

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

**Seventy-Eighth Session
February 18, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 1:39 p.m. on Wednesday, February 18, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 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
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:

Assemblyman Ira Hansen (excused)



GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Steve H. Fisher, Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services
Carolyn Tanner, General Counsel, Public Utilities Commission of Nevada
Nicole Willis-Grimes, representing State Contractors' Board
Robert Ostrovsky, representing State Contractors' Board

Chairman Kirner:

[The roll was taken. A quorum was present.] We will open the work session on Assembly Bill 73.

Assembly Bill 73: Revises provisions governing programs of energy assistance. (BDR 58-336)

Kelly Richard, Committee Policy Analyst:

We heard this bill in Committee on February 13, 2015. [Referred to work session document ([Exhibit C](#)).] It revises provisions governing programs of energy assistance by revising requirements of a report to the Division of Welfare and Supportive Services of the Department of Health and Human Services that they need to provide concerning the amount of money in the Fund for Energy Assistance and Conservation, including the due date of the report.

There is an amendment attached based on the Committee's discussion of this bill in the hearing. The amendment changes the effective date to July 1, 2015, and revises the reporting requirement to lift the sunset after five years so it will continue in perpetuity.

Chairman Kirner:

Is there any discussion on A.B. 73?

Assemblyman Ellison:

One of the questions brought up about this bill was if there were money left over, would the money go back to the federal government and not the state?

**Steve H. Fisher, Administrator, Division of Welfare and Supportive Services,
Department of Health and Human Services:**

We have two funding sources. One is the Low Income Home Energy Assistance Program, which is the federal funding source. If by the end of the federal fiscal year we do not spend and/or obligate 90 percent of the funds, those unobligated funds would be returned to the federal government.

Assemblyman Ellison:

How often does that happen?

Steve Fisher:

To date, it has never happened.

Chairman Kirner:

Assemblywoman Kirkpatrick, do you want to make a motion?

ASSEMBLYWOMAN KIRKPATRICK MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 73.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

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

We will move to Assembly Bill 74.

Assembly Bill 74: Revises provisions relating to the resale of certain utility services. (BDR 58-348)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 74 revises provisions relating to the resale of certain utility services. [Referred to work session document ([Exhibit D](#)).] It was heard in Committee on February 11, 2015, and is sponsored by the Public Utilities Commission of Nevada (PUCN). It allows landlords of manufactured home parks to forgo annual reporting to the PUCN on the amount tenants are charged for utilities if the tenants of the park obtain those services directly from the utility and not through resale or distribution by the landlord. This also applies to mobile home park landlords and owners of company towns.

There is an amendment submitted by the PUCN on February 11, 2015, attached to the work session document ([Exhibit D](#)). It strikes the language "gas or electric utility" and would make the provisions apply to all utilities.

There is another amendment proposed by Assemblyman Ellison ([Exhibit E](#)) which would exempt the provisions of the bill to any landlord of a park or owner of a company town with ten or fewer units.

Chairman Kirner:

I would like to consider each amendment independently. The first amendment expanded the bill beyond gas and utilities. Is there any discussion on the amendment? [There was none.] The second amendment is Assemblyman Ellison's amendment to exempt the landlord of a mobile home park, or manufactured home park, or the owner of a company town with ten or fewer units. Is there any discussion?

Assemblyman Ellison:

A lot of older senior citizens have had small trailer parks with two or three units in their backyards for many years. They have a hard time trying to comply with *Nevada Revised Statutes* (NRS) Chapter 118B, let alone reporting to the state. They have been charging a fixed rate for years. This puts another burden on senior citizens.

Assemblyman Paul Anderson:

The intent of the bill is to protect people in mobile home parks who are being billed by the landlord. How are the consumers in the parks with less than ten units going to be protected?

Assemblyman Ellison:

There are very few of these small parks left; I was not able to get the number from the Manufactured Housing Division today. Most of the places have tenants who have lived there for 20 or 30 years. They read their own meters and give the tenants a bill based on the actual rate. They get a bill. This is to protect those people who are there.

Assemblyman Paul Anderson:

I still question how we are protecting the older tenants who may be most susceptible of being taken advantage.

Assemblyman Ellison:

The owners are older and they have been reading their own meters and calculate the charges based on the utility rate.

Assemblywoman Bustamante Adams:

Did you get any feedback from the PUCN regarding your amendment?

Assemblyman Ellison:

I do not know.

