

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

**Seventy-Eighth Session  
May 13, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 2:10 p.m. on Wednesday, May 13, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Randy Kirner, Chairman  
Assemblywoman Victoria Seaman, Vice Chair  
Assemblyman Paul Anderson  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblywoman Olivia Diaz  
Assemblyman John Ellison  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblywoman Dina Neal  
Assemblyman Erven T. Nelson  
Assemblyman James Ohrenschall  
Assemblyman P.K. O'Neill  
Assemblyman Stephen H. Silberkraus

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Matt Mundy, Committee Counsel  
Leslie Danihel, Committee Manager  
Earlene Miller, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Tina M. Leiss, Executive Officer, Public Employees' Retirement System  
Scott Kipper, Commissioner of Insurance, Division of Insurance,  
Department of Business and Industry  
Mark J. Krueger, Insurance Counsel, Division of Insurance, Department of  
Business and Industry  
Adam Plain, representing Nevada Dental Association  
James Wadhams, representing Alliant Insurance Services, Inc.,  
Sacramento, California

**Chairman Kirner:**

[The roll was taken and a quorum was present.] Today we have one bill to hear and a number of bills on work session. I will open the hearing on Senate Bill 12.

**Senate Bill 12: Revises provisions governing certain personnel of the Public Employees' Retirement System. (BDR 23-385)**

**Tina M. Leiss, Executive Officer, Public Employees' Retirement System:**

Senate Bill 12 was requested by the Public Employees' Retirement Board, and its sole purpose is to change the title of the Assistant Investment Officer position to Chief Financial Officer (CFO) within the Public Employees' Retirement System (PERS) executive staff structure. The bill has no fiscal impact. The intent of the title change of this position is to enhance financial risk controls within PERS.

In the last 14 years, PERS assets have grown to over \$34 billion and the system has been tasked with overseeing two additional programs, the Judicial Retirement System and the Retirement Benefits Investment Fund. In addition, the disclosure requirements under governmental accounting standards have expanded, requiring a significant increase in resources necessary

to prepare financial statements. Because of these changes, the System has determined that it would be a better use of our resources to devote more of those resources on financial controls, compliance, and accounting oversight.

Over this time period, PERS has also streamlined its investment program while improving competitive results. As a result, our investment needs have shifted more to monitoring and risk control, responsibilities that can be more effectively handled within the CFO structure. Adjusting the job responsibilities of the Assistant Investment Officer to those of a Chief Financial Officer will expand the position's responsibilities and allow PERS to more closely integrate the System's accounting and investment functions. This will enhance efficiency and improve internal controls. Establishing this position with the change in title will provide a single point of coordination for both the operational and investment sides for all financial compliance and risk control functions. I would be happy to answer any questions.

**Chairman Kirner:**

Are there any questions? [There were none.] When you make the change to a CFO, is there a salary component?

**Tina Leiss:**

It will be the same salary as the current Assistant Investment Officer position. It is a title change and we will be able to shift responsibilities.

**Chairman Kirner:**

Is there anyone to testify in support of this bill? Seeing no one, is there anyone who wishes to oppose this bill? Seeing no opposition, is there anyone who wishes to testify from a neutral position? [There was no one.] There are no closing comments so I will close the hearing on S.B. 12. We will begin the work session with Senate Bill 67 (1st Reprint).

**Senate Bill 67 (1st Reprint): Revises provisions governing the regulation of insurance. (BDR 57-371)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 67 (1st Reprint) was heard in Committee on May 4, 2015. [Referred to work session document ([Exhibit C](#)).] It is proposed by the Division of Insurance of the Department of Business and Industry. This bill adopts provisions of various model laws and acts of the National Association of Insurance Commissioners, including provisions relating to investments, reinsurance, standard valuation, standard nonforfeiture, own-risk solvency assessment, and insurer mergers and acquisitions. It makes changes to the Nevada Life and Health Insurance Guaranty Association. It makes changes to

the requirements for insurance administrators and self-insured employers for workers' compensation when filing their annual financial statements. It allows insurers to provide electronic proof of insurance certificates for motor vehicles. The bill also makes changes regarding state-chartered risk retention groups. It authorizes the inspections of certain sealed records to determine the suitability of an applicant for licensure or the discipline of a licensee for misconduct, and it repeals various provisions of existing law, which are replaced by the adoption of the model law provisions.

