

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

**Seventy-Eighth Session  
May 15, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 1:38 p.m. on Friday, May 15, 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:**

Senator Kelvin Atkinson, Senate District No. 4

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Jennifer Kandt, Executive Director, Nevada State Funeral and Cemetery Services Board  
Garrett Gordon, representing Hawkins Holdings, LLC, Sacramento, California  
Steven T. Polikalas, representing Hawkins Holdings, LLC, Sacramento, California  
Chris Ferrari, representing Nevada Dental Association  
Keith Lee, representing Nevada Association of Health Plans

**Chairman Kirner:**

[Roll was called. Rules and protocol were stated.] We received a waiver on Senate Bill 440 (1st Reprint) so we will not be processing it today. However, we added to the agenda Senate Bill 370 (1st Reprint). We will now open the work session on Senate Bill 12.

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

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 12 was put forward on behalf of the Public Employees' Retirement System (PERS). [Referred to work session document ([Exhibit C](#)).] It was heard in Committee on May 13, 2015. It replaces the position of Assistant Investment Officer within PERS with a position of Chief Financial Officer (CFO). Chairman Kirner is proposing an amendment to the bill which adds two voting members to the current membership of the PERS Board, thereby increasing the size of the Board from seven to nine persons. The amendment requires the two new members of the Board to be persons who: (1) are not employees or elected officers of the state or its political subdivisions; (2) have never been active members of the system; and (3) have demonstrated experience in

accounting, investing, financial management, the application of actuarial principles, or any other field directly relevant to the management of the system.

**Chairman Kirner:**

Is there any discussion from the Committee?

**Assemblyman Nelson:**

I know that this is a controversial issue. In addition to the employees contributing to PERS, the government and taxpayers also contribute to PERS. I think it is appropriate that they have representation on the Board. I like your amendment.

**Assemblywoman Kirkpatrick:**

This is bothersome to me because I do not know if we have had discussion in this Committee on who gets appointed and how they are appointed. It seems broad as far as accounting, investing, and financial management. I need to understand how appointments work and what the expectations are. Are they nonvoting members or voting members? How does that work with the constitutional piece of who serves on the Board? I remember hearing the history, but I need more information. In the past, we had a lot of private sector people on the Board; they invested unwisely and we lost money. I think we are trying to ensure that this particular fund stays current as they are working toward a 20-year plan. I want to understand how all of that fits into the discussion.

**Chairman Kirner:**

This is not a constitutional issue; it is a *Nevada Revised Statutes* (NRS) issue. The other seven members of the Board have one characteristic in common in that they must have ten years of service as employees of the State of Nevada or a political subdivision and come from various constituencies. There is no requirement in NRS 286.130 for members of the Board to have any experience whatsoever. When I proposed this amendment, I thought it would be reasonable to have people with experience on the Board. If you feel it is appropriate to take out the experience, I would be glad to do that. As far as appointments go and how they are selected, it is no different than the current members in that the Governor makes those appointments. In NRS 286.120 it says the Governor shall review periodically the board administration policies. As far as the history goes, you made reference to the early 1980s. The investment strategies have remarkably changed since then. We have outside investment counselors; these two members hardly make up even a significant minority. I would not anticipate that these people would have any kind of majority position on the Board. In my opinion, all they do is give the

public a voice, which is not represented at all today. I am not trying to make a federal case out of this or create something that is not worthwhile.

**Assemblywoman Carlton:**

I remember the days when PERS was having problems and we were actually in a special session for something else but ended up dealing with one of the PERS issues. I also remember the discussion Senator Amodei and I had at the time about the need to have some public members on this Board so the public is actually represented. We got a major defeat on that because people thought that we would be crossing the line. I would have concerns that this would run into those same issues. I understand what you are trying to do. I always advocate for public members on the different boards, but these are the employees, and the employees happen to be taxpayers of the state also. They have a dual responsibility when it comes to this Board.

**Assemblyman Ellison:**

We heard a similar bill in the Assembly Committee on Government Affairs and another one in this Committee. They did not pass. At this point, I am a no.

**Chairman Kirner:**

My sense is that overall there is great negativity on my amendment. I do not have any hard feelings against PERS. I think this is a reasonable bill and I am going to withdraw my amendment and seek any discussion on the original bill. I see no reason not to pass the original bill.

**Assemblyman O'Neill:**

I appreciate your understanding some of our positions and your retracting the amendment.

**Assemblywoman Kirkpatrick:**

I echo those sentiments because I think that is a pretty stand-up thing to do. I think the original bill for the CFO is important. I would like to make a motion to go forward.

**Chairman Kirner:**

What is the pleasure of the Committee?

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
SENATE BILL 12.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 146 (1st Reprint).

**Senate Bill 146 (1st Reprint): Revises provisions relating to the payment of wages to certain employees. (BDR 53-629)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 146 (1st Reprint) is sponsored by Senator David Parks and was heard in Committee on May 8, 2015. [Referred to work session document ([Exhibit D](#)).] The bill authorizes an employer of a residential facility for a group of similarly situated persons to enter into a written agreement with an employee who is required to be on duty for 24 hours or more to exclude from his or her wages a sleeping period not to exceed 8 hours if adequate sleeping facilities are provided. If the sleeping period is interrupted by any call for service by the employer, the interruption must be counted as hours worked or, to such an extent that the sleeping period is less than 5 hours, the employee must be paid for the entire sleeping period.

Attached is a copy of the mock-up amendment submitted by Senator Parks. Sections 1 and 2 were previously adopted and are reflected in the first reprint. Sections 3 through 5 of the mock-up amend the bill by exempting a domestic service employee who resides in the household in which he or she works from the minimum wage requirements of *Nevada Revised Statutes* 608.018. The mock-up also allows a domestic service employee to agree in writing to exclude from his or her wages any sleeping period, meal period, or free time and defines the terms "domestic service employee," "household," and "free time."

**Chairman Kirner:**

Are there any comments? [There were none.] I will call for a motion.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
SENATE BILL 146 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Are there any questions?

**Assemblyman Ellison:**

Is the amendment going to stay in the bill?

**Chairman Kirner:**

Yes, the motion that was made includes the amendment that Kelly Richard just reviewed. Sections 3, 4, and 5 are a part of that.

THE MOTION PASSED UNANIMOUSLY.

We will now review Senate Bill 162 (1st Reprint).

**Senate Bill 162 (1st Reprint): Revises provisions relating to insurance.  
(BDR 57-950)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 162 (1st Reprint) was sponsored by Senator Michael Roberson and heard in this Committee on April 22, 2015 ([Exhibit E](#)). It repeals current Nevada law governing the provision of medical records by a claimant or a claimant's attorney upon the request of an insurer or other party who is the subject of a personal injury claim brought under a policy of motor vehicle insurance covering a passenger car.

**Chairman Kirner:**

There are no amendments to this bill. Is there any discussion?

**Assemblyman Nelson:**

I had some concerns about this at first. I have spoken with parties on both sides and have been assured that this was a negotiated deal. I am in favor of the bill.

**Assemblywoman Carlton:**

I am not sure what a negotiated deal means. I was not part of any deal. I have been opposed to this since I first heard it numerous sessions ago. I am still a no.

