

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

**Seventy-Seventh Session  
February 22, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 12:40 p.m. on Friday, February 22, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Justin C. Jones  
Senator Joyce Woodhouse  
Senator Joseph P. Hardy  
Senator James A. Settlemeyer  
Senator Mark Hutchison

**COMMITTEE MEMBERS ABSENT:**

Senator Moises (Mo) Denis, Vice Chair (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator David R. Parks, Senatorial District No. 7

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Dan Yu, Counsel  
Caitlin Brady, Committee Secretary

**OTHERS PRESENT:**

Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada  
Bill Uffelman, President and CEO, Nevada Bankers Association

D. Eric Spratley, Lieutenant, Washoe County Sheriff's Office  
Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Mark Teska, Administrative Services Officer, Director's Office, Department of  
Public Safety  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Jim deProsse, Administrator, Housing Division, Department of Business and  
Industry  
Diane O'Connor, Program Officer, Manufactured Housing Division, Department  
of Business and Industry

**Chair Atkinson:**

I will open the hearing on Senate Bill (S.B.) 127.

**SENATE BILL 127**: Prohibits employers from conditioning employment on  
a consumer credit report or other credit information. (BDR 53-453)

**Senator David R. Parks (Senatorial District No. 7):**

I have submitted written testimony ([Exhibit C](#)) explaining the bill.

**Senator Settlemeyer:**

Which section of the bill details the specific employers allowed to use a credit  
report in their hiring decisions?

**Senator Parks:**

That is not part of the bill. However, there are others seeking to add such  
conditions to the bill. *Nevada Revised Statutes* (NRS) 598C addresses the use  
of consumer credit reports. This bill confines itself to NRS 613.

**Senator Jones:**

This is an excellent bill. I am concerned with the broadness of some of the  
language. In section 5, the bill defines credit information as not including  
information not related to credit. It seems oxymoronic. It is too broad. It also  
defines credit information as anything derived from or found on a credit report.  
Credit reports are broad. They contain address information and have prior  
judgments. There are things found on a credit report an employer would need in  
an application process. Is there a way to tighten the language so it does not  
create issues for employers?

**Senator Parks:**

Yes, there is. You will be hearing from other interested parties with proposed amendments. I agree with you regarding section 5. I did not have any other suggested wording at the time.

**Senator Atkinson:**

This is a very important issue. I have the same concerns as Senator Settlemeyer and would like to narrow the language to clarify the types of jobs this affects.

**Lea Tauchen (Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada):**

We are opposed to the bill. We do have a proposed amendment ([Exhibit D](#)) to address our concerns. Several groups have worked together on this amendment including the Nevada Bankers Association, the Las Vegas Metro Chamber of Commerce, The Chamber in northern Nevada, Bob Ostrovsky and J.J. Jackson. I speak on behalf of that group. This bill removes an important tool employers use to do their due diligence when making hiring decisions. Credit reports are necessary for screening applicants who will handle money, make financial decisions or deal with private customer data. An employer could be accused of negligent hiring if embezzlement or identity theft were to occur. Our amendment would exempt positions where a credit report would be related to job functions in such areas as cash handling, law enforcement, financial institutions or gaming. A credit report is not needed for all positions. They are expensive. A good employer knows when paying for a credit report would be justified. This is only one tool an employer uses to make hiring decisions.

**Chair Atkinson:**

Will you explain your amendment?

**Ms. Tauchen:**

Our proposed amendment provides a number of exemptions for positions when we believe a credit report would be helpful in making a hiring decision. The exemptions cover managerial and supervisory positions where financial information is available, cash-handling positions and positions in law enforcement, financial institutions and gaming establishments.

**Chair Atkinson:**

I do not like having the credit report be a part of the hiring decision at all. The economy today has put honest people in a difficult position. They have lost

homes, cars or credit worthiness because they were laid off and not able to find work. You do need to be able to take a closer look at someone applying for a banking position or gaming. I am concerned with credit profiling because this practice can affect minorities more adversely.

**Ms. Tauchen:**

The federal Fair Credit Reporting Act (FCRA) prohibits an employer from using a bankruptcy against a candidate in a hiring decision.

**Chair Atkinson:**

The FCRA only covers bankruptcy, though.

**Senator Jones:**

Is your amendment conceptual or a replacement for section 7 of the bill?

**Ms. Tauchen:**

Our amendment is conceptual. Last Session there was similar language worked on by the same group of interested parties.

**Senator Jones:**

Are you concerned with other aspects to the bill?

**Ms. Tauchen:**

Section 7 is our primary concern. We do think the \$9,000 penalty is high, but it is not addressed in our amendment.

**Chair Atkinson:**

Is this the same language as Assembly Bill No. 331 of the 76th Session?

**Ms. Tauchen:**

It is similar language based on that bill.

**Bill Uffelman (President and CEO, Nevada Bankers Association):**

A credit report is a tool that can be used to evaluate someone for employment. Nowhere in our amendment does it say if you have a bad credit report you cannot get the job. In an interview, the candidate would be able to explain what happened. The Federal Deposit Insurance Corporation (FDIC) requires a financial institution to produce a credit report for potential employees.