There is a short amendment attached to the work session document ([Exhibit C](#)). It makes a modification to a description in the digest and also addresses the filing of financial statements by administrators and self-insured employers for workers' compensation. Staff from the Division of Insurance is here to answer questions.

**Chairman Kirner:**

As we go through these bills, a number of them have had some amendments that were presented. Some were not presented and people have come forward with minor language changes. As we go through the bills, I would encourage questions. Are there any questions?

**Assemblyman Nelson:**

The amendment changes it to a "wholly owned subsidiary of a parent company" instead of one "who does not hold a certificate of registration in this State." Can anyone explain why the amendment was wanted?

**Chairman Kirner:**

Will someone from the Division come forward?

**Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry:**

Mark Krueger, Insurance Counsel for the Division of Insurance, will be able to explain the amendment.

**Mark J. Krueger, Insurance Counsel, Division of Insurance, Department of Business and Industry:**

All the amendment does is make the paragraph more efficient and clearer. There was the addition of the word "and" which caused some confusion. It is the parent company that may submit the financials in lieu of what is required by the other parts of the statutes.

**Chairman Kirner:**

Are there any other questions? Seeing no other questions, I will entertain a motion.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS  
SENATE BILL 67 (1ST REPRINT).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

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

We will move to Senate Bill 68 (1st Reprint).

**Senate Bill 68 (1st Reprint):** **Revises provisions governing professions.**  
**(BDR 54-290)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 68 (1st Reprint) was heard in Committee on April 27, 2015, and was sponsored by the Office of Economic Development, Office of the Governor. [Referred to work session document ([Exhibit D](#)).] It authorizes certain qualified physicians, osteopaths, podiatrists, and other providers of health care and professionals to obtain a license by endorsement to practice in Nevada if they hold a valid and unrestricted license to practice in the District of Columbia or another state or territory of the United States; are certified in a specialty recognized by the American Board of Medical Specialties or the American Osteopathic Association, and meet certain other requirements. The measure also requires, with limited exceptions, the Board of Medical Examiners and the State Board of Osteopathic Medicine to issue a limited license to practice medicine as a resident physician to an applicant who meets certain requirements.

There were several amendments proposed during the hearing, and we received a couple of amendments subsequent to when the work session document was published. The first amendment, submitted by Committee staff, is intended to resolve conflicts with Assembly Bill 89, which was processed earlier. It addresses malpractice as well as specialties certified by the American Osteopathic Association. The conceptual amendment, on page 2 of the work session document ([Exhibit D](#)), strikes the phrase "more than once." In section 7, subsection 1, paragraph (b), which has to do with osteopaths, we would insert specialties also recognized by the American Osteopathic Association.

The second amendment, on page 3 of [Exhibit D](#), is from the Nevada Psychiatric Association and is intended to ensure physicians who have been investigated, but not disciplined, are not precluded from licensure by endorsement. It adds the phrase, "or is not currently under investigation" in section 1, subsection 2, paragraph (a), subparagraph (3) and strikes the phrase, "or investigated" in sections 1 and 7 of the bill.

The next amendment [page 5, ([Exhibit D](#))] is from the Nevada State Board of Optometry. It would require the Board to issue a license by endorsement to practice optometry under certain circumstances, effectively adding that profession to the provisions of this bill.

The fourth amendment [page 7, ([Exhibit D](#))] is from the State Board of Podiatry. It revises section 11 of the bill to provide the Board with additional time to process an application for license by endorsement based on the submission of an applicant's fingerprints.

The fifth amendment [page 8, ([Exhibit D](#))] is from the Board of Examiners for Social Workers. It modifies Sections 45 through 47 to allow the Board to ensure applicants for a license by endorsement are qualified and to collect fees for issuance of such a license.

We received a letter from the Nevada Hearing Society ([Exhibit E](#)) that is on the Nevada Electronic Legislative Information System. It would add a new section to the bill modifying *Nevada Revised Statutes* (NRS) 637A.021 to allow the Board of Hearing Aid Specialists or a successor board to issue a license by endorsement to commence business as a hearing aid specialist if they meet certain requirements.

We received a letter this morning from the Board of Homeopathic Medical Examiners. They have requested to create a license by endorsement category as well. [Letter not submitted as exhibit.]

**Chairman Kirner:**

If the Committee is uncomfortable in proceeding, I will move it to the next Committee meeting. Is there any discussion?