Carolyn Tanner, General Counsel, Public Utilities Commission of Nevada:

I was not aware of this amendment until today. As I explained at the hearing, the PUCN regulates a small piece of a larger section of mobile home and manufactured home parks. Our definition defers to the Manufactured Housing Division. We rely on their definition of what a mobile home park should be. If you add this amendment, you would create two different definitions of what a mobile home park or manufactured home park would be. The Manufactured Housing Division would be two or more units, and this definition would be ten or more. People who include the utilities in the rent already do not have to report. This is a consumer protection bill. We are attempting to address the situation where there is a master meter that is allocated amongst the tenants, or where there are separate meters, but the landlord is paying the bill and charging the tenants a specific amount.

Assemblyman Ellison:

I will give an example. There is a woman who has two or three units and there is a meter at each unit. She gets her power bill and calculates based on the rate charged by NV Energy. These are small parks.

Carolyn Tanner:

If it is two or more units, they would be required to file a report saying that is what they do. That is for the protection of the tenants to be sure it is done correctly.

Assemblyman Ellison:

We submitted a bill last session to define how many units constitute a trailer park, and I hope we can refine that again this session.

Carolyn Tanner:

For the purposes of the PUCN, that is not our issue. We defer to them. The number is in the statute and it remains unchanged.

Chairman Kirner:

Assemblyman Ellison, you are carrying a bill draft request that may adjust that number, so would you be amenable to moving forward without this amendment today?

Assemblyman Ellison:

I think they would be able to adjust the number if that bill passes and based on Ms. Tanner's statement. That would probably work. If the owners had taken out the meters and given the tenants a flat rate, they would have been exempt. They are still trying to do what is fair for the older people.

Carolyn Tanner:

We will do whatever the statute says.

Assemblyman Ellison:

I am satisfied with that.

Chairman Kirner:

Are there any objections to the other amendment? [There were none.] I will entertain a motion.

ASSEMBLYWOMAN CARLTON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 74.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

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

We will open the work session on Assembly Bill 75.

Assembly Bill 75: Revises provisions governing certain proposed changes in the schedule of rates or services of a public utility. (BDR 58-351)

Kelly Richard, Committee Policy Analyst:

This bill was sponsored by the Public Utilities Commission of Nevada (PUCN). [Referred to work session document ([Exhibit F](#)).] It revises provisions governing certain proposed changes in the schedule of rates or services of a public utility. Essentially it increases from \$2,500 to \$15,000 the threshold amount at which a utility must apply to the Public Utilities Commission of Nevada for approval of rates, rather than submitting a letter of advice that the utility plans to do so. Additionally, the bill requires the letter of advice to include a certification or affidavit from the utility that the proposed change meets the threshold requirement. There were no proposed amendments.

Chairman Kirner:

Is there any discussion? [There was none.] I will accept a motion.

ASSEMBLYWOMAN CARLTON MOVED TO DO PASS
ASSEMBLY BILL 75.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

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

We will move to Assembly Bill 84.

Assembly Bill 84: Authorizes the State Contractors' Board to issue a written administrative citation to a person who acts as a contractor without an active license of the proper classification. (BDR 54-386)

Kelly Richard, Committee Policy Analyst:

Assembly Bill 84 was heard in Committee on February 9, 2015. [Referred to work session document ([Exhibit G](#)).] It authorizes the State Contractors' Board to issue a written administrative citation to a person who acts as a contractor without an active license of the proper classification. There were no amendments proposed to the Committee during the hearing on the bill.

Chairman Kirner:

Is there someone here from the State Contractors' Board? Subsequent to testimony, Richard Daly brought a suggested amendment to me and I understand that the State Contractors' Board does not want to amend the bill.

Nicole Willis-Grimes, representing the State Contractors' Board:

We spoke with the Board as recently as yesterday and that is correct. We are not amenable to an amendment.

Chairman Kirner:

Is there discussion?

Assemblywoman Kirkpatrick:

I do not see any reference to them revisiting the regulation, so there is an opportunity to decide when this does or does not work. At the very least, there has to be something in there to have that discussion. There has to be another level. We do not want the message to be that you can do whatever you want and we will not cite you. I do not think the contractors would like that. There has to be an amendment that regulations need to be put in place pertaining to this bill. It gives you the opportunity to have workshops. It is the small contractor who gets hurt if someone infringes on his scope of work. I support the "may" but with more teeth, which forces them to develop some regulations.

