a unified methodology for locating lost owners of insurance funds due them or their beneficiaries. In cases where the owner or the beneficiaries cannot be located, the funds are escheated to the Nevada Administrator of Unclaimed Property, as outlined in section 9.3 of A.B. 226. Eleven states have enacted or proposed the language used in A.B. 226. It is supported by the National Conference of Insurance Legislators (NCOIL) and by the National Association of Unclaimed Property Administrators. The Uniform Unclaimed Property Act was created as a consumer protection to safeguard the rightful owner's or his or her

heirs' property. The purpose of A.B. 226 is to require abandoned property be escheated so the rightful heirs never lose their right to claim their property.

The State has reached settlements over unclaimed life insurance and annuity contracts through the compliance audit process. These settlement agreements establish the terms and conditions under which unclaimed death benefits, maturity payments and retained asset account proceeds will be escheated to the State if the funds are not returned to the rightful owners. The language ensuring insurance companies maintain a standard for locating policyholders and beneficiaries has been adopted in seven states.

Senator Settlemeyer:

I authored a bill requiring the Secretary of State to contact the Death Master File four times a year to remove the names of dead people from the voter rolls. Perhaps the Secretary of State can provide the Treasurer with the same information to help reduce costs.

Mr. George:

Under A.B. 226, insurance companies are required to check the Death Master File and not the State Treasurer, but I am sure they would be happy to work with the Secretary of State to reduce costs.

Senator Hutchison:

Would this increase the cost of policies that have already been issued? My understanding is that insurance companies are not currently required to check the Death Master File.

Mr. George:

I have not heard any discussion over the cost. This model legislation has been considered by other states. One reason the bill was brought to our attention was that insurance companies were being sued. Assembly Bill 226 should reduce the cost.

Senator Hutchison:

In the absence of A.B. 226, is this just a contractual issue between two parties? Even though a contract may not require an insurance company to check death records, consumers can sign the contract. Requiring insurance companies to check the Death Master File could create an additional financial burden, especially for smaller insurance companies. Was that ever brought up?

Mr. George:

It was not brought up with me personally, but a court in Kentucky recently ruled that without a requirement, insurance companies could “stick their head in the sand” and ignore publicly available data regarding the death of their customers to the detriment of the beneficiaries.

Adam Plain (Insurance Regulation Liaison, Division of Insurance, Department of Business and Industry):

There is a cost to insurers to access the Death Master File, and some smaller insurers raised this concern with the Division of Insurance. This cost can be a lump sum or a per-search fee. There is also a one-time administrative cost to go through the records. To protect small insurers, section 9.5 authorizes the commissioner of insurance to grant a time extension or an exemption from compliance or approve a time line of phased-in compliance. This is especially important for small policies where the cost could be prohibitive.

During a compliance review conducted by the National Association of Insurance Commissioners (NAIC), regulators found insurers were already checking the Death Master File to cease benefit payments, but they would not use the list to start benefit payments. As a result, several states considered it an unfair trade practice. We are trying to bring some uniformity to searches already being conducted.

Senator Hutchison:

It is particularly enlightening to know the Division is cognizant of the costs to smaller insurers. While larger insurers have access to large databases, some of the smaller insurers do not.

Assemblywoman Bustamante Adams:

Section 9.5 of A.B. 226, which authorizes the commissioner of insurance to issue certain orders modifying the duties of an insurer under the provisions of this bill, was intended to address the concerns of small insurers. An amendment was proposed in the Assembly to expand this, but I believe section 9.5 of A.B. 226 addresses the issue sufficiently.

Senator Hardy:

Would anything preclude insurance companies from checking the File more often than 6 months? For example, an insurer could check the File if

a policyholder ceased making payments. How often is the Death Master File updated?

Mr. Plain:

The Death Master File is updated monthly. The bill requires the search to be performed at least semiannually. Section 8, subsection 1 of A.B. 226 requires insurance companies to check the Death Master File against policies that are in force. The American Council of Life Insurers has proposed an amendment to define in force as a policy or benefit that would have been paid upon the death of the insured. If a policyholder dies and the insurer is not informed, the insurer will spend down the cash value to pay the premiums. The policy will lapse when the cash value is depleted. The policy was in effect when the policyholder died. Under State law, the benefit inures to the beneficiaries at the time of death. The Division wants to ensure that insurers search for those policies where a benefit was payable regardless of the cash value after death.

Senator Hardy:

Does that mean the benefit of an insurance policy would not diminish after death?

Mr. Plain:

That is correct. In many cases, insurers are obligated to pay interest on death benefits held after death.