**Assemblywoman Neal:**

I will say ditto to that.

**Chairman Kirner:**

I will call for the motion.

ASSEMBLYMAN NELSON MOVED TO DO PASS  
SENATE BILL 162 (1ST REPRINT).

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, NEAL, AND OHRENSCHALL VOTED NO.)

We will move to Senate Bill 168 (1st Reprint).

**Senate Bill 168 (1st Reprint): Revises provisions relating to collective bargaining by local government employers. (BDR 23-602)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 168 (1st Reprint) was sponsored by Senator James Settelmeyer and Senator Pete Goicoechea and was heard in this Committee on April 24, 2015 ([Exhibit F](#)). It authorizes a local government to reopen a collective bargaining agreement during a fiscal emergency and sets forth the circumstances under which such an emergency shall be deemed to exist. Negotiations must begin no later than 21 days after the local government employer notifies the employee organization that a fiscal emergency exists. The bill provides, for certain governmental funds, that a budgeted ending fund balance of not more than 25 percent of the total budgeted expenditures, less capital outlay, for a general fund is not subject to negotiation and cannot be considered by a fact finder or arbitrator in determining ability to pay compensation or monetary benefits.

**Chairman Kirner:**

Is there any discussion?

**Assemblywoman Kirkpatrick:**

In the spirit of good policy moving forward, I was hoping to work with the Chair for the Senate Committee on Commerce, Labor and Energy to get an amendment to allow the Committee on Local Government Finance to actually determine what the correct ending fund balance is. The Committee on Local Government Finance is an independent committee that oversees local government to ensure they are staying on track with all of their budgets and labor issues. Many of the people who sit on that Committee, including Mary Walker, are testifying in support of this bill. Before I can support this, I would like to see a 16.6 percent ending fund balance of all the budgets.

As a chair of local government, I have seen people move dollars from one account to another account. I will throw my own city under the bus because that is exactly what they did. If the City of North Las Vegas had gone before the Committee on Local Government Finance sooner and had that 16.6 percent ending fund balance instead of 25 percent, we might have been able to catch it. I wish we could have made some amendments. The Governor and I worked on the City of North Las Vegas in heated negotiations to try and get them back on track to save the city as a whole. I agreed to work with the Department of Taxation on another bill. I have bold faith in the Committee on Local Government Finance because, if any of you have met the chair, Marvin Leavitt, he does not take anything lightly. He has no friends in it and he just wants them to do well. I can only hope between now and floor session

that the Chair in the Senate Committee on Commerce, Labor and Energy could agree to some type of reasonable amendment.

**Chairman Kirner:**

I will call for a motion.

ASSEMBLYMAN NELSON MOVED TO DO PASS  
SENATE BILL 168 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, ELLISON, KIRKPATRICK, NEAL, AND  
OHRENSCHALL VOTED NO.)

We will now review Senate Bill 181 (1st Reprint).

**Senate Bill 181 (1st Reprint): Provides for the licensure of certified  
anesthesiology assistants. (BDR 54-240)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 181 (1st Reprint) was sponsored by Senator Joseph Hardy. It was heard in this Committee on April 29, 2015. [Referred to work session document ([Exhibit G](#)).] It provides for the licensure of anesthesiologist assistants by the Board of Medical Examiners and the State Board of Osteopathic Medicine. An anesthesiologist assistant (AA) must work under the medically direct supervision of a supervisory anesthesiologist and may perform certain anesthesia services. The measure provides that an anesthesiologist assistant may only administer controlled substances to a patient with the patient's written consent. There were no amendments proposed to the bill.

**Chairman Kirner:**

What is the pleasure of the Committee?

**Assemblyman Ellison:**

I received a lot of calls from rural doctors who are totally opposed to this. I will be voting no.

**Assemblyman Hansen:**

I am a strong yes on this. My son is at the Mayo Clinic in his second year getting his degree in anesthesiology. I checked with him and did some thorough background checks. There are 17 states that allow AAs. The Mayo Clinic encourages it. They have a similar law enforcing it in Arizona. In my opinion,



this is a bill that is attempting to limit competition. When you look at what the AAs have to do as far as getting degrees, it is very similar to the nurses. There is absolutely no evidence that there is any danger to patients.

I am a little surprised, especially for the free-market people, that they would oppose this. Opposition is clearly based on limiting competition, not on patient safety, because there is a strong track record. I believe the market should be allowed what it wants to do. Additionally, there is a true free-market check. If you are a doctor, you must have liability insurance. As everybody knows, medical malpractice insurance is extremely expensive. If there were any danger from using AAs then these people would not be allowed to get any insurance, or the insurance cost would be so prohibitive that it would prevent doctors from using this methodology. I am a strong yes on this bill and I do so on the basis of dealing with people who are on the front lines, especially a place as reputable as the Mayo Clinic.

**Assemblywoman Carlton:**

I have gone back and forth on this. When I first heard it, I was comfortable with it. I looked deeper and had some concerns. The thing that pushed me over the edge is when my oncologist called me personally and voiced his concerns. It was a Sunday afternoon and we spent 45 minutes on the phone. When your doctor calls you to tell you he has an issue, you listen. I respect Assemblyman Hansen's opinion on this, and I know that last session we passed the advanced practice registered nurse (APRN) bill, but the level of education on this is one of the many unanswered questions for me. I love expanding the health care workforce. Everyone should practice at the top of their license. My whole career I have fought for more health care providers. The phone call on Sunday changed my mind and I will be voting no.

**Assemblyman Nelson:**

I am a cosponsor on this bill and I have really agonized over it. I have the deepest respect for Assemblyman Hansen and Senator Hardy. I communicated with ten anesthesiologists and surgeons whom I know and trust. Two of them thought this was a great bill and the rest did not because they thought it could cause some problems due to the impossibility to supervise four surgeries at once; even two was dubious to them. It is not like you are going to have four surgical suites right next to each other. There might be one surgery going on in radiology, one going on in outpatient, and one going on in inpatient. If something goes wrong during anesthesia, there is no time to run somewhere else.

The other concern is that this could create a second-class citizen in that Medicaid patients will get less good service than other patients who are wealthy

or have good insurance. For those two reasons, regrettably, I am going to vote no.

**Assemblyman Ohrenschall:**

I have learned a lot and have been educated by a lot of people on this. Depending on who I talk to, this is either purely about greed and anesthesiologists making more money, or it is about providing access to patients on Medicaid who would not be able to get that anesthesia care that they need. I am very torn. I am going to vote to get it out of Committee and reserve my right to change my vote on the floor. I believe the whole body should weigh in on this.

**Assemblyman O'Neill:**

I will be voting yes on this for multiple reasons. I actually had doctors, anesthesiologists, and surgeons who are friends of mine call and have long discussions about this. They were initially opposed. The final anesthesiologist who is a close friend of mine said that he may promote his practice going out into the rural areas and opening his practice up to some of the rural hospitals with AAs also.

