

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

**Seventy-Eighth Session
May 25, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 6:54 p.m. on Monday, May 25, 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. 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; 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
Senator Patricia Farley, Senate District No. 8

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:

Shawn M. Elicequi, Senior Vice-President, Regulatory and Strategic
Planning, NV Energy
Robert S. Uithoven, representing The Alliance for Solar Choice

Chairman Kirner:

[The roll was taken and a quorum was present.] We have three bills in work session. [The Chairman removed Senate Bill 440 (1st Reprint) from the work session prior to the meeting.]

**Senate Bill 440 (1st Reprint): Revises provisions relating to insurance.
(BDR 57-983)**

We will move to Senate Bill 24 (1st Reprint).

**Senate Bill 24 (1st Reprint): Revises provisions governing unemployment
compensation. (BDR 53-383)**

Kelly Richard, Committee Policy Analyst:

Senate Bill 24 (1st Reprint) was heard in this Committee on May 23, 2015. [Referred to work session document ([Exhibit C](#)).] It was sponsored by the Employment Security Division of the Department of Employment, Training and Rehabilitation. It allows members of the Nevada National Guard or Nevada Air National Guard to use their military wages to establish an unemployment claim. The bill allows the Administrator of the Employment Security Division (ESD) of the Department of Employment, Training and Rehabilitation (DETR), by cooperative agreement, to provide employment and wage information to the Board of Regents of the Nevada System of Higher Education in order to facilitate the required longitudinal data system. The bill revises the requirement

that limits the elected base period for filing an unemployment insurance claim by a person who has received benefits for a temporary disability or money for rehabilitation services. The bill also extends the period the Administrator of the ESD may recover any overpayment of benefits in cases involving fraud, misrepresentation, or willful nondisclosure from five years to ten years. Finally, the bill expands the circumstances considered as an act of fraud to include the failure by an individual to disclose, at the time of filing for or receiving unemployment insurance benefits, that the individual had filed a claim for or received any compensation for a disability or money for rehabilitative services. There are no amendments.

Chairman Kirner:

Is there any discussion? Seeing no discussion, I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE BILL 24 (1ST REPRINT).

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

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

Our next bill to consider is Senate Bill 253 (1st Reprint).

Senate Bill 253 (1st Reprint): Enacts provisions governing the sale of guaranteed asset protection waivers. (BDR 57-795)

Kelly Richard, Committee Policy Analyst:

Senate Bill 253 (1st Reprint) was heard in Committee on May 23, 2015, and was sponsored by Senator Farley. [Referred to work session document ([Exhibit D](#)).] The measure provides that guaranteed asset protection (GAP) waivers are exempt from the provisions of the Nevada Insurance Code, except for those provisions that give the Commissioner of Insurance the authority to regulate and conduct investigations and hearings on violations of the law. The bill authorizes a creditor to sell a GAP waiver to a borrower who owes or expects to owe money to the creditor due to a motor vehicle finance agreement. The costs of the GAP waiver must be separately stated as part of the amount financed and must not be considered a finance charge or interest. The bill requires certain information to be disclosed in a GAP waiver, including a conspicuous statement that it is not a policy of liability or casualty insurance and does not satisfy the requirement to maintain such insurance. The bill requires a free-look period in which a borrower may cancel the GAP waiver and receive a full refund. If the refund request is made outside of the free-look

period, a borrower must provide the refund request in writing. It also authorizes a creditor to apply any refund owed to the borrower because of the cancellation of the GAP waiver to the amount owed to the creditor pursuant to the finance agreement.

Chairman Kirner:

Is there any discussion? [There was none.]

ASSEMBLYMAN SILBERKRAUS MOVED TO DO PASS
SENATE BILL 253 (1ST REPRINT).

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Is there any discussion.

Assemblyman Ohrenschall:

I will vote to move this bill out of Committee, but I reserve my right to change my vote on the floor.

Chairman Kirner:

Assemblymen Bustamante Adams, Diaz, Kirkpatrick, and Neal also reserved their rights to change their votes on the floor.