Fred Hillerby (American Council of Life Insurers):

The American Council of Life Insurers has proposed an amendment that is acceptable to the State Treasurer and the Division of Insurance ([Exhibit F](#)). Please note the section references are slightly different from the style used by the *Nevada Revised Statutes* (NRS). Where it indicates section 8.1, it should read section 8, subsection 1. In the absence of notification of a death or claim, insurance companies would attempt to keep policies in force so that benefits would be available as long as the policy had a cash value. Once a claim was made, the claim would be for the full value of the policy.

John Griffin (United Insurance):

Large insurance companies were using the Death Master File asymmetrically. Insurers would check the Death Master File for annuities so they could stop making payments, but insurers would not check the list for life insurance policies to avoid making payments on claims. Almost all small and medium

insurance companies, including United Insurance, do not sell annuities and have never used the Death Master File.

I have proposed an amendment to simplify the exemption process under section 9.5 of A.B. 226 ([Exhibit G](#)). Requiring insurance companies with five or ten life insurance policies to go through the application process is excessive, especially since the Division of Insurance would likely exempt them anyway. The purpose of our amendment would grandfather those small insurance companies that were not using the Death Master File asymmetrically. For those companies, the provisions of A.B. 226 would apply prospectively. In many cases, the cost of checking the Death Master File will exceed the value of the policy.

Senator Hardy:

Did the NCOIL address the issues related to small insurers?

Mr. Griffin:

Although this is model legislation, states have made slight changes as needed. Some states have grandfathered small insurers. I do not believe the NCOIL would oppose this amendment.

Senator Hutchison:

Is it just the small insurance companies that have not previously used the Death Master File? Your amendment does not just apply to small insurance companies. It only references those companies that have not previously used the Death Master File. Do you have knowledge about whether large insurance companies have not used the Death Master File?

Mr. Griffin:

My understanding is the companies that have not used the Death Master File asymmetrically are small insurance companies. I discussed with counsel a better way to define that, but this language is what has been used in other states.

Senator Hutchison:

Are you proposing to exempt small insurance companies from checking the Death Master File for claims that have already been written because of the financial burden?

Mr. Griffin:

That is correct. For companies that have never had to use the Death Master File, the cost of searching archived documents would be prohibitive. In addition to an application fee, there is an ongoing fee to subscribe to the list. Many of the smaller insurance companies do not issue any policies over \$2,000.

Senator Hutchison:

Do the provisions of section 9.5 of A.B. 226 not embrace the principle of the amendment you have proposed? Is it not clear that small insurance companies could request the Division of Insurance to waive the requirements, or are you not comfortable with that process?

Mr. Griffin:

The proposed amendment provides more of a blanket exemption. Assembly Bill 226 would require each insurance company to come to Nevada and submit the application.

Assemblywoman Bustamante Adams:

United Insurance had not discussed the amendment with me. There was a lengthy discussion on this section of A.B. 226 in the Assembly. It is our interpretation that section 9.5 of A.B. 226 addresses the concerns of small insurers. We do not know how many of these companies exist, but insurers may obtain a waiver if the process is cost-prohibitive. As the sponsor, I would not entertain the amendment.

Chair Atkinson:

How difficult will it be to obtain the waiver from the Division of Insurance?

Mr. Plain:

Pursuant to A.B. 226, insurers may request a hearing with the Division. This is a process we handle quite often, and it would depend upon the individual insurer. We understand Mr. Griffin's concerns and suggested the Division would be able to promulgate administrative regulations clarifying items that would be exempted automatically. It is more appropriate to include these malleable items in regulation as opposed to the NRS. For example, the Division cannot guarantee that large insurers were not using the Death Master File.

Senator Settlemeyer:

I appreciate that the Division will consider the concerns of small insurers. Many of these insurers know whether their customers are alive because they call their customers each year to sell them more insurance.

Senator Hutchison:

Do you anticipate the Division would consider the situations described by Mr. Griffin during the rulemaking process?

Mr. Plain:

That is correct. The Division's two primary concerns are insurer solvency and consumer protection. The Division needs to ensure consumers get their benefits while maintaining insurer solvency. We do not want to drive small insurers into insolvency by forcing them to comply with A.B. 226.

Assemblywoman Bustamante Adams:

I want to note that I do support the proposed amendment from Mr. Hillerby.

Chair Atkinson:

I will close the hearing on A.B. 226.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 226 WITH THE AMENDMENT FROM FRED HILLERBY.

SENATOR HUTCHISON SECONDED THE MOTION.