Assemblyman Ellison:

Mr. Daly's amendment related to when the contractor was really out of the scope of his license. That is not the intent of this bill. The intent was if there was a change order and they would be out of the scope. It would be the direction of the investigator, who might say it was an honest mistake or the contractor did not know he exceeded his scope based on his bid. This gives discretion.

Assemblywoman Carlton:

I agree. I do not want to see the small guy get dinged. If there were a dollar amount in this, people could not push the limits. In order for me to support the bill, I would like to see some type of dollar amount. The Contractors' Board will have to draft regulations to make sure everyone understands the ground rules. I think the Board would know an appropriate amount. We should not give discretion to other people because we need to protect the public.

Assemblywoman Kirkpatrick:

There needs to be some consistency or the ability to put that in regulations so people know the expectations.

Assemblyman Nelson:

After the last hearing, I received some emails which voiced concerns that investigators in the field with this discretion might be tempted to play favorites.

Nicole Willis-Grimes:

We do not believe that is the case. We believe our investigators are fair. If there are complaints, there is a thorough investigation. When this bill was first introduced, we talked about some small cases where there could be a contractor with no previous record. This is for that instance when the Contractors' Board could have some discretion. I do not think we would play favorites.

Assemblyman Nelson:

I do not know how realistic the concern is. I do not know how investigators operate or how much supervision they have. I think it is one thing to give the Board discretion and maybe another to give an investigator discretion. You say the investigators are well trained and they do not play favorites, but this bill would give them the discretion to not write a citation. I think you are saying the intent of the bill is to address the small, inadvertent situation of maybe \$500 or \$1,000. The bill does not limit the amount.

Nicole Willis-Grimes:

Some of those concerns may be addressed in the *Nevada Administrative Codes* (NAC) 624.7251, subsection 2, paragraph (f). The Contractors' Board does have criteria and procedures in place to address the concerns that go in tandem with those regulations. We believe there are enough stops and measures in place to address those concerns.

Assemblywoman Carlton:

There is no dollar amount limit. It talks about the policy in the NAC. So those could be interpreted either way. It could be a \$5,000 case or a \$1 million case. With this legislation and those regulations, you would still have the option to dismiss that citation.

Robert Ostrovsky, representing State Contractors' Board:

There is no dollar amount here. You have to have some confidence in the Board. The Occupational Safety and Health Administration (OSHA) inspectors have discretion. Many boards have discretion about disciplinary matters. The Board already has discretion in some areas. We thought this would be helpful in getting the work done and getting contractors to comply. Sometimes a warning is good. To put a small contractor through the disciplinary process and hurt his record over a minor issue can cause concerns. I have had lengthy discussions with Richard Daly and we would like to narrow the focus. I would ask the Committee to have confidence in the Board. The Committee has the ability to look back and ask for reports and records to make sure that we did what we said we were going to do.

Chairman Kirner:

I am concerned that there are a lot of unanswered questions. We will not finish this hearing today. I would like the State Contractors' Board to work with Assemblywoman Carlton and Richard Daly to come to an agreement.

Robert Ostrovsky:

We will meet with the interested parties and see if we can resolve the differences.

Assemblyman Ellison:

I would like to be included in the discussion. I have watched the Contractors' Board operate for 25 years, and I have never seen abuse by the Board.

Chairman Kirner:

We will not finish the work session on Assembly Bill 84. We will move to Assembly Bill 86.

Assembly Bill 86: Revises provisions governing the Silver State Health Insurance Exchange. (BDR 57-390)

Kelly Richard, Committee Policy Analyst:

The final bill on work session today is A.B. 86, which was heard in Committee on February 6, 2015. [Referred to work session document ([Exhibit H](#)).] This bill relates to the Silver State Health Insurance Exchange. It was introduced on behalf of the Governor for the Exchange. The bill removes the requirement that the Exchange be "state-based." It expands the number of voting members the Governor shall appoint to the Board from five to seven, expanding the total number of voting members from seven to nine. It removes the restriction against appointing a person to the Board who is affiliated in any way with a health insurer. It provides for compensation of Board members and reduces the minimum number of Board meetings from once per quarter to once per year.

There is an amendment ([Exhibit I](#)) submitted by Keith Lee on behalf of the Nevada Association of Health Plans.

Chairman Kirner:

Our legal counsel will explain the amendment for clarification.