In 1971, when I became a paramedic, the nurses and doctors were adamantly opposed to those people who had not gone to medical school but were allowed to go out into the field, read an electrocardiogram (EKG) strip, use a defibrillator, or perform a variety of other duties that we all take as standard practice. If it does not have at least one paramedic on the ambulance, it is not worth it—you would not even want to call the ambulance. I see this as a new technology that opens up the field. It makes medicine more available to our citizens. I am hoping for a new medical school or that the medical school we already have at the University of Nevada, Reno takes this on as a possibility and starts instructing AAs.

**Assemblywoman Neal:**

I concur with all that has been said by my colleagues. It was a very difficult situation. I understand the team care model, but I was leaning more toward the certified registered nursing assistant (CRNA) versus the AA and using them in the team care model. After all of this discussion, I will be voting no, but reserve the right to change my vote on the floor.

**Chairman Kirner:**

I will be voting yes on this bill. I will entertain a motion.

ASSEMBLYMAN O'NEILL MOVED TO DO PASS  
SENATE BILL 181 (1ST REPRINT).

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION FAILED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, ELLISON, FIORE, NEAL, NELSON, SEAMAN,  
AND SILBERKRAUS VOTED NO.)

We will move to Senate Bill 193 (1st Reprint).

**Senate Bill 193 (1st Reprint): Revises provisions governing the payment of  
minimum wage and compensation for overtime. (BDR 53-989)**

**Kelly Richard:**

Senate Bill 193 (1st Reprint) was heard in Committee on April 22, 2015, and was sponsored by the Senate Committee on Commerce, Labor and Energy. [Referred to work session document ([Exhibit H](#)).] This measure requires the Labor Commissioner to establish a \$9 per hour minimum wage for an employee in private employment if the employer does not provide health insurance for the employee.

The measure also removes provisions requiring compensation for overtime for hours worked in excess of 8 hours in any workday, while retaining provisions requiring that compensation for overtime be paid to certain employees for hours worked in excess of 40 hours in any week of work.

The attached amendment proposes to revert S.B. 193 (R1) to its original version by removing the requirement that the Labor Commissioner establish the \$9 per hour minimum wage proposed in section 1.

**Chairman Kirner:**

Is there any discussion?

**Assemblywoman Kirkpatrick:**

I would like to say thank you for taking the minimum wage piece out of the bill and solely focusing on the overtime portion. I have some concerns, however. How does this work in the construction industry?

When my husband was in construction, sometimes they worked 12 to 14 hours per day, but then they did not work the whole week depending on the deadline of the job. Would he have been penalized for not working the full 40 hours because in those two or three days he worked around the clock? I think that

construction is different because there are so many variables within the workweek. Weather and all sorts of things can change what that means. I want to understand if this applies to them. The way I read it I think it does.

I also want to understand how this works and why we picked 40 hours. Everything I have seen this session we talk about the average workweek being 30 hours. Economic development was an average of 30 hours a week. We talk about the state average wage which is based on a 30-hour workweek. How is this going to apply to people in the service industry? I know that there are a lot of them who will not be a part of this, but Nevada is a service industry state. In that world, you cannot always guarantee that you are going to get 40 hours. For example, does it apply to people who set up conventions who work 18 hours, are not set up for collective bargaining, but are just regular people who do not have any contracts? It is a feast or famine kind of work. I would like us to discuss that.

**Chairman Kirner:**

In regard to your husband as an example, he was a union worker. Unions are excluded from this requirement. Nonunion workers would not be excluded from this requirement.

With regard to the 30-hour workweek, they would not reach 40, and are therefore not subject to overtime rules under this bill.

**Assemblywoman Kirkpatrick:**

I understand that my husband was a union employee and his package was a negotiated deal. I represent construction workers. I have 24 families on my street and they are all in construction. Not all of them are union workers. Are you saying that because my husband negotiated a contract within his union he is going to get paid overtime because he worked more than 12 hours? Yet my neighbor, who is nonunion and works in the same field, will not get overtime. Is that correct?

**Chairman Kirner:**

That is correct.

**Assemblyman Hansen:**

I am a nonunion construction worker. We often try to negotiate to where we get four 10-hour shifts. In some cases you get rained out on your fourth day. If this bill passes, can we still have four 10-hour days? Also, would the contractor get penalized if you end up with three 10-hour days and one 2-hour day, or would they have to pay overtime on the 10-hour days? I think there was some confusion about that. If in fact we have an agreement

where we are going to work four 10-hour days and for whatever reason one of those days you do not get the full 10 hours, if they are not going to go back and penalize the contractor and force them to pay overtime, then this is okay.

**Chairman Kirner:**

It is my understanding that is the case.

**Assemblyman Hansen:**

I would like our legal counsel to make sure this is correct.

**Matt Mundy, Committee Counsel:**

As to the second part, yes, that is correct. As to negotiating the four 10-hour workweek question, I believe it was struck out. I will look that over right now. The intent of the bill is to go to a straight 40-hour workweek for the purposes of overtime consistent with federal law.

**Assemblyman Hansen:**

That is good, but I want the clarification before we vote.

**Assemblyman Ellison:**

Is this one and a half times what the minimum wage is? And anything above that is excluded?

**Matt Mundy:**

Yes. Originally, if you made less than one and a half times, and you worked more than eight hours per day, then you were entitled to overtime for the excess time over eight hours, and that is what is being struck out. We have taken out all of the exceptions for working over eight hours so that everything is consistent with federal law. If an employer has an employee who has worked the 40 hours, he is not required to pay overtime until the employee reaches that 40-hour threshold, unless there is an exemption met in subsection 2.

**Assemblyman Ohrenschall:**

The problem Assemblyman Hansen was talking about with having contractors work four 10-hour days and getting rained out on the fourth day will be solved for contractors. Moreover, let us say there is a store rushing a deadline for a grand opening, so they hire part-time employees through temporary agencies, but not for four 10-hour days. They need them to work 13 hours before the grand opening, and that is all they need to work. That employee who works 13 hours the day before the grand opening will not be entitled to any overtime because he or she did not hit the 40-hour threshold in a one-week period. If this bill becomes law, is that scenario correct?

**Matt Mundy:**

That is correct. To answer Assemblyman Hansen regarding his earlier question, section 2, subsection 1, paragraph (b) is the agreement with the employee working a scheduled 10-hour day for four calendar days; that language has been removed from the bill. The effect of that is an employer is only entitled to pay overtime once you hit 40 hours in a week. To answer your question, Assemblyman Ohrenschall, that employee would not be entitled to overtime for the five additional hours that he worked over the first eight hours.

**Assemblyman Ohrenschall:**

That really concerns me. I meet constituents who work for the temporary employment agencies who go out every day hoping to get called out to a job and do not know whether they will get 20 hours one week or 30 hours the next week. Sometimes when there is a grand opening or some similar job where they can actually get overtime, it makes all the difference in the world. Most of these people are not making very high wages at all. I am concerned about those individuals. I will be voting no.

**Assemblywoman Kirkpatrick:**

I am still confused on the construction piece. I do not know that everybody has a contract with the general contractor to ensure they get to work four 10-hour days. Some of it is travel time or it just depends. I do not know how that falls in when they do get rained out. If Mr. Mundy can go over that again, I would appreciate it.