Senator Hutchison:

It is important the record reflect that we addressed the concerns of small insurers. Those companies have a good record here, and this is a good situation for all parties.

Chair Atkinson:

I agree. I am glad the record will reflect the Division has laid out a clear process for small insurers to receive a waiver.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Atkinson:

I will open the hearing on A.B. 228.

ASSEMBLY BILL 228 (1st Reprint): Authorizes certain providers of health care to provide voluntary health care service in this State in association with certain organizations. (BDR 54-245)

Assemblyman Tom Grady (Assembly District No. 38):

It has been my pleasure to work with the Healthy Communities Coalition of Lyon and Storey Counties over the past year on issues related to staffing at the Silver Springs Health Fair. In cooperation with the Lyon County School District, the Coalition conducts a free health fair at Silver Springs High School. Silver Springs is an underserved community, and the demand for the health fair is so great that it utilizes the school's gym, library, the lunchroom, common areas and a number of classrooms. The health fair caters to individuals with little or no health insurance, including the elderly and the youth. For many of the participants, the health fair represents the only medical attention they receive. Dental services are a high priority, but many other health services are provided.

Assembly Bill 228 authorizes licensed health care providers to provide such services voluntarily and without compensation if those services are provided in association with a sponsoring organization. The bill requires a sponsoring organization to register with the Health Division, Department of Health and Human Services, and file quarterly reports on the services delivered by such providers.

This will not affect local doctors who move from town to town. The intent of this bill is to allow out-of-state doctors to provide services voluntarily for health fairs.

Christine McGill (Healthy Communities Coalition of Lyon and Storey Counties):

Nevada is a medically underserved State. Every county in Nevada has areas that are medically underserved. Assembly Bill 228 gives communities one more tool to offset the lack of access to health care. We hope the Affordable Care Act and the resulting expansion of Medicaid will improve access to health care for these underserved communities. However, Nevada still will not have enough medical providers. Demand is so great that we can only triage patients. For instance, due to the demand, our dentists are only able to pull teeth and treat infections. We would love to provide more preventive care, such as fillings. We

have received nearly \$650,000 of in-kind dental services from five local dentists. Just one additional dentist would be helpful, and A.B. 228 will allow us to recruit volunteers from outside of Nevada.

Additionally, A.B. 228 would allow Nevada to become a site for medical missions as long as the health care providers are licensed in the United States. For example, we were called by a medical mission in Georgia that wanted to locate a site in rural Nevada, but we could not accept their services because there is no reciprocity between Nevada and Georgia.

Senator Hutchison:

My understanding is that medical professionals in Nevada can volunteer their time in Nevada under existing law, but the intent of A.B. 228 is to encourage out-of-state health care providers to volunteer their services in Nevada. Is that correct?

Ms. McGill:

That is correct.

Senator Hutchison:

Can you address the provisions of A.B. 228 relating to medical malpractice and liability? For example, section 8, subsections 3 and 4 discuss evidentiary rules for medical providers.

Ernie Adler (Healthy Communities Coalition of Lyon and Storey Counties):

The liability portions were modeled after similar legislation in other states. In particular, we focused on legislation in Tennessee, which has worked very well. Assemblywoman Carlton added language to tighten it up as well.

Assemblyman Grady:

We have worked with just about every lobbyist in the field of medicine to obtain their input as to how it would affect the professional licensing boards.

Edrie LaVoie (Director, Lyon County Human Services):

I support A.B. 228, and have submitted written testimony to the Committee ([Exhibit H](#)).

Pat Sanderson (Nevada Alliance for Retired Americans):

Many health care providers would love to volunteer their services, and A.B. 228 will open the door to these professionals. We support A.B. 228.

Chair Atkinson:

I will close the hearing on A.B. 228.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 228.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Atkinson:

I will open the hearing on A.B. 435.

ASSEMBLY BILL 435 (1st Reprint): Revises provisions governing insurance.
(BDR 57-1171)

Mr. Plain:

Assembly Bill 435 cleans up sections in Title 57 of NRS to comply with changing accreditation standards through the NAIC. Section 1 clarifies the applicability of the State's fraud assessment. The Division had adjudicated the fraud assessment in a manner for a number of years, but a recent judicial decision changed the manner in which assessments are handled. This resulted in the loss of \$185,000 to the State General Fund, 85 percent of which goes to the Office of the Attorney General for handling fraud. Section 1 clarifies the applicability and calculation of that fraud assessment.