**Assemblyman Nelson:**

I am looking at the proposed amendment by Jeanette Belz on behalf of the Nevada Psychiatric Association [page 3, ([Exhibit D](#))]. Section 1, subsection 2, paragraph (a), subparagraph (3) says, "Has not been disciplined or is not currently under investigation." So if someone is currently under investigation, they cannot be licensed? That is a concern for me, but my bigger concern is in

section 1, subsection 2, paragraph (a), subparagraph (4), where it says, "Has not been held civilly or criminally liable for malpractice . . . more than once." I thought we were going to take that out.

**Matt Mundy, Committee Counsel:**

That is correct, we are going to amend that out of every section to be consistent with Assembly Bill 89. While the investigation is pending, they would not be able to apply for licensure, but presumably, so long as they were not disciplined, they would be able to apply for the licensure by endorsement.

**Assemblyman Nelson:**

Would it also remove the language "more than once" in section 7?

**Matt Mundy:**

That is correct.

**Chairman Kirner:**

You can see that a number of these amendments have been submitted to align with Assembly Bill 89, which we approved earlier.

**Assemblywoman Carlton:**

The language "currently under investigation" is what we have used in a lot of different boards. We do not want somebody who is under investigation in one state to move to another state because they know they are about to lose their license in the first state. We want the case to be resolved in that state before we would consider them. We want to know where their record stands. I have no problems with the amendments that were proposed in the work session. I do not support the last two amendments. I would hate to slow down the process for those. Letting homeopaths be licensed by endorsement is a whole new session's worth of discussion. I think there is a lot involved in that even though they have to be licensed by another board before they can get the homeopath endorsement. The proposed amendment from the Nevada Hearing Society ([Exhibit E](#)) looks like reciprocity, and I do not like reciprocity. I am willing to move forward on the other proposed amendments to keep things moving.

**Assemblywoman Neal:**

I partially agree with Assemblywoman Carlton because I thought the purpose of S.B. 68 (R1) was to make exceptions if you have a valid and unrestricted license. It seems like it opened the door for all these other entities to say, Maybe we can do it too.

**Chairman Kirner:**

I think these things have come forward in an effort to tie in with A.B. 89 so we do not have different policies. Is there any other discussion? I agree with Assemblywoman Carlton. The other two amendments missed the deadline and there are consequences. What does the Committee want to do?

**Assemblywoman Carlton:**

I would propose that we amend and do pass S.B. 68 (R1) to include the amendments included in the work session document ([Exhibit D](#)).

**Chairman Kirner:**

That will not include the last two amendments.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS  
SENATE BILL 68 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there further discussion?

**Assemblyman Ohrenschall:**

I want to clarify for the record that the amendments Assemblywoman Carlton proposed include the clarifications Assemblyman Nelson mentioned about not being currently under investigation and not getting that free first criminal conviction.

**Assemblywoman Carlton:**

That is my intent.

**Chairman Kirner:**

I concur with that. I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND  
SILBERKRAUS WERE ABSENT FOR THE VOTE.)

We will move to Senate Bill 112 (1st Reprint).

[Senate Bill 112 \(1st Reprint\)](#): Revises provisions relating to telecommunications.  
(BDR 58-636)

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 112 (1st Reprint) was heard in Committee on May 1, 2015, and was proposed by the Senate Committee on Commerce, Labor and Energy. [Referred

to work session document ([Exhibit F](#)).] It makes discretionary the adoption of regulations by the Public Utilities Commission of Nevada (PUCN), setting forth the standards of performance and penalties for nonrural incumbent local exchange carriers. There are no amendments to the bill.

**Chairman Kirner:**

We had an extensive discussion on this bill. Is there any discussion or are there any questions?

**Assemblywoman Neal:**

After the discussion of "may" versus "shall," I will vote no on this bill.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS  
SENATE BILL 112 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Diaz:**

During that hearing, both sides were represented, but I requested some data from the PUCN that showed the expedited complaints they had received. I was pleasantly surprised that within the last five years, there have only been about four of them. Usually, if you look at what is going on, it is not a one-sided issue. Sometimes there are issues on both sides. I feel very confident that the PUCN will do its job and its due diligence to make sure that they keep providers reporting information that they deem necessary in order not to harm any consumers.