I have a different scenario. I worked at minimum wage for a lot of years. I know it is different whether or not it is with health insurance. I know that the Chair of the Senate Committee on Commerce, Labor and Energy had alluded to the fact they had verified that state employees make more than one and a half times the minimum wage so they would not be subject to this. Going through it I found that we have a lot of employees who do make about \$10 an hour. When they first start out, they have those temporary positions for six months to get the experience. In their job, would they then not be subject to overtime if they only worked a 30-hour week? We defined in statute that the average workweek is 30 hours. Is that correct?

**Matt Mundy:**

Yes, that is my understanding.

**Assemblywoman Carlton:**

Being in the restaurant industry for years, I had to work either two jobs or two shifts. There were a number of times where I would work breakfast, take an hour off, work the lunch shift, and then I would work dinner. I was really

only scheduled for two shifts, but if they came up short and I worked that third shift, I got the time and a half for being over the eight hours.

In the restaurant industry you very rarely work 40 hours. There are not that many hours in a week until I moved to Las Vegas where I got an actual designated shift. I would be concerned that I would want to take those overtime hours. The time and a half I made helped pay for day care so that I could stay working and still come out ahead.

Honestly, when you walk in your district and talk to people, I do not think I have heard anybody ask me to lower their wages. I see this as a way to lower wages for people. There are other flexibilities out there. When you are really struggling, trying to make ends meet, that time and a half can make the difference between getting ahead or just breaking even for the week. I have some concerns that there is an economic impact to our constituents. They are living off overtime and it is a part of their budget. I would hate to take that away from them.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS  
SENATE BILL 193 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there any more discussion?

**Assemblywoman Bustamante Adams:**

I want to be clear on the motion that was made. Was it amend and do pass? Does that mean we do not want the amendment?

**Chairman Kirner:**

No, the amendment is we accept the withdrawal of the \$9 per hour. The bill becomes aligned with the Nevada Fair Labor Standards Act of the 40-hour week of overtime.

**Assemblywoman Diaz:**

I have severe concerns about this. As I talked to my constituents in my district, it is becoming increasingly more difficult to obtain a full-time job. A lot of my constituents have two part-time jobs. I think this is giving the upper hand to the employer to expand to a more part-time model without paying employees their benefits or a livable wage in order to stay off social state benefits.

Now they are going to need to work a 14-hour day, but they are not going to get a 40-hour week. They are basically forced to work overtime for the same rate. I see this as a detriment to my constituents and I am opposed to it.

**Assemblyman Paul Anderson:**

I have heard the concerns. I am certainly supportive of the measure, but we have one week before the second house passage. I think there is still some room to work on this. I would be willing to get this out of Committee and then focus on some of the concerns already stated.

**Assemblyman Hansen:**

I apologize. I was confused on parts of this bill. In light of what Assemblyman Anderson just suggested, I would feel the same. I did not realize they were taking out the one and a half times portion. I thought it was still a part of the bill. I am really uncomfortable with people who are making minimum wage not getting a break. I would like to discuss the idea of a conceptual amendment possibly added during a floor session. These are hardworking individuals at the lowest end of the economic ladder and we are taking the little bit away that they get a break on. I am going to support this, but I would suggest we take serious consideration on putting that portion back into the bill.

**Chairman Kirner:**

In my own experience with the industry, my company always paid time and a half after eight hours. We did that, not because it was the law, but because we could. This bill makes the overtime rule consistent with what the other 47 states are doing. Certainly, in Assemblyman Hansen's practice, if he wanted he could pay overtime. Your company probably already makes more than time and a half anyway.

**Assemblyman Hansen:**

I agree with you, Chairman Kirner. I would say that Nevada is unique and we have such a huge portion of our population working in the service sectors for very low wages. I do not like seeing those people possibly being weakened economically by working 13 hours through temporary services, but not getting paid for overtime. I just wanted to throw that into the mix for a possible floor amendment.

**Chairman Kirner:**

I will call for the vote at this time.



THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS, CARLTON, DIAZ, KIRKPATRICK, NEAL, AND OHRENSCHALL VOTED NO.)

**Assemblywoman Kirkpatrick:**

If we can make some amendments, I will reserve the right to change my vote on the floor. If we think back to when we heard this bill and had discussion during the hearing, it was a tough day for all of us. I think there could be further discussion to make it better for Nevadans. I would be willing to change my vote if we can get to that.

**Chairman Kirner:**

I am certainly open to that. You heard Assemblyman Anderson say he is also willing to work on this. I have faith that he will keep his promise.

**Assemblyman Silberkraus:**

I wanted to echo the comments of Assemblymen Anderson and Hansen.

**Assemblyman Ellison:**

I would like to offer assistance to Assemblyman Anderson on getting a floor amendment.

**Chairman Kirner:**

I am going to leave it in his hands. Knowing how he operates, he will engage any number of us. Assemblywoman Seaman will carry the floor statement.

We will move on to Senate Bill 241 (3rd Reprint).

**Senate Bill 241 (3rd Reprint):** Revises provisions relating to collective bargaining. (BDR 23-1030)

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 241 (3rd Reprint) was sponsored by Senator Michael Roberson. It was heard in this Committee on May 4, 2015. [Referred to work session document ([Exhibit I](#)).] It makes various changes relating to collective bargaining. Among other things, the bill excludes a school administrator whose annual salary, adjusted for inflation, is greater than \$120,000, from membership in any bargaining unit; authorizes, under certain circumstances, a local government employer to provide paid leave to an employee for time spent in providing services to an employee organization; reduces from 180 days to 45 days the amount of time within which the Local Government Employee-Management Relations Board must conduct a hearing relating to certain complaints; provides that a collective bargaining agreement between

a local government employer and a recognized employee organization expires for certain purposes at the end of the term stated in the agreement; provides that upon the end of the term stated in a collective bargaining agreement, and until a successor agreement becomes effective, a local government employer shall not, with limited exceptions, increase any compensation or monetary benefits paid to or on behalf of employees in the affected bargaining unit; revises various provisions relating to negotiations between a school district and an employee organization representing teachers or educational support personnel; and provides that during the first three years of employment by a school district, a principal is employed at will.

**Chairman Kirner:**

We heard this in Committee. As you may recall, this bill had the support of both union and management. It is an agreement that has been worked out. I will entertain a motion.

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS  
SENATE BILL 241 (3RD REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Kirkpatrick:**

I will be supporting this. I think there was a lot of work and discussion that went into some reasonable changes. Hopefully, for those of you who will be here next session, you can come back and evaluate it and make sure they did what you wanted. I would be supporting it because I think it is reasonable.

**Assemblywoman Carlton:**

I have the latest version and the first version of the bill. Can I get some clarification on this?

**Chairman Kirner:**

The bill we are voting on is the third reprint of the bill without any amendments.

**Assemblywoman Carlton:**

I have the latest version of the work session document which eliminates the bottom amendment. Is there no additional amendment from the original third reprint that was proposed to us?

**Chairman Kirner:**

The third reprint is the version we are working from. I will call for a vote.

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 286 (1st Reprint).