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN CARLTON VOTED NO. ASSEMBLYMEN HANSEN, NELSON, AND SILBERKRAUS WERE ABSENT FOR THE VOTE.)

We will move to Senate Bill 374 (2nd Reprint).

Senate Bill 374 (2nd Reprint): Revises provisions relating to energy.
(BDR 58-800)

Kelly Richard, Committee Policy Analyst:

Senate Bill 374 (2nd Reprint) revises provisions relating to energy. It was sponsored by Senator Farley and was heard in Committee on May 20, 2015. [Referred to work session document ([Exhibit E](#)).] Senate Bill 374 (2nd Reprint) prohibits the Director of the Office of Energy and a governing body of a local government from adopting a standard mandating requirement for air changes per hour that is outside certain ranges. The adoption of certain energy conservation standards by the Office of Energy and a governing body is not deemed to prohibit the Director or governing body from approving and

implementing certain energy efficient programs related to new residential construction.

Senate Bill 374 (2nd Reprint) requires an electric utility to offer net metering to customers who install net metering systems on or after the date on which the cumulative capacity of all net metering systems operating in this state is equal to 3 percent of the total peak capacity of all electric utilities in this state in accordance with a tariff filed by the electric utility and approved by the Public Utilities Commission of Nevada. The measure sets forth the authority of the Commission relative to the approval of such tariffs. An electric utility must submit the proposed tariff to the Commission no later than July 31, 2015, and the Commission must review and approve or disapprove each such proposed tariff not later than December 31, 2015. The bill allows the Commission to charge net metering customers time-of-use rates. In addition, an electric utility must include in an integrated resource plan an analysis of the effects of net metering on the reliability of the distribution system and the costs to the utility to provide electric service to all customers.

There is an amendment attached, submitted by Senators Atkinson, Farley, and Settlemeyer. The amendment removes the requirement that the utility offer net metering to customer-generators until the cumulative capacity of all net metering systems operating in the state is equal to 3 percent of the total peak capacity of all utilities. Instead, this amendment requires the utility to offer net metering to customer-generators until the cumulative capacity of all net metering systems, for which all utilities in this state have accepted or approved completed applications for net metering, is equal to 235 megawatts. After the date on which the cumulative capacity requirement is met, the utility is required to offer net metering in accordance with a tariff filed by the utility pursuant to the bill and approved by the Commission.

The amendment also allows the Commission to determine if the tariff approved under this bill should apply to customer-generators who have accepted an offer of net metering before the cumulative capacity is met. Additionally, it removes language that would have allowed the Commission to approve a net metering tariff at its discretion and without a hearing. The amendment provides that, in the event a court order prohibits the issuance of a written order by the Commission or the approval of a tariff, or stays or prohibits the enforcement of a written order of the Commission, the utility is not required to continue offering net metering past the date upon which the cumulative capacity requirement is reached.

Finally, the amendment provides clarification that a tariff approved under this bill cannot take effect until after the date on which the cumulative capacity

requirement is met. If the Commission does not approve the required net metering tariff by December 31, 2015, beginning on January 1, 2016, the utility shall offer net metering to customer-generators in the manner consistent with current law.

Chairman Kirner:

The public has been very interested in this bill. When this bill was heard, there was not an agreement. It is my understanding that there has been an agreement reached. Will somebody testify to that?

Senator Patricia Farley, Senate District No. 8:

There has been an agreement. That agreement is detailed in the proposed amendment.

Chairman Kirner:

I would like the parties involved to be in agreement.

Shawn M. Elicequi, Senior Vice-President, Regulatory and Strategic Planning, NV Energy:

NV Energy supports the amendment to S.B. 374 (R2) and the agreement as represented in the version in the Nevada Electronic Legislative Information System is acceptable to the company.

Robert S. Uithoven, representing The Alliance for Solar Choice:

We, too, support the amendment, and we are happy to be here in support of the legislation.

Chairman Kirner:

Are there any questions?