**Assemblyman Ohrenschall:**

I have struggled with this bill and I will vote yes. One of the things that gave me comfort was that I questioned the PUCN's Commission General Counsel about changing from "shall" to "may" and if he thought that they might go from 60 performance measures to 3 to zero. His testimony was that he did not predict them going to zero anytime soon unless sometime in the future these performance measures became too antiquated. It reassured me that they may keep the most useful performance measures.

**Assemblyman Ellison:**

I will vote yes on this, but I want to reserve my right to change my vote on the floor, because I still have a couple of questions.

**Chairman Kirner:**

My understanding is that the parties have been in further discussions since we met and they may have found a path to coexist. I would recommend to pass this bill, but if members have concerns, they should contact the bill's sponsors. I will call for the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN NEAL VOTED NO.  
ASSEMBLYMAN SILBERKRAUS WAS ABSENT FOR THE VOTE.)

We will move to Senate Bill 137 (1st Reprint).

**Senate Bill 137 (1st Reprint): Enacts provisions governing stand-alone dental benefits and policies of health care. (BDR 57-575)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 137 (1st Reprint) was heard in Committee on April 29, 2015, and is sponsored by Senator Joseph Hardy. [Referred to work session document ([Exhibit G](#)).] The bill requires that for an insurance claim for a procedure provided by a dentist, which may be covered by both the patient's stand-alone dental benefit and policy of health insurance, the stand-alone dental benefit must provide primary coverage. The bill also prohibits a health insurer from denying certain claims for which it has liability on the basis that another health insurer has liability, or requiring a separate claim be filed with the other health insurer.

Following the hearing on the bill, the parties submitted the attached consensus amendment ([Exhibit G](#)). The amendment replaces the bill in its entirety. It provides that if a claim for payment for services provided by an oral or maxillofacial surgeon may be covered, in whole or in part, by a stand-alone dental benefit plan and a policy of health insurance, the stand-alone dental benefit plan is the primary coverage and the claim must first be submitted to the insurer that issued the stand-alone dental plan.

**Chairman Kirner:**

The amendment has been worked out between the bill sponsor and the opposition. It is my understanding that everyone is happy with it. Is there any discussion?

**Assemblywoman Carlton:**

The original bill is gone. This will amend it as a whole. Is it going to have a stand-alone benefit portion and a maxillofacial portion, or is this just aimed at the maxillofacial portion? It is hard to put it into the bill.

**Kelly Richard:**

It is my understanding that the intent is to cover only oral and maxillofacial surgery and not all dental benefits. The stand-alone dental benefit plan would have to cover first, but only for oral and maxillofacial surgery, not for all dentistry.

**Chairman Kirner:**

That is also my understanding.

**Assemblyman Nelson:**

I think the amendment is fine as far as it goes, but it leaves open the problem that we were discussing for so long. In procedures other than maxillofacial treatment, we still have the same issue. Which insurance is going to cover them? I am curious why it was all taken out.

**Chairman Kirner:**

Could the bill proponents address these issues?

**Adam Plain, representing Nevada Dental Association:**

The bill was originally limited to oral and maxillofacial surgery. It was expanded in the Senate and the amendment is narrowing it back to oral and maxillofacial surgery. That is the consensus among the parties of what is absolutely known to be a problem. We will pursue options with the Division of Insurance, Department of Business and Industry, if the expanded scope to pediatric benefits becomes an issue in the interim.

**Assemblyman Nelson:**

If I have a root canal and there is a dispute between my insurance companies, this will not help. Was the rationale for limiting the bill so the parties would agree?

**Adam Plain:**

There was some ease in agreement associated with it. As Helen Foley [representing Delta Dental Insurance Company] testified during the bill hearing, there is some question as to whether this is an issue that will manifest for pediatric and general adult services. We do not have enough data yet so we are willing to wait and see.

**Chairman Kirner:**

Are there any other questions from the Committee for Mr. Plain?

**Assemblywoman Bustamante Adams:**

I will support the bill but I reserve my right to change my vote on the floor.

**Chairman Kirner:**

Assemblymen Carlton, Diaz, Kirkpatrick, Neal, and Ohrenschall also reserved their rights to change their votes on the floor. Does anyone want to share why there is a concern?

**Assemblywoman Carlton:**

I need time to digest it.