**Senate Bill 286 (1st Reprint): Revises provisions relating to the Nevada Funeral and Cemetery Services Board. (BDR 54-905)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 286 (1st Reprint), sponsored by Senator Greg Brower, was heard in this Committee on May 8, 2015. [Referred to work session document ([Exhibit J](#)).] It revises various provisions governing funeral and cemetery services. The measure authorizes the Nevada State Funeral and Cemetery Services Board to issue permits for the operation of direct cremation facilities and licenses to persons to engage in the business as a funeral arranger. The bill establishes a two-year duration for most licenses and permits issued by the Board and a continuing education requirement for licensed funeral directors and embalmers. In addition, a person who holds a license, permit, or certificate issued by the Board must comply with the requirements of the federal Occupational Safety and Health Administration. An applicant for a funeral director's license, who applies after January 1, 2016, must have at least one year of active practice as a funeral arranger.

The measure revises the priority of persons who are authorized to order the burial or cremation of a decedent. A person who is arrested for or charged with murder or voluntary manslaughter may not act as the person authorized to order the burial or cremation of the decedent whom the person is accused of killing. Further, an operator of a crematory is required to ensure that any person operating crematory equipment has completed a crematory certification program approved by the Board. The attached amendment ([Exhibit J](#)) was submitted by Garrett Gordon on behalf of Hawkins Holdings LLC. The amendment would clarify a cemetery authority's ability to sell, mortgage, or encumber property from which human remains have been lawfully removed. It is my understanding that this amendment is approved by the bill sponsor.

**Chairman Kirner:**

Is there any conversation?

**Assemblywoman Carlton:**

The bill sponsors came to visit with me yesterday, and I thank them for coming to talk to me before this work session. In another conversation with one of my colleagues, it was brought to my attention that this particular cemetery was a topic of discussion a couple years ago. A lot of the people who were buried there had died from anthrax. My concerns with this are on the health side.

I realize what they are trying to do, but I need to understand the health concerns as far as when this cemetery is shut down, and if that land is reused, how do we make sure that it is safe for the public?

**Chairman Kirner:**

I appreciate that. I believe there is some sort of process they have to go through before the land would be used.

**Assemblywoman Carlton:**

I believe there is, but I do not know what it is. This came up in another bill during the legislative session of 2013. There were also issues then. I want to be sure that whatever we do here today is not the proverbial camel's nose under the tent and that we provide the level of public safety we need to provide.

**Chairman Kirner:**

Will the bill sponsor and the sponsor of the amendment please come forward? While you are settling in, there is another comment.

**Assemblywoman Kirkpatrick:**

This matter came up when Assemblyman Elliot Anderson had the bill in the legislative session of 2011 because they were trying to use a burial ground within his district to make it move forward. From that particular hearing, the Southern Nevada Health District testified that there is an entire process as a dormant piece that they go through. Outside of what these sponsors say today, I would be willing to track that down and get the legislative record because there was a long debated discussion about it. I believe that the District has a process.

**Jennifer Kandt, Executive Director, Nevada State Funeral and Cemetery Services Board:**

There is a disinterment process already in place. It requires permits from the county. This has nothing to do with the actual disinterment process. It is the process after the bodies have been disinterred as to who has authority over the land to do different things. I will turn it over to Garret Gordon to further explain what they are trying to do.

**Garrett Gordon, representing Hawkins Holdings, LLC, Sacramento, California:**

The cemetery in question already has a health permit in place from Washoe County. We made sure to go through that process. The permit has been issued and it is valid. Health concerns were reviewed at the time of issuance. The amendment does not create any new process. There is already a disinterment process that takes place and is already in statute, including

starting with providing proper notice, getting a health permit, and going through the proper steps. This amendment describes what happens at the very end of it. We believe there was a hole in the statute. We want to address what the Funeral and Cemetery Services Board can do after it has legally gone through the whole process, including obtaining a valid health permit. What happens at that point in time? This amendment says the Board can sell, mortgage, et cetera, the remaining property. We believe this is for purposes of economic development.

I would note that you cannot move forward with the disinterment process unless two prongs are met at the very beginning. The first prong is blight. It has to be a blighted piece of property. The second is there is no financial provision for that property moving forward. Those two findings have to be met and able to move through this process. We believe the cemetery in question is up by the University of Nevada, Reno, and would be a great piece of property to move forward with if and when you go through all the proper steps under the statute.

**Assemblywoman Kirkpatrick:**

Currently there is a process in statute with local government. In my mind it is no different than a gas station. After a gas station has had fuel in the groundwater, we have to let it be dormant. There is a clean-up process to go through, and we have to let it sit awhile. Then you have to go back before local jurisdictions in order to make sure all of those things are done for the environmental piece of it before any permits can be issued. I believe I see this the same way.

This is a stretch for me because I was the one trying to kill the Board last session, but I think Jennifer Kandt has done an amazing job with the second chance. I want to understand that we are not giving too much authority away from the local governments because it is truly an environmental issue. Regular people own the land that cemeteries are on. Would this be giving an additional approval as well as local governmental approval?

**Garrett Gordon:**

First, cemeteries in this state are owned both by government and by private party. This bill does nothing to take any jurisdiction away from any city or county for purposes of zoning, discretionary approvals, health permits, or federal review. Any contractor who performs this work must meet certain criteria for federal and state licenses they must have. It also does not add any review by the Board. The bill is germane to this issue. Jennifer Kandt and the Board did not and will not review this. We are simply confirming with respect

to what happens after the disinterment process that the property could move forward for purposes of economic development.

**Assemblywoman Kirkpatrick:**

The language that states it is automatically transferred to the cemetery authority and then can be sold, mortgaged, and securitized for a loan is troublesome to me. I do not see the connection of trying to take a cemetery, remove all of the remains, and put them somewhere else because it is now in a spot that has encroached on other things. I am curious why the amendment did not present itself in the Senate.

**Garrett Gordon:**

That language with respect to sold, mortgaged, and securitized for a loan is pulled from other locations in the statute. We are simply reusing that language and putting it here to make it clear that after you have gone through the whole process, NRS 451.320 is at the very end. The very end talks about recording a declaration with the county recorder saying that you have followed the process and obtained all of the state and federal permits. The land is now free and clear. The declaration is being recorded so if that land is actually sold, you can get title insurance and other things.

I will argue that we are not changing the law, but we are clarifying the law by putting in some language that has been in other provisions. We are clarifying the law at the bottom of the process to confirm that no matter how those burial processes are held—if by a license, by an easement, by fee simple title—that you follow the whole process. The legislative intent is that if it is blighted and there is no financial provision we want to make sure something good happens.

This amendment was not brought up in the Senate. It was brought up recently and I know it is coming out of left field. There has been interest in it for a long time given Reno is trying to become a university town and this is an infill project. Steve Polikalas has a group which is looking at this property, and given the uncertainty of how this statute reads, this will be helpful in moving the project forward. There has just now been interest, and that is why we are here today. We have a deadline date today and we are here today before you asking for this amendment.

**Assemblywoman Bustamante Adams:**

We said during Committee that the Board has made great effort to bring themselves back to being relevant for Nevadans, so congratulations, we appreciate that. I know that some people were able to be briefed on the amendment. I did not see it until probably an hour ago and it concerns me. I do not want you to mess with the Board because they are on a great trajectory on

getting themselves back. I am surprised why you would accept the amendment and I am concerned things would get messed up. It is not the right time for it.