Sections 2 through 6 of A.B. 435 adopt model language from the NAIC related to reinsurance and credit for reinsurance. The model language clarifies the requirements for reinsurers, expands the commissioner's ability to examine reinsurers and grants the commissioner additional discretion in accepting financial securities as deposits.

Sections 7 and 8 clarify that the Nevada Life and Health Guaranty Association coverage does not extend to Medicare Part C or Part D products. It does expand coverage for annuity and long-term care products.

Section 9 removes a mandatory opt-out in uniform standards for long-term care insurance. The State cannot participate in long-term care uniform standards, but A.B. 435 would allow the State do so as long as the standards are not less beneficial to consumers than those to which we currently adhere.

Sections 10 through 28 make changes to conform the NRS to NAIC model language regarding holding companies. This addresses problems where large insurers who are members of holding groups were threatened to be brought down by their associated banking partners. Assembly Bill 228 gives the Division of Insurance greater ability to regulate the insurance portions of those to ensure solvency.

Section 29 clarifies the annual reporting requirement for captive insurers. Sections 30 through 34 amend the standards for risk retention groups.

There is a friendly amendment from NAIC that cleans up language related to captive insurers, and that amendment is acceptable to the Division

Senator Hutchison:

My question is about the additional regulatory authority over entities that engage in both insurance and banking. Does A.B. 435 follow the federal regulation, or is this new language unique to Nevada?

Mr. Plain:

The new language follows language recommended by the NAIC. Assembly Bill 435 classifies holding groups and the holding group structure and clarifies that states may partner to form a supervisory college to pool their resources to examine large holding group structures. This is a state-level effort and not driven by the federal government.

Senator Hutchison:

Do you know how many other states have adopted this model language?

Mr. Plain:

The model language is an accreditation item, which means the majority of states will have to adopt the language to remain accredited with the NAIC. This language was adopted by the NAIC December 2012.

Senator Hutchison:

Are you saying states must adopt this language to remain in good standing and be accredited?

Mr. Plain:

That is correct.

Jim Wadhams (Nevada Captive Insurance Association):

We support this bill and worked with the Division to resolve this narrow issue. Captive insurance companies are specialized insurance companies that do not sell insurance to the public. Rather, a captive insurer only sells insurance to the entity that created it. For example, some of the major gaming properties have established captive insurance companies to cover portions of the property insurance for all of their properties throughout the State. This gives them an accounting and regulatory method for a legitimate insurance company, but they are not allowed to sell insurance to the public.

Within the category of captive insurance companies is another class called sponsored captive insurance companies. Sponsored captive insurance companies were created by the Legislature in 1999, under NRS 694C. Sponsored captive insurance companies provide seed money for the formation of captive insurance companies.

I have proposed an amendment to A.B. 435 that changes the definition of a sponsored captive insurance company under NRS 694C.143 ([Exhibit I](#)). Some individuals have interpreted NRS 694C.143 to mean that only the insurer can be the sponsor. Our amendment would ensure the definition of a sponsor is broad enough to allow a financial entity, such as a holding company, to be the sponsor of one or more captive insurance companies. Additionally, we propose inserting a subsection to make it clear that the commissioner of labor would retain full approval over who can be a sponsor. In evaluating the qualifications of a proposed sponsor, the commissioner shall consider the type and structure of the proposed sponsor entity. While subsection 2 would become subsection 3, the proposed amendment does not change the language.

Chair Atkinson:

I will close the hearing on A.B. 435.

SENATOR HUTCHISON MOVED TO AMEND AND DO PASS AS AMENDED A.B. 435 WITH THE AMENDMENT FROM JIM WADHAMS.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Atkinson:

I will open the hearing on A.B. 436.

ASSEMBLY BILL 436 (1st Reprint): Revises provisions governing the regulation of public utilities which furnish, for compensation, any water for municipal, industrial or domestic purposes, or services for the disposal of sewage, or both. (BDR 58-1196)

Assemblywoman Heidi Swank (Assembly District No. 16):

Assembly Bill 436 creates enabling legislation for the Public Utilities Commission of Nevada (PUCN) to set water utility rates that appropriately account for the effects of existing water conservation policies and allow for the replacement of aging infrastructure. The NRS mandates the PUCN require water utilities to mandate conservation. The PUCN regulates 30 water utilities ranging in size from 25 to 5,000 customers. Historically, rates for these utilities were based on a flat rate structure. To encourage water conservation, the rates are now based on usage. Water utilities are also required to adopt conservation plans which must be approved by the PUCN. There is a tension between conservation and the tools available to the PUCN to set rates. Assembly Bill 436 will provide the PUCN with flexibility to set rates in a manner that will encourage utilities to promote conservation actively, while allowing utilities to earn a fair return on their investments. The bill will also allow utilities to reduce the capital investment necessary to develop new sources of water and to maintain and upgrade their infrastructure on an ongoing basis. This will protect customers from rate increases and service interruptions. Assembly Bill 436 will help ensure

the State's water customers have a reliable and safe source of water at predictable rates.