**Assemblywoman Kirkpatrick:**

I would like to see how this all fits into an amendment on the floor. I think we want to try and address the issue. I understand compromise, that is why we are in the Legislature, but I want to see how it looks after everything is put together.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO  
PASS SENATE BILL 137 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN SILBERKRAUS  
ABSTAINED.)

Our next bill is Senate Bill 194 (1st Reprint).

**Senate Bill 194 (1st Reprint): Revises provisions relating to industrial insurance.  
(BDR 53-991)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 194 (1st Reprint) was heard in Committee on May 6, 2015, and is sponsored by the Senate Committee on Commerce, Labor and Energy. [Referred to work session document ([Exhibit H](#)).] It allows a private company, public entity, or utility to establish and administer a consolidated insurance program for industrial insurance on a construction project or a series of projects if the estimated total cost of the construction project is at least \$50 million.

Two amendments have been submitted and are in the work session document. The first amendment ([Exhibit H](#)), submitted by Robert Vogel on behalf of Pro Group Management, requires private companies to file a copy of a consolidated insurance program contract with the Division of Insurance, Department of Business and Industry, for approval.

The second amendment is on the Nevada Electronic Legislative Information System ([Exhibit I](#)), but not in the work session document. This amendment proposes to revise the definition of "series of projects" to mean two or more projects of which the same private company, public entity, or utility is the owner or principal contractor acting as the sponsor under which a consolidated insurance program is established.

**Chairman Kirner:**

This is one of those areas that we had a number of questions about. Would it be valuable to have Mr. Wadhams answer questions? We are interested in good policy and getting it right.

**Assemblyman Nelson:**

Could you explain the rationale behind your amendment?

**James Wadhams, representing Alliant Insurance Services, Inc., Sacramento, California:**

I think a question was raised by Assemblyman Ohrenschall about putting together projects that do not belong together. We tried to fix the language so it makes it clear that it has to be either the same private employer, the same public employer, or the same utility so that the series of projects are common. The example I used in the hearing was the Clark County School District. They may do a series of projects for five grade schools, but it has to be a common owner. You could not put Clark County School District with two projects and the Southern Nevada Water Authority with a new pipe into the lake. It has to be the same public entity or the same private entity. We were trying to address the question from Assemblyman Ohrenschall.

**Assemblyman Ohrenschall:**

I appreciate the amendment. Thank you for clarifying that because the existing statute I believe did have that provision. There have been some concerns about lowering the threshold to \$50 million. Does that make the whole thing more likely to fail if there is a terrible accident or if something falls through on one of the projects?

**Jim Wadhams:**

The level is currently at \$240 million, so that is a very substantial project. Putting projects together in this kind of a system where basically you buy your insurance in bulk is cheaper and more economical. The notion is that for public projects, there will be a particular process the public entity has to go through to verify whether it is going to be economical. Its board of county commissioners would have to vote on that before they go to the marketplace and bid for the insurance. This fits into a broader statute that has a number of those policies. Dropping it to \$50 million was a recommendation that came from Pro Group Management, that testified in the Senate. We think that is an appropriate level because there is still a public body decision-making process. The compromise we reached was on the private projects. In our original bill, there was no limit on private projects. It is up to a private owner to decide what saves money or not as long as you have the safety requirements. In a compromise with the people from Pro Group, we agreed to make it \$50 million for public and private.

**Assemblywoman Carlton:**

There has been a lot of confusion about this bill. I had to dig in my memory about the owner-controlled insurance programs and contractor-controlled insurance programs. My concern is the lowering of the threshold. When we originally did this, we did it for a much larger threshold to protect everyone. I am trying to understand the actual purchase of the insurance and how this changes how insurance will be sold on these particular items in the state in the future. Now, anyone wanting to do one of these jobs that did not meet that threshold would have to purchase insurance through a different scheme. With lowering the threshold, they will actually be able to be self-insured with a backup insurance. How will these insurance policies work?

**Jim Wadhams:**

There is a little bit of a complication. For general liability, there is currently no restriction on buying a single policy for multiple contractors and subcontractors. There is no limitation. In the private sector, that is frequently done on more complex projects. This statute now puts a threshold when you bring in workers' compensation in conjunction with the general liability, and this statute comes into play. It requires certain standards for the insurance companies that would step into this role. As you may recall, section 3, subsection 3, identifies a minimum financial size and policyholder service size for the insurance companies that could even bid on this process.