**Assemblyman Ohrenschall:**

Regarding the part in the bill about the spouse being accused, why not wait until a conviction? What if they are accused and there is no close family member nearby to make the funeral arrangements? It is possible that they are acquitted, or the case is dismissed, but maybe they were accused and maybe not. I just wonder why. I also have a question on the amendment.

**Jennifer Kandt:**

Again, there is a timeliness factor here. When someone has died and everyone is waiting for arrangements to be made, oftentimes what happens is the accused individual has been incarcerated. The funeral home is then left with sending the family to get a court order so they can authorize cremation or burial. We are not saying that means any random person is going to take over and decide; it just goes down to the next family member in line. The spouse is always at the top of the list and it would then go to another family member such as a sibling or child.

**Assemblyman Ohrenschall:**

Are there many other cemeteries in the state you think this would be applicable to? Are there any family members or heirs still around who might care about whatever kind of property right is extinguished? And have you spoken to them?

**Steven T. Polikalas, representing Hawkins Holdings, LLC, Sacramento, California:**

The notice provisions of the statute give rise to all of the notices of the heirs or friends. All of that has to be accomplished prior to any disinterment. They are all put on notice, so at that point they bring forth any concerns they may have. I would also like to clarify that the cemetery authority referred to in Chapter 451 is not a funeral board. It is a separate entity and so it is not a governmental cemetery authority unless it is owned by a government. In NRS 451.280 it provides the authority to sell and encumber a cemetery once the statute has been complied with. This is simply to confirm what happens following the successful disinterment and reinterment of the remains.

**Assemblyman Ohrenschall:**

Let us say there is a great-grandson of one of the deceased persons. Will an effort be made to try and move the remains somewhere here in the Reno area rather than far away?

**Steve Polikalas:**

That is part of the notice statutes to notice the heirs as to where the remains are going. At that time, they have the choice to consent to where the reinterment is to take place and whether or not it is at the same cemetery. There would be a place where there was a financial provision for the further upkeep because in a blighted cemetery like this, all that happens there is people park and drink on it and do things that are not of any benefit to the decedents. This provides the ability for a new financial entity to come in to move the remains into a place that has appropriate financial upkeep.

**Assemblyman Ohrenschall:**

Does the fact that a cemetery is blighted mean a redevelopment agency or local authority can already take over?

**Steve Polikalas:**

To be clear, it is not a redevelopment agency; it is the cemetery authority or a governmental authority. The determination is if the further maintenance of the cemetery is not in accordance with the health, safety, comfort, and welfare of the public, or if there is no financial provision to be made for the future care of gravesites within the specified area. These are the findings that need to be made by the local governmental authority or the private or public cemetery ownership to remedy the blighted condition of the cemetery.

**Assemblyman Nelson:**

Mr. Gordon, are these plots given a fee simple title or are they just licenses?

**Garrett Gordon:**

That question nails the amendment on its head. The answer is yes to both. Certainly in some cemeteries it is a license, in some it is an easement, and in others it is a fee simple title. This amendment clarifies that the process applies to three of those scenarios. I think that was the intent of the original legislation and this amendment just clarifies that for purposes of going forward.

**Assemblyman Nelson:**

This is not a taking if it is fee simple? I would assume the heirs would own the property. If it is fee simple, it would pass on to the decedents of whoever owned it, correct?

**Matt Mundy, Committee Counsel:**

That is a great question and one the Legal Division also looked at. There is no case law on that point in Nevada, but there is quite an extensive case law on the interest in a burial plot in which no one has been interred. To cite the Supreme Court of California, the right of the lot holders to be buried in



a cemetery was terminated and destroyed under the police power of the state. In the case of the state of Washington's Supreme Court, the court held that consistent with nearly universal authority in this country, no fee interest, and no interest in the land itself, is carried with a transfer of interment rights. The courts have basically said that even if you say it is a fee simple transfer, it is really an easement or a license contingent upon the use of the property. Once the property is no longer dedicated for the purposes of a cemetery, that interest terminates or is extinguished.

**Assemblyman Nelson:**

Does this escheat to the state?

**Matt Mundy:**

In this context we are talking about cemetery authorities. We are talking about if you are referring to eminent domain or combination action. We are not talking about a situation where the state is compelling a private owner to transfer his interest in property to another private owner. That is prohibited by the *Nevada Constitution*, but this is a private property owner choosing to undedicate property as a cemetery for certain reasons under certain conditions.

**Assemblyman Nelson:**

Obviously we want to avoid any potential quiet title actions down the road. Mr. Gordon, do you feel strongly that this statute will take care of that?

**Garrett Gordon:**

Yes.

**Assemblywoman Neal:**

Mr. Polikalas, which statute did you cite in regard to the authority to dispose of the land? Was it NRS 451.280?

**Steve Polikalas:**

Yes.

**Assemblywoman Neal:**

At the end of NRS 451.280 it says that the "portions from which all human remains have been removed, may be sold, mortgaged or otherwise encumbered as security for any loan or loans made to the cemetery authority." Is this money going to the cemetery authority if these bodies are moved?

**Steve Polikalas:**

If there is a sale, yes.

**Assemblywoman Neal:**

It does not say that you can sell it and then you develop a mall on the property and whatever happens to the land is supposed to recycle itself to the cemetery authority. Is that accurate?

**Steve Polikalas:**

I believe so. In essence, it is the cemetery authority that would be receiving the loan, the proceeds of the sale, or the encumbrance consideration.

**Assemblywoman Neal:**

How does this benefit you if you do an economic development part? Who owns it? Is it the cemetery authority board or the private developer?

**Garrett Gordon:**

The term cemetery authority is defined in NRS 451.069 as the property owner. The cemetery authority can either be a governmental entity if they own the cemetery, or it could be a private party who owns the cemetery. I understand your confusion. We were confused when we first read the statute. Cemetery authority can mean whoever owns that actual property.

**Assemblywoman Neal:**

I thought it was already privately owned as is.

**Steve Polikalas:**

It is.

**Chairman Kirner:**

Based on what you are saying, because it is privately owned, whoever that private owner is, is the authority. Is that correct?

**Steve Polikalas:**

Yes.

**Assemblywoman Neal:**

Is their authority being usurped somehow by this bill? Either way, it does not matter because we are going in circles about a last-minute amendment. You can take a motion because I am a no. I do not agree with the amendment. I do not like it or what it does.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS  
SENATE BILL 286 (1ST REPRINT).

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

THE MOTION FAILED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, ELLISON, FIORE, KIRKPATRICK, NEAL, NELSON,  
AND OHRENSCHALL VOTED NO.)

How would the Committee feel if we remove the amendment? It looks as if Assemblyman O'Neill would like a one-minute recess.

**Assemblywoman Kirkpatrick:**

I would remind Committee members that we have the opportunity to do floor amendments once there is a little more discussion. We have until next Friday for second house passage from the Assembly floor session. I do not want to kill the bill for someone who has worked very hard because there are some unclear pieces in the bill. At some point, we just need to determine if we want to penalize the person who is doing the job.