Assemblywoman Kirkpatrick:

I do not want the minutes to reflect that there is an agreement because that is pretty hard to trace so far as the legislative intent. I want to be walked through the process one more time because I do not know where we are in relation to megawatts as opposed to the 3 percent. Can someone explain what the expectation is? Are we still staying with the Public Utilities Commission of Nevada (PUCN) evaluating it? They were going to release something in September. What about the 235 megawatts and what happens from there?

Robert Uithoven:

This amendment will define the existing 3 percent net metering cap to be 235 megawatts. This 235 megawatts will be the maximum amount of net metering permitted under the current net metering rules until

December 31, 2015. The amendment will also require that the PUCN design a future net metering tariff with wide latitude for the Commission to structure that new tariff. The amendment will require the Commission to finalize a new tariff by the end of this year. Should the Commission not meet this deadline, the existing net metering tariff will remain in place until the Commission finalizes the new tariff.

Chairman Kirner:

Let us suppose that the PUCN does come to a number and there is an objection to that number. In the language of this bill, would that not have met the requirement?

Shawn Elicequi:

To the extent that the Commission issues a written order adopting new rules for net metering, the 235 megawatts would be the limitation. Applications after 235 megawatts would follow under the new rules. If there is an objection to the new rules, you would continue under those new rules unless a court subsequently, through the judicial review process, concluded that those new rules should be changed.

Assemblywoman Kirkpatrick:

Is the tariff done through the PUCN without a public hearing or does it go through a public hearing to determine the tariff and the justification for it?

Shawn Elicequi:

Specifically, the company will file a tariff. The PUCN will follow its standard procedures, conduct an evidentiary public hearing, accept input from all stakeholders, and issue a ruling in the process it does for every other tariff or pricing filing made by the company. There would be no temporary tariff. Instead there would be a public process through which the Commission would receive input from all stakeholders.

Assemblywoman Kirkpatrick:

Where are we now on megawatt limitations?

Shawn Elicequi:

As of May 18, 2015, the company had accepted 145.6 megawatts of applications and had connections within there.

Assemblywoman Kirkpatrick:

I do not want consumers to be told that this is their last option. There appears, based on the average home being between 2 to 5 kilowatts, that there would be no hard sell. Is that a fair statement?

Chairman Kirner:

I think Assemblywoman Kirkpatrick is concerned that we are going to flood the market with every single salesperson in the world. Does this allow, in the next six months, a reasonable amount of space without having to pressure people?

Assemblywoman Kirkpatrick:

I do not want to say pressure, but so there is not an overreaction to try to rush to get to the 235 megawatts. When we talked about the business model before, this would allow you to keep your steady stream that you have now so there is not a rush to ensure that you do not get to your 3 percent too early. I want to know for consumer protection. If people call me, I can tell them how much is left and when that ends; hopefully, there will be a decision made.

Robert Uithoven:

We are working to make sure that we can abide by the agreement made here today between The Alliance for Solar Choice and NV Energy. We are very well aware of what we are agreeing to here and we will work that through.

Assemblywoman Carlton:

Did I hear you say time-of-use?

Kelly Richard:

You did, Assemblywoman Carlton. That is in the bill as it is written, and it is not addressed in this amendment in any way.

Assemblywoman Carlton:

We never did get to discuss that particular issue, and I have concerns about time-of-use. Time-of-use, depending on how it is structured, can penalize some people. Particularly in southern Nevada, if you run your air conditioner at a certain time and that rate is higher, it can be very expensive. We were so focused on the net metering parts of this, I did not realize that time-of-use was still part of it. I thought that was off to the side and was not part of the discussion. I have some serious concerns about how time-of-use will impact shift workers and senior citizens.

Shawn Elicequi:

Specifically, the legislation only addresses time-of-use rates for customers who choose to install distributed generation. The legislation does not reverse the 2013 decision by the Legislature to prohibit time-of-use rates as a general matter for residential customers. There is a very narrow exception to the 2013 decision that applies only to customers who would fall under the new net metering tariff.