The direct answer to your question is that in this system it is fairly easy for a private owner. If they decide to do this, they would go to the market and find a broker that could bring substantial insurance companies of this size, such as Travelers or a Hartford, that would offer to cover the entire project.

The process for a public entity is a bit more complex because they have to first do a study to determine that it is efficient and economical to do so. If that is the result, then they would go to market and hire a broker who would in turn bring in insurance companies that meet these standards. All of this is still subject to review by the Commissioner of Insurance and does not in any way displace other protections that are in either *Nevada Revised Statutes* Chapter 616B, which are the workers' compensation protection statutes, or the insurance regulations.

**Assemblywoman Carlton:**

This will open up a new area of business for these folks who want to cover these lines of consolidated insurance. There will be a new portion of the market opened up to them that was not open to them before by making the threshold lower.

**Jim Wadhams:**

There are more projects that could seek to lower their costs by buying a single insurance product rather than having layers and multiple insurance products and adding to the cost. That is a decision that will be dependent upon an analysis done for the public body, or an individual owner will make that decision. It opens up more projects that could seek these savings. It does not necessarily add new people that can provide this insurance. It will be the same qualified insurance companies that sell insurance currently.

**Assemblywoman Carlton:**

More people will be able to buy this insurance. More projects will be open to accessing this type of insurance from the same providers. This in essence will expand the pool of potential customers in this particular insurance line.

**Jim Wadhams:**

The answer, simply, is yes. However, if you recall what I pointed out in the bill, the insurance companies that can respond to either the public or private entities will have to be far more substantial than just simply being licensed to sell insurance. It is a requirement that larger, more capable insurance companies can do that. More projects can consider that option.

**Assemblywoman Carlton:**

I think I have my answer. I am concerned about the \$50 million threshold. This is a pretty big change in one move.

**Chairman Kirner:**

Is there any other discussion?

**Assemblyman Ohrenschall:**

I will vote for the bill but reserve my right to change my vote on the floor.

**Assemblywoman Bustamante Adams:**

I will also support the bill. I like some provisions of it. The aspects that I like include the additional safety part, the workers' compensation, and the ability for small businesses to be able to participate in projects and be covered under the umbrella insurance. I have seen it work. It will give them the opportunity to get into projects from which they have been excluded.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND  
AND DO PASS SENATE BILL 194 (1ST REPRINT).

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Neal:**

I will reserve my right to change my vote on the floor.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON VOTED  
NO. ASSEMBLYMAN PAUL ANDERSON WAS ABSENT FOR THE  
VOTE.)

**Chairman Kirner:**

We will move to Senate Bill 224 (1st Reprint).

**Senate Bill 224 (1st Reprint): Revises provisions relating to employment.  
(BDR 53-985)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 224 (1st Reprint) was heard in Committee on May 6, 2015, and was sponsored by the Senate Committee on Commerce, Labor and Energy. [Referred to work session document ([Exhibit J](#)).] It establishes a conclusive presumption that a person is an independent contractor, rather than an employee, if certain conditions are met. The bill excludes the relationship between a principal and an independent contractor from those relationships that

constitute employment relationships for the purpose of requiring the payment of a minimum wage.

There is a mock-up for your review making changes to certain licensing requirements in section 1. This is the mock-up that Senator Settlemeyer presented in Committee on May 6, 2015. There is one change which is under section 1, subsection 1, paragraph (c), subparagraph (5), sub-subparagraph (III).

**Chairman Kirner:**

Where is that change?

**Kelly Richard:**

If you look at subparagraph (5) on page 2, line 23, "The lease of any work space from the principal required to perform the work for which the person was engaged." Then there is a new paragraph that begins, "The determination of whether an investment of capital . . . ." There is a phrase added that says the equipment commonly used "and the expenses commonly incurred" in the trade or profession in which the person engages.

**Chairman Kirner:**

Is there any discussion from the Committee?

**Assemblywoman Neal:**

Where did the definition come from?

**Matt Mundy, Committee Counsel:**

I do not think it comes from any particular place. I think it is intended to capture expenses commonly incurred such as licensing fees to be able to enter into a certain profession. It is just to help qualify what a substantial investment of capital actually means for the purposes of determining whether a person is an independent contractor.

**Chairman Kirner:**

Is there a motion?

ASSEMBLYMAN SILBERKRAUS MOVED TO AMEND AND DO  
PASS SENATE BILL 224 (1ST REPRINT).