**Chairman Kirner:**

Assemblywoman Kirkpatrick is correct. If after some consideration we want to make an amendment on the Assembly floor, we have a week to do so. I would like to get the basic bill passed out of Committee.

**Assemblywoman Bustamante Adams:**

I would like to make a motion to do pass to continue the conversation so we get our questions answered on the amendment that was proposed at the last minute.

**Chairman Kirner:**

I will entertain your motion.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO DO PASS  
SENATE BILL 286 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will now review Senate Bill 341 (1st Reprint).

**Senate Bill 341 (1st Reprint): Revises provisions relating to dentists.  
(BDR 57-261)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 341 (1st Reprint), sponsored by Senator Debbie Smith, was heard in this Committee on May 8, 2015. [Referred to work session document ([Exhibit K](#)).] It provides that insurers who offer individual health insurance or group health insurance, nonprofit corporations for dental service, health maintenance organizations (HMO), and organizations for dental care who enter into agreements with third parties to provide access to dentists must comply with certain requirements. The bill requires such insurers to provide a dentist with a notice containing certain information prior to entering into a contract and before executing an agreement with a third party. The measure requires the third party to maintain a website or toll-free telephone number for dentists to obtain contact information for the person used by the third party to reimburse the dentist for covered services. Finally, the bill prohibits the assignment or sale of a contract that includes a dentist that would hinder the ability of the dentist to manage his or her practice, including scheduling patients.

Chris Ferrari has submitted the attached amendment ([Exhibit K](#)) on behalf of the bill's proponents, the Nevada Dental Association. The amendment proposes to strike the bill entirely and replace it with a provision requiring medical discount plans that contract directly with a dentist to provide certain notices and disclosures. The amendment also requires a medical discount plan that is the assignee of a contract with a dentist to issue certain notices.

**Chairman Kirner:**

Is there any discussion?

**Assemblywoman Carlton:**

When I originally looked at my documents I thought we were amending something in. This is an entirely new bill. The provisions that were in the HMO sections and everything we discussed in the hearing are all gone. I have had an issue with medical discount plans for the last few years with the advent of the way we do health insurance in this state now with everyone being required to actually have health insurance. I have constituents who have been sold these medical discount plans thinking they were buying health insurance. When they got to the doctor they found out they did not have it. Thankfully, it was before we started fining people for not having health insurance.

I have concerns about doing more disclosure on a product that really is not necessary in this state any longer since everyone is now required to have health

insurance. Without understanding more, and I apologize to the proponents of this bill because I thought this was in addition to the original bill—I like the original bill and now it is gone—I have concerns with what we are actually going to be doing here. I have not had a chance to talk to the sponsor of the bill.

**Chairman Kirner:**

Chris Ferrari is in the audience. He will come up to answer questions.

**Assemblywoman Carlton:**

Senator Smith is the sponsor of the bill.

**Chairman Kirner:**

Yes. Mr. Ferrari actually worked with Senator Smith on the bill.

**Chris Ferrari, representing Nevada Dental Association:**

In working on this bill with Senator Smith and the insurers, we came to a point of identifying the biggest challenge in regard to the dental discount plans or medical discount plans, which is that some of our members would find people in their waiting rooms not being aware that they were contracted with the particular discount plan, and that creates an awkward scenario both for the patient and the provider. It also does not allow our members, as providers, to do them the greater service.

With this particular amendment, we are trying to address the problem head on and make sure there is a sufficient notification process to the provider so that they can be prepared to receive the patient and to provide them the services that they had purchased. We are very supportive and appreciative of the Committee's support of the measure.

**Keith Lee, representing Nevada Association of Health Plans:**

As Mr. Ferrari indicated, our members are not a part of the problem. The problem is the discount plans. What happens is the dental network all of a sudden rents itself somewhere else or to another entity. Then the members who are covered by the rented discount plan either call the dentist or show up and expect to be treated and covered, but the dentist has no idea the plan has been assigned. It is not an issue that affects the health insurance providers. That is why we worked on this bill and amended it to get it to point directly to the culprits in this area, and that is the discount plan that takes advantage of the providers, in this case, the dentists.

**Assemblywoman Carlton:**

It is not the providers I am worried about; it is the constituents buying these plans and being abused. I do not understand why we are giving more disclosure

on something that should not be sold in the state anymore because it does not comply with the health care law of the land. I dislike these plans and I have disliked them for a very long time. No matter how much disclosure you put on this pig, it is still going to be a pig. I understand that you represent the providers, but I represent the constituents who get abused by the people who sell these plans. I do not think any amount of disclosure is going to fix something that is this broken.

**Chris Ferrari:**

I am certainly not here to dispute the valor of the plans themselves. All we are asking for is that there is simply a notification process that can help us do the work we are being asked to do.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS  
SENATE BILL 341 (1ST REPRINT).

ASSEMBLYMAN NELSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, NEAL, AND OHRENSCHALL VOTED NO.)

Are there any other comments?

**Assemblywoman Kirkpatrick:**

I am going to vote to get this bill out of Committee, but I reserve the right to change my vote. I talked to all sides that were involved and they seemed in agreement. They reverted back to the original intention of the bill which was to just address the one issue of oral maxillofacial surgery. I will dig a little deeper to make sure that we are all on the same page. I support it for those reasons of reverting back to the original bill as opposed to having something more broad.

**Chairman Kirner:**

We will move to hear Senate Bill 370 (1st Reprint).

Senate Bill 370 (1st Reprint): Revises provisions relating to barbering.  
(BDR 54-673)

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 370 (1st Reprint), sponsored by Senator Kelvin Atkinson, was heard in this Committee on May 8, 2015. [Read work session document ([Exhibit L](#)).]

This bill requires the State Barbers' Health and Sanitation Board to oversee the examination for a license as a barbering instructor but prohibits the Board from administering any part of the examination. The bill provides that the examination for a license as an instructor must include a practical demonstration and written test. The Board must contract with a national organization to administer the examination for such a license and use only proctors who are licensed barbers in Nevada and approved by a national organization to administer the practical demonstration portion of the examination.

The measure provides that an applicant for license as an instructor may fail to pass the examination two times before he or she must complete 250 hours of further study. The bill revises the ratio of students enrolled in a barber school to instructors required to be on the premises of the barber school, and a barber school must have at least one barber's chair for each student present during instruction in the barber school. Finally, the bill requires an applicant for a license to operate a barber school to submit information to the Board demonstrating that the barber school will be owned and operated by at least two instructors.

Assemblywoman Seaman would like to introduce an amendment for your consideration on the bill. The amendment would revise section 2, subsection 4, to provide that an applicant for license as an instructor, who fails to pass the required examination, may retake the examination as many times as it is offered within the following 365 days. The applicant would be required to pay for each examination. If, after 365 days from the first failed examination, the applicant has not yet passed the examination, the applicant must complete 250 hours of further study in a barber school approved by the Board before he or she may retake the examination.

**Chairman Kirner:**

Is this a friendly amendment, Assemblywoman Seaman?

**Assemblywoman Seaman:**

Yes, this is a friendly amendment that the sponsor of the bill has agreed to and actually wanted.