Assemblywoman Carlton:

I would still have concerns about that. Time-of-use in general is not understood by most people. Until they do the math, they will not know what it will do to their bill if they run their dishwasher at 8 a.m. versus 8 p.m. If you are a shift worker and do not have a choice, that can be a problem. I understand you are only applying it to solar. I have concerns about some of the things we have heard regarding the disclosure in some of these contracts. I am not sure people will really understand what they are getting into with time-of-use. Personally, I think this may be the first step in expanding time-of-use.

Chairman Kirner:

If I understand you correctly, the time-of-use charges have been practiced over the last two years. A customer may not understand it, but they have had two years to live with it.

Assemblywoman Carlton:

Now that we are doing it in solar in a different way, and there are buybacks and a lot of other things that are components, I have concerns about how all of this will come together. The last thing I want to do is have a constituent invest a huge amount of money in a solar energy system and then find out they are really not going to save money because they are not getting the buyback at different times that they thought they were going to get. We do not know how these tariffs are going to be set.

Assemblyman Nelson:

Is this the proposed amendment in the work session document? Mr. Uithoven, you said you know what you are agreeing to, but obviously if the number of 235 megawatts is not enough, you will have to live with it.

Robert Uithoven:

I am not sure that everybody agrees with the 235 number, but it is part of the agreement that we have reached with NV Energy to use a megawatt number to accomplish the goal of coming to this Committee with an agreement today. I do not want to go so far as to say that everyone agrees. When we hit the cap or what the megawatts actually are we do not know. We are confident in our agreement, and we are here to testify in favor of our agreement with NV Energy.

Chairman Kirner:

If you do not reach that number by January 1, 2016, and there are tariffs in place, it will be academic at that point.

Robert Uithoven:

That is correct.

Assemblywoman Carlton:

The time-of-use that NV Energy does is voluntary. You get to opt in. Will it still be voluntary under the solar plan, or will this be mandatory time-of-use on all future solar installations?

Shawn Elicequi:

Because installation and distributed generation is a customer choice, if a time-of-use element is part of the tariff that the company files, then it would be optional for the customer because the customer has a choice to opt into the tariff. We do not believe that time-of-use rates in a distributed generation tariff are inconsistent with the option that a customer has today to choose an alternative rate schedule. It could be a part of an element of a distributed generation or rooftop solar offering.

Assemblywoman Carlton:

I buy a solar energy system and put distributed generation on my home; I pay my cost. Will I have the choice when I sign the contract, or where will it be that I get a choice on time-of-use?

Shawn Elicequi:

Your choice would come when you choose to install rooftop solar or distributed generation. If the PUCN were to approve a time-of-use tariff, then that would be a portion of your offering when you install roof top solar or distributed generation.

Assemblywoman Carlton:

Are the companies aware that it does not have to be a mandate of the contract? They cannot say it will be cheaper if you do time-of-use and there will be full disclosure to the customer on what that actually means, and the PUCN will take care of that.

Shawn Elicequi:

The company understands that its offerings to customers are clear.

Chairman Kirner:

Seeing no further discussion, I will entertain a motion.

ASSEMBLYMAN SILBERKRAUS MOVED TO AMEND AND DO
PASS SENATE BILL 374 (2ND REPRINT).

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Carlton:

I would like to reserve my right to change my vote on the floor.

Chairman Kirner:

I will close the work session and open the meeting to public comment. Seeing no public comment, the meeting is adjourned [at 7:22 p.m.]

RESPECTFULLY SUBMITTED:

Janel Davis
Recording Secretary

Earlene Miller
Transcribing Secretary

APPROVED BY:

Assemblyman Randy Kirner, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Commerce and Labor

Date: May 25, 2015

Time of Meeting: 6:54 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 24 (R1)	C	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 253 (R1)	D	Kelly Richard, Committee Policy Analyst	Work Session Document
S.B. 374 (R2)	E	Kelly Richard, Committee Policy Analyst	Work Session Document