Matt Mundy, Committee Counsel:

The amendment essentially does two things. There are some categories of knowledge and background that are required in section 2, subsection 3, paragraphs (a) through (e). The amendment proposes, in response to deleting the provisions of subsection 6, to add a provision that would provide for background industry knowledge and the business of insurance. It would limit the Board to two members per category in subsection 3, so there would only be two members allowed on the Board who had backgrounds in any of the categories in subsection 3, paragraphs (a) through (e).

Chairman Kirner:

Are there any questions on the amendment? I think this is an attempt to resolve the concerns that a number of us had during the hearing with regard to the insurance industry's representation. Is there any discussion on the bill as a whole?

Assemblywoman Carlton:

Would it still allow representatives from the insurance industry to be voting members on the Board?

Chairman Kirner:

That is my understanding, but the number would be limited.

Assemblywoman Carlton:

Currently, they are not on the Board and this will open the door for them.

Chairman Kirner:

That is correct.

Assemblywoman Kirkpatrick:

I understood that they could already have a health insurance person on the Board and they wanted more. My concern was that there would be more insurance representatives voting than others. My other concern was that there may be conflicts, but I think that was addressed.

Matt Mundy:

There are some peripheral areas that touch on insurance, and I cannot speak to whether those are significant enough to address the concerns of the proponents of the bill as far as their experience. That is not a question I can answer legally. The proposal requires the addition of the background and the industry of insurance to be placed in section 2, subsection 3, paragraph (b), so it would read, "Expertise in health care administration, health care financing, health information technology," in addition to persons who may have been affiliated in the past with insurance companies. The two-person cap would not be limited to just two people with those backgrounds; it would be from the entire pool within paragraph (b).

Chairman Kirner:

I understand it to say they can bring people with insurance backgrounds on the Board, but it might also cover health care administration, health care financing, or health information technology. So in no way do you end up with a situation where insurance representation dominates the Board or even makes up a significant portion of the Board.

Assemblywoman Carlton:

I have concerns about that. I remember when it was debated years ago. We wanted to err on the side of caution to be sure we did not give the impression that the insurance industry had too much influence on this Board. I have concerns about changing the size of the Board, giving the Governor the appointees on the Board, and changing the perception of the Board as far as the participants. Even with the amendment, I oppose the bill.

Assemblyman Ohrenschall:

I shared some of Assemblywoman Carlton's concerns during the hearing. The hardest part to accept is the part deleted in section 2, subsection 6, on lines 23 through 28 on page 3. I appreciate the amendment from the Nevada

Association of Health Plans. It makes it more palatable, but we need to be cautious about both the independence and perceived independence of the Board. I do not believe that the language here is responsible for the problems that the Exchange had. I will vote no on this bill.

Assemblywoman Kirkpatrick:

At the hearing, I intended to ask if the Native American people could be represented on this Board. I want that to be on record. I want to be clear there will be nine people on the Board and two could be insurance people, but it would not prohibit anyone else from falling under one of the categories.

Matt Mundy:

That is correct, and it could be none under paragraph (b) with the background in insurance. It could be two people with expertise in health care administration or one with a background or affiliation in insurance and one with an affiliation with health care financing, as an example. It could be up to two, meaning zero, one, or two. I do not think there would be a concern for anyone from a tribe who falls within one of these categories of expertise being represented on the Board.

Chairman Kirner:

Is there other discussion? [There was none.] I will entertain a motion.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 86.

ASSEMBLYMAN PAUL ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BUSTAMANTE ADAMS,
CARLTON, DIAZ, KIRKPATRICK, NEAL, AND OHRENSCHALL
VOTED NO. ASSEMBLYMAN HANSEN WAS ABSENT FOR THE
VOTE.)

Assemblywoman Kirkpatrick:

We do have the right to change our vote on the floor if something else changes between now and then. We will notify the Chairman if it changes.

Chairman Kirner:

Thank you for telling me. That completes our work session. Is there any public comment? [There was none.] The meeting is adjourned [at 2:21 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblyman Randy Kirner, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: February 18, 2015

Time of Meeting: 1:39 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 73	C	Kelly Richard / Committee Policy Analyst	Work session document
A.B. 74	D	Kelly Richard / Committee Policy Analyst	Work session document
A.B. 74	E	Assemblyman John Ellison	Proposed amendment
A.B. 75	F	Kelly Richard / Committee Policy Analyst	Work session document
A.B. 84	G	Kelly Richard / Committee Policy Analyst	Work session document
A.B. 86	H	Kelly Richard / Committee Policy Analyst	Work session document
A.B. 86	I	Keith Lee / Nevada Association of Health Plans	Proposed amendment