ASSEMBLYMAN ELLISON SECONDED THE MOTION.

**Assemblywoman Carlton:**

This was one of the bills that we got together with the parties, and this is about as close as we are going to get this session on independent contractors. I am concerned about adding this language. This was a highly negotiated bill. I wonder where this language was in the negotiations and how this is being handled. I would hate to have the Committee do something outside of what was agreed upon by all of the parties.

**Matt Mundy:**

I understand that this was part of subsequent negotiations by the same parties since our hearing.

**Assemblywoman Carlton:**

I just want to make sure everything is good.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS  
ABSENT FOR THE VOTE.)

We will move to Senate Bill 231 (2nd Reprint).

**Senate Bill 231 (2nd Reprint):** Revises provisions relating to workers' compensation. (BDR 53-986)

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 231 (2nd Reprint) was heard in Committee on May 6, 2015, and was sponsored by the Senate Committee on Commerce, Labor and Energy. [Referred to work session document ([Exhibit K](#)).] This bill revises various provisions governing workers' compensation. It provides that a health care provider may dispense only an initial 15-day supply of a schedule II or schedule III controlled substance to an injured employee. Any additional doses that are prescribed must be provided by a registered pharmacy. A health care provider must include the original manufacturer's National Drug Code for the drug on all bills and reports submitted to the insurer. The measure requires an insurer to pay or deny a health care provider's bill for accident benefits within 45 days of receipt. This bill removes the rebuttable presumption provisions concerning a workplace injury that occurs while an employee is under the influence of alcohol or drugs and replaces those provisions with a requirement that the employee not receive compensation unless he or she can prove by clear and convincing evidence that being intoxicated or under the influence was not the proximate cause of the injury. Finally, the results of any alcohol or drug test

performed as a result of an injury must be made available to an insurer or employer upon request. There are no amendments.

[A letter of support was submitted by Mark Sektnan, Vice President, Property Casualty Insurers Association of America ([Exhibit L](#)).]

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
SENATE BILL 231 (2ND REPRINT).

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS  
ABSENT FOR THE VOTE.)

We will move to Senate Bill 232 (1st Reprint).

**Senate Bill 232 (1st Reprint): Makes various changes relating to workers' compensation. (BDR 53-987)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 232 (1st Reprint) also relates to workers' compensation. [Referred to work session document ([Exhibit M](#)).] It was heard in Committee on May 6, 2015, and was sponsored by the Senate Committee on Commerce, Labor and Energy. The bill provides a right to reimbursement in situations in which an insurer, managed care organization, third-party administrator, or employer appeals an order of a hearing officer, appeals officer, or district court, and the order is not stayed pending the appeal. In such a situation, if the appeal is successful, the insurer, managed care organization, third-party administrator, or employer is entitled to seek reimbursement from the injured employee's health or casualty insurer for payments made while the appeal was pending.

The bill also revises provisions concerning the reopening of a claim such that an employee has one year to file an application to reopen a claim if the employee was not incapacitated from earning full wages for at least 5 consecutive days or 5 cumulative days within a 20-day period. Further, the measure provides that an employee who has sustained more than one permanent partial disability may not receive compensation for any portion of the injury that is based on a combined permanent partial disability rating for all the employee's injuries that exceed 100 percent.

**Chairman Kirner:**

Is there any discussion?

**Assemblywoman Kirkpatrick:**

I am going to support this bill, but I want to see if the floor statement includes the legislative intent of Donald Jayne's [representing Nevada Self-Insurers Association] comments as addressed in Rusty McAllister's [President, Professional Fire Fighters of Nevada] testimony. I believe he said it was not the legislative intent, but if it is in the floor statement we will have something to refer to.

**Chairman Kirner:**

Are there any other comments? Seeing none, I will entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
SENATE BILL 232 (1ST REPRINT).

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS  
ABSENT FOR THE VOTE.)

We will move to Senate Bill 242 (1st Reprint).

**Senate Bill 242 (1st Reprint): Requires payday lenders to use best practices.  
(BDR 52-953)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 242 (1st Reprint) is sponsored by Senator Michael Roberson and was heard in this Committee on May 4, 2015. [Referred to work session document ([Exhibit N](#)).] It enacts the Payday Lender Best Practices Act, which adopts certain provisions of the Community Financial Services Association of America's Best Practices for the Payday Loan Industry. The provisions of this bill apply to a licensee operating a deferred deposit loan service, a high-interest loan service, or a title loan service.

