

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

**Seventy-Seventh Session  
April 17, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 1:37 p.m. on Wednesday, April 17, 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 Moises (Mo) Denis, Vice Chair  
Senator Justin C. Jones  
Senator Joyce Woodhouse  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Mark Hutchison

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Donald E. Jayne, Administrator, Division of Industrial Relations, Department of  
Business and Industry  
Priscilla Maloney, American Federation of State, County and Municipal  
Employees Local 4041  
Gary Childers, Compliance Investigator, Manufactured Housing Division,  
Department of Business and Industry  
Gene Temen, Quickspace

**Chair Atkinson:**

I will now open the hearing on Assembly (A.B.) 12.

**ASSEMBLY BILL 12**: Removes the requirement that an employee notify his or her employer before filing certain complaints with the Division of Industrial Relations of the Department of Business and Industry. (BDR 53-352)

**Donald E. Jayne (Administrator, Division of Industrial Relations, Department of Business and Industry):**

The U.S. Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, conducted an audit of the Nevada Occupational Safety and Health Administration, Division of Industrial Relations (DIR), Department of Business and Industry. The OSHA found the State's whistleblower protections to be inconsistent with federal whistleblower protections. Although states may establish more restrictive whistleblower protections, it is desirable for states at least to meet the federal standards.

Under *Nevada Revised Statute* (NRS) 618.445, an aggrieved employee must first notify his or her employer and the DIR of his or her intention to file such a whistleblower complaint. Assembly Bill 12 amends NRS 618.445, subsection 2 by removing the requirement that employees must first provide written notification prior to filing a complaint with the Division to his or her employer. Assembly Bill 12 only applies to whistleblower complaints. In most whistleblower complaints, employers have already been subjected to an inspection by the Nevada OSHA. Whistleblower complaints are designed to protect individuals in the workplace who would be disadvantaged if the employer took adverse action against them.

The DIR chose to bring A.B. 12 to the Legislature for guidance on the notification requirement. If A.B. 12 passes, the DIR would investigate whistleblower complaints in the same manner it investigates other workplace safety complaints.

I have submitted written testimony with additional information on the proposed changes to NRS 618.445 ([Exhibit C](#)).

**Senator Hutchison:**

When do employers receive notification under the current process? How would that process change under A.B. 12? Does A.B. 12 stem from a specific incident?

**Mr. Jayne:**

Under existing law, an employee must notify his or her employer before filing a whistleblower complaint. If A.B. 12 becomes law, employers would be notified by the DIR once an employee files a complaint. This process would take approximately 2 weeks. There was no specific incident that prompted A.B. 12. The impetus for A.B. 12 was the OSHA audit.

**Priscilla Maloney (American Federation of State, County and Municipal Employees Local 4041):**

The American Federation of State, County and Municipal Employees Local 4041 supports A.B. 12.

**Chair Atkinson:**

I will now close the hearing on A.B. 12 and open the hearing on A.B. 23.

**ASSEMBLY BILL 23:** Clarifies provisions governing providers of services pertinent to the sale, installation and occupancy of manufactured homes. (BDR 43-359)

**Gary Childers (Compliance Investigator, Manufactured Housing Division, Department of Business and Industry):**

Assembly Bill 23 corrects inconsistencies in NRS 489.716 that resulted from legislation passed during the 2003 Session. The term "provider of services" is used throughout NRS 489.716. However, subsection 2 of NRS 489.716 incorrectly uses the term "provider." To make NRS 489.716 consistent throughout, the Legislative Counsel Bureau recommended changing this to "provider of services."

Section 1, subsection 4 of A.B. 23 proposes to remove the word "new," which would extend work performed under NRS 489.716 to all manufactured homes.

The Director of the Department of Business and Industry has notified me it is drafting an amendment to A.B. 23. The Manufactured Housing Division is neutral to that amendment.

I have submitted written testimony with additional information for the Committee ([Exhibit D](#)).

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**Gene Temen (Quickspace):**

Quickspace supports A.B. 23. I would request your approval for additional time to work with the Department and the Division on the proposed amendment.

**Chair Atkinson:**

The Department notified the Committee of this amendment as well, but I did not want to delay this hearing. Please let me know when you are ready to move forward. I will now close the hearing on A.B. 23.

The Committee is adjourned at 1:49 p.m.

RESPECTFULLY SUBMITTED:

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Wayne Archer,  
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	1		Agenda
	B	3		Attendance Roster
A.B. 12	C	2	Donald E. Jayne	Statement of Intent
A.B. 23	D	1	Gary Childers	Written Testimony