**Chairman Kirner:**

When I read the language, the intent is much more clear to me as opposed to what is in the bill itself. I appreciate the fact that Senator Atkinson has accepted this amendment. Is there any discussion?

**Assemblywoman Bustamante Adams:**

I appreciate the amendment also. I like the fact that we are giving Nevadans an opportunity to retake the examination more than two times. I am grateful we are making some changes on this Board.

The bill says that the barber school will be owned and operated by at least two instructors. Maybe we can look into this further next session, but I do not think a barber school has to be owned by an instructor. It could be owned by a businessperson who hires the instructor to teach and oversee the students. We are making steps forward and I am glad for Assemblywoman Seaman's amendment.

**Assemblywoman Seaman:**

I agree with Assemblywoman Bustamante Adams. I wonder if we could possibly work together on another amendment because I do not understand why two instructors must own the barber shop. It could have been a typo.

**Chairman Kirner:**

The bill does call for two instructors to be owners.

**Assemblywoman Seaman:**

Why?

**Chairman Kirner:**

I am not saying it is right or wrong. I am just stating what the bill says.

**Assemblywoman Carlton:**

In one of my first sessions in this Legislature, this was a topic of discussion because the licensees would actually be under the jurisdiction of the Board and there would be a regulatory body that would make sure they would comply with all of the barber regulations and instructions. Within the postsecondary education realm, we wanted to make sure that if people paid for the instruction that there was actually someone who had the hammer over them. It is a very expensive process to go through. Ultimately, if they do not get licensure then they paid for an education that they cannot make any money off of. The discussion was to have the actual licensee be the instructor and the owner. Whether that needs to evolve and change is fine; I just wanted to give you the history of where that came from.

**Chairman Kirner:**

Thank you.



**Assemblywoman Seaman:**

I am thankful for the history. I am wondering if we can possibly change that to be at least one instructor instead of two. What I understood from the bill sponsor was that it is so hard to find instructors. I think to need to have two instructors to own the shop is very difficult. If the Committee and bill sponsor are okay with it, I would like to amend it to be one instructor-owner because I think this might be easier.

**Chairman Kirner:**

I will let the bill sponsor reply to that request.

**Senator Kelvin Atkinson, Senate District No. 4:**

We negotiated with the instructors and the barbers and we actually wanted just one instructor. They did not think that would work, so we changed it to two instructors. If you look at the language in the bill it is one instructor until 2017. If people need to get together before now and then, they can do so. Hopefully by 2017 we will have more instructors and people will have the ability to do that.

**Chairman Kirner:**

Based on what I am hearing you say and in your discussions with your constituents with regard to this, I am not hearing a need to make an amendment at this time. Is that correct?

**Senator Atkinson:**

No, it is not necessary because it has already been addressed. That is why the 2017 language is in the bill. It gives them the opportunity to get going now.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN BUSTAMANTE ADAMS MOVED TO AMEND  
AND DO PASS SENATE BILL 370 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON  
VOTED NO.)

We will move to Senate Bill 393 (1st Reprint).

**Senate Bill 393 (1st Reprint): Revises provisions related to Oriental medicine.  
(BDR 54-864)**

**Kelly Richard, Committee Policy Analyst:**

Senate Bill 393 (1st Reprint) was presented by Senators David Parks and Tick Segerblom and Assemblyman Pat Hickey. It was heard in Committee on March 25, 2015. [Referred to work session document ([Exhibit M](#)).] It revises provisions related to Oriental medicine and exempts a practitioner of acupuncture from the licensing requirements of *Nevada Revised Statutes* Chapter 634A if the practitioner is: (1) employed by a school of Oriental medicine that is located in Nevada, which has received at least candidacy status for institutional accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine; (2) licensed in another state or jurisdiction; and (3) limited in his or her practice to teaching, supervising, or demonstrating the methods and practice of acupuncture in a clinical setting and does not accept payments from any patients relating to his or her practice of acupuncture.

**Chairman Kirner:**

There are no amendments on this bill. Is there any discussion?

**Assemblywoman Neal:**

Is a person who does acupuncture no longer under the medical statutes?  
Can you practice acupuncture without a license?

**Kelly Richard:**

This bill is intended to exempt someone who is employed by a school of Oriental medicine located in the state of Nevada. The idea would be if they could bring over experts in the field to work at the school and teach.

**Chairman Kirner:**

They would not be allowed to practice, only teach. I will entertain a motion at this point.

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS  
SENATE BILL 393 (1ST REPRINT).

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON  
VOTED NO.)

Senate Bill 181 (1st Reprint) failed earlier today. I would like to bring it back up and have some discussion.

**Senate Bill 181 (1st Reprint): Provides for the licensure of certified anesthesiology assistants. (BDR 54-240)**

**Assemblyman Nelson:**

I would like to make a motion to reconsider S.B. 181 (R1). I will vote yes to get it out of Committee so the entire body on the Assembly floor can hear it.

**Assemblyman Silberkraus:**

I am still opposed to this and still have great discomfort with it. I will give us the extra week to continue the discussion.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYMAN NELSON MOVED TO RECONSIDER  
SENATE BILL 181 (1ST REPRINT).

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, ELLISON, FIORE, NEAL, AND SEAMAN  
VOTED NO.)

I will now entertain a motion to do pass.

ASSEMBLYMAN HANSEN MOVED TO DO PASS  
SENATE BILL 181 (1ST REPRINT).

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

Is there any further discussion?

**Assemblyman Ohrenschall:**

I have concerns. I have one group of people telling me this is all about greed and I have another group telling me this is about access for Medicaid patients. I have tried to figure out what the truth is and I am still not there yet.

**Chairman Kirner:**

If this were not a deadline day, I would allow us more time to think about this and have more discussion. I would like to get it passed out of Committee and take a week to contact our people and see if that helps our decision-making.

**Assemblyman Nelson:**

Ditto to Assemblyman Ohrenschall's comments. I also reserve the right to change my vote on the floor.

**Assemblyman Silberkraus:**

Ditto as well for me.

**Assemblywoman Carlton:**

For clarification, this is not just about Medicaid; this is about every patient in the state of Nevada. I do not want it to be perceived that this is just for Medicaid patients, but it is for anyone who will be walking through that door.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS,  
CARLTON, DIAZ, ELLISON, FIORE, NEAL, AND SEAMAN  
VOTED NO.)

We have completed the work session for today. Is there any public comment?  
[There was none.] This meeting is adjourned [at 3:25 p.m.].

RESPECTFULLY SUBMITTED:

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Janel Davis  
Committee Secretary

APPROVED BY:

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Assemblyman Randy Kirner, Chair

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

**EXHIBITS**

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

**Date:** May 15, 2015

**Time of Meeting:** 1:38 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 12	C	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 146 (R1)	D	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 162 (R1)	E	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 168 (R1)	F	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 181 (R1)	G	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 193 (R1)	H	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 241 (R3)	I	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 286 (R1)	J	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 341 (R1)	K	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 370 (R1)	L	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 393 (R1)	M	Kelly Richard, Committee Policy Analyst	Work Session Document