**Chairman Kirner:**

There are no amendments to this bill and it was passed unanimously in the Senate. I will entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
SENATE BILL 242 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.  
THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS  
ABSENT FOR THE VOTE.)

We will move to Senate Bill 250 (1st Reprint).

**Senate Bill 250 (1st Reprint): Revises provisions relating to policies of health insurance. (BDR 57-687)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 250 (1st Reprint) is sponsored by Senator Joseph Hardy and was heard in Committee on April 29, 2015. [Referred to work session document ([Exhibit O](#)).] The bill requires that certain public and private policies of insurance and health care plans must authorize coverage for, and may apply a copayment and deductible to, a prescription to be divided into more than one dispensing for the purpose of synchronizing a patient's multiple prescriptions. These policies and plans are prohibited from denying a claim for such a prescription that is otherwise covered. Finally, these policies and plans are prohibited from prorating the pharmacy dispensing fees for such prescriptions.

During the hearing, the proponents requested the addition of the phrase "unless otherwise provided by contract" at the end of section 1, subsection 1, paragraph (c), to authorize an insurer to prorate pharmacy dispensing fees if such proration is authorized pursuant to a contract between the insurer and the pharmacy. The addition of "unless otherwise provided by contract" would actually be in each of the paragraphs.

**Chairman Kirner:**

Is there any discussion?

**Assemblyman Nelson:**

So does the addition of "unless otherwise provided by contract" mean that everything in the bill can be changed? As I recall, our Chairman liked the bill better without the amendment.

**Chairman Kirner:**

I was concerned about prorating the copay. Subsequent to our hearing, I have met with both sides of the argument and some who were in a neutral position. I am comfortable with leaving it the way that it is without creating anything else. They

will measure this over the next two years and they may come back next session with data to make changes.

**Assemblyman Nelson:**

My concern is that it may in effect punish a consumer by making him or her pay multiple copays. The theory behind a copay is to make sure you have some investment.

**Chairman Kirner:**

I appreciate that. That is why I raised the issue with the industry and have agreed to work with them over the next two years. I will entertain a motion.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS  
SENATE BILL 250 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there further discussion?

**Assemblywoman Carlton:**

I want to make sure that I know what this amendment actually says.

**Kelly Richard:**

The amendment only addresses prorating to the effect that an insurer could prorate the pharmacy dispensing fees if that is allowed in the contract between the insurer and the pharmacy.

**Assemblywoman Carlton:**

Something is better than nothing, but with contracts that are in effect, and they sometimes do not come up for three to four years, I really do not see that this will have any impact on prorating for consumers. I think we are still going to have them caught in the catch-22 of having their prescriptions come up at different times from different doctors. I am going to support it because it is one step in the right direction. With the addition of the contract part, it takes the real meat out of the deal.

**Chairman Kirner:**

This is one step.

**Assemblyman Ellison:**

I know this is a small step, but it seems to me that we answered 90 percent of the questions in this bill. I support it.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMAN PAUL ANDERSON WAS  
ABSENT FOR THE VOTE.)

That completes our work session. Is there any public comment? Seeing none,  
the meeting is adjourned [at 3:13 p.m.].

RESPECTFULLY SUBMITTED:

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Earlene Miller  
Committee Secretary

APPROVED BY:

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Assemblyman Randy Kirner, Chairman

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

**EXHIBITS**

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

**Date:** May 13, 2015

**Time of Meeting:** 2:10 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 67 (R1)	C	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 68 (R1)	D	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 68 (R1)	E	Kelly Richard, Committee Policy Analyst	Nevada Hearing Society proposed amendment
S.B. 112 (R1)	F	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 137 (R1)	G	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 194 (R1)	H	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 194 (R1)	I	Kelly Richard, Committee Policy Analyst	Alliant Insurance Services proposed amendment
S.B. 224 (R1)	J	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 231 (R2)	K	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 231 (R2)	L	Mark Sektnan, Property Casualty Insurers Association of America	Letter of support
S.B. 232 (R1)	M	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 242 (R1)	N	Kelly Richard, Committee Policy Analyst	Work session document
S.B. 250 (R1)	O	Kelly Richard, Committee Policy Analyst	Work session document