William McKean (Utilities Inc.):

I have provided testimony from John Williams, Government Affairs Manager for Utilities Inc. ([Exhibit J](#)). Under existing law, utility revenues are positively correlated with usage. The PUCN opened a rulemaking docket to identify tools to balance the needs of utilities with conservation. The PUCN did not feel it had the explicit legislative authority to complete the rule-making document, which is why we requested A.B. 436. If A.B. 436 becomes law, we can return to the PUCN to study these issues and promulgate regulations.

Chair Atkinson:

Does the PUCN support A.B. 436?

Mr. McKean:

We have worked closely with the PUCN to develop the language. They are neutral on the A.B. 436, but we have worked with both the PUCN and the Bureau of Consumer Protection, Office of the Attorney General.

Senator Hutchison:

This is obviously enabling legislation that will provide the PUCN with flexibility to balance the utilities' solvency with conservation and rates. How will the regulatory process change if A.B. 436 becomes law?

Mr. McKean:

Rate cases have two components. First, the PUCN determines the revenue requirement to remain solvent. Second, the PUCN will design rates to recover that revenue. Water conservation policies encourage a usage-based structure. Under normal market conditions, prices fall when purchased in bulk. This does not work in water consumption. The revenue recovery system is designed to encourage conservation, but this exposes water utilities to greater risk of being unable to recover their costs. The PUCN is limited to considering usage during a 12-month period. Assembly Bill 436 will allow the PUCN to adopt regulations that would allow it to balance these needs. We will need to work with the Bureau and the PUCN to ensure this is done in a rational way.

Mr. Walker (Gold Country Water Company, Inc.):

Gold Country Water is a small water company in Winnemucca. After the company installed water meters, usage fell by 25 percent. Under current regulations, the water company is prohibited from recovering lost revenues. We support A.B. 436.

Chair Atkinson:

Are there many small water companies in the State? Would A.B. 436 affect most of them?

Mr. Walker:

There are many small water companies that serve from 25 to 5,000 customers. There are more than 30 in Washoe County.

Jennifer DiMarzio-Gaynor (Utilities, Inc.):

The largest water utility regulated by the PUCN serves 5,000 customers, but the average serves 270 customers. Municipally owned utilities are not included.

Sam Crano (Assistant Staff Counsel, Public Utilities Commission of Nevada):

The PUCN is neutral on A.B. 436, but we did work with Mr. McKean and Utilities Inc. to develop language. As Ms. DiMarzio-Gaynor noted, municipal water companies and cooperatives will not be affected by this legislation because they are not regulated by the PUCN. Nor would it affect the Southern Nevada Water Authority, the Las Vegas Valley Water Authority, Truckee Meadows Water Authority or utilities with less than 25 members. Our largest customer is Utilities Inc. of Central Nevada, which serves slightly more than 4,000 customers.

Chair Atkinson:

I will close the hearing on A.B. 436.

SENATOR HARDY MOVED TO DO PASS AS A.B. 436.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Commerce, Labor and Energy
May 29, 2013
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Chair Atkinson:

The meeting is adjourned at 4:12 p.m.

RESPECTFULLY SUBMITTED:

Wayne Archer,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

| <u>EXHIBITS</u> | | | | |
|------------------------|----------------|---|---------------------------|--------------------|
| Bill | Exhibit | | Witness / Agency | Description |
| | A | 1 | | Agenda |
| | B | 4 | | Attendance Roster |
| A.B. 153 | C | 5 | Assemblyman Cresent Hardy | Written Testimony |
| A.B. 153 | D | 2 | Senator Debbie Smith | Proposed Amendment |
| A.B. 153 | E | 2 | Alfredo Alonso | Proposed Amendment |
| A.B. 226 | F | 1 | Fred Hillerby | Proposed Amendment |
| A.B. 226 | G | 1 | John Griffin | Proposed Amendment |
| A.B. 228 | H | 1 | Edrie LaVoie | Written Testimony |
| A.B. 435 | I | 1 | Jim Wadhams | Proposed Amendment |
| A.B. 436 | J | 8 | John Williams | Written Testimony |