**D. Eric Spratley, Lieutenant (Washoe County Sheriff's Office):**

We oppose S.B. 127, but we support it with the proposed amendment. The credit report is only one aspect of our hiring process. It is a critical aspect for law enforcement. Our officers deal with financial issues on a daily basis. We carry out writs of execution and court orders involving large amounts of money, and our interdiction teams often stop vehicles containing large amounts of money. We have extensive background checks for potential employees, and one aspect of those checks is a credit history. We do not base our decision solely on the credit report, but it can indicate patterns. Applicants may be able to explain certain aspects of their credit report. However, they may not be able to explain a history of financial trouble.

**Chair Atkinson:**

There is a different type of background check for criminal activity. The information you would need should show up on that check, so you would not need a credit report.

**Chuck Callaway (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):**

We share many of the philosophical concerns expressed by Lieutenant Spratley. The credit report is a small part of what we look at in an employment background check. We are neutral on the bill and in support of it with the amendment.

**Mark Teska (Administrative Services Officer, Director's Office, Department of Public Safety):**

The Department of Public Safety is neutral on the bill. Under *Nevada Administrative Code* (NAC) 289.110, we are required to conduct extensive background investigations on all prospective employees. One of the requirements in NAC 289 is that the investigation must include a financial history of the person. The proposed amendment may address the issues we would have in complying with NAC 289 and this statute. It is unclear what "direct exercise of law enforcement authority" means in the amendment. We use a credit report for many sensitive positions, such as evidence technicians who have access to cash and valuable assets.

**Robert Roshak (Executive Director, Nevada Sheriffs' and Chiefs' Association):**

We are neutral on the bill. We have the same concerns expressed by the other law enforcement representatives.

**Senator Parks:**

I will work with the others to draft an amendment.

**Chair Atkinson:**

I will close the hearing on S.B. 127 and open the hearing on S.B. 29.

**SENATE BILL 29**: Revises provisions relating to the Fund for Low-Income Owners of Manufactured Homes. (BDR 10-360)

**Jim deProsse (Administrator, Housing Division, Department of Business and Industry):**

I have submitted written testimony explaining the need for the bill ([Exhibit E](#)). I would like Diane O'Connor, Program Officer for the Lot Rent Subsidy Program (LRS), to give you examples of people who have been disqualified because the administrator was unable to allow an exception.

**Diane O'Connor (Program Officer, Manufactured Housing Division, Department of Business and Industry):**

The most common instances involve elderly or disabled persons. I have two examples from the past 12 months. The first example is an elderly woman living in her home alone. She had a monthly income of about \$964 from social security benefits. The income cap at the time was \$930 per month. She did not have Medicaid which would have allowed us to give her a waiver on her income based on the amount paid toward Medicaid. She did pay for private medical insurance, but under statute, we cannot deduct it. She had ongoing medical bills, but they were not from something that occurred in the recent past. The way the statute reads, she did not have any qualifying changes.

The second example is also an elderly woman who has lived in the same mobile home park for more than 20 years. She recently made her last mortgage payment on her home, using the last of her savings. Her husband died several years ago, so she was the sole income earner in the household. She received about \$974 per month in social security benefits. Her space rent had increased over the past 5 years from \$400 to \$535 per month. The social security annual increases did not keep up with that type of inflation. She was not paying for Medicaid because she could not afford it. She did not qualify for LRS because there has not been a real change in her condition.

**Senator Settelmeyer:**

What is the fiscal impact to the State if we make this change?

**Mr. deProsse:**

There is not any fiscal impact to the State. The funds are collected from mobile home park owners. For each space available for rent, they are charged \$1 per month. The flat fee was established in statute in 1995.

**Senator Settelmeyer:**

There is a bank of money available to help other individuals.

**Senator Hutchison:**

How many more individuals would qualify for LRS with this discretion?

**Ms. O'Connor:**

We have not tracked how many people are interested in LRS but do not qualify. Most of the inquiries come via phone. We could increase participation by 15 to 30 individuals per year. We recently increased the percentage we pay towards program participants' rent because we did not have a waiting list and we had more money than participants.

**Senator Hutchison:**

This would increase the number of eligible individuals and we have enough funding for more participants. Correct?

**Ms. O'Connor:**

Yes.

**Chair Atkinson:**

I will close the hearing on S.B. 29.

SENATOR SETTELMAYER MOVED TO DO PASS S.B. 29.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Atkinson:**

The meeting is adjourned at 1:13 p.m.

RESPECTFULLY SUBMITTED:

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Caitlin Brady,  
Committee Secretary

APPROVED BY:

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Senator Kelvin Atkinson, Chair

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



<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A			Agenda
	B	2		Attendance Roster
S.B. 127	C	1	Senator David Parks	Written Testimony
S.B. 127	D	2	Lea Tauchen	Proposed Amendment RAN
S.B. 29	E	1	Jim deProsse	Written Testimony