

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

**Seventy-Eighth Session  
March 2, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 1:31 p.m. on Monday, March 2, 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 also available on the Nevada Legislature's website: [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  
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:**

Assemblyman Paul Anderson (excused)



**GUEST LEGISLATORS PRESENT:**

Assemblywoman Heidi Swank, Assembly District No. 16

**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Matt Mundy, Committee Counsel  
Leslie Danihel, Committee Manager  
Connie Jo Smith, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Margi Grein, Executive Officer, State Contractors' Board  
Dan Hammack, Chief of Enforcement, State Contractors' Board  
Kelly Martinez, Government Affairs Officer, City of Las Vegas  
James Sala, Government Affairs Coordinator, Southwest Regional Council  
of Carpenters  
Jack Mallory, representing Southern Nevada Building and Construction  
Trades Council  
Joanna Jacob, representing Associated General Contractors Las Vegas  
Chapter; and Nevada Contractors Association  
Stacia Newman, President, Nevada Political Action for Animals  
Shyanne Schull, Director of Regional Animal Services, Washoe County  
Regional Animal Services  
Kevin O'Neill, Senior Legislative Director, Western Region, American  
Society for the Prevention of Cruelty to Animals  
Kevin Ryan, Chief Executive Officer, Nevada Humane Society  
Margaret Flint, representing Canine Rehabilitation Center and Sanctuary;  
and Nevadans for Responsible Wildlife Management  
Caron Tayloe, Private Citizen, Reno, Nevada  
Leah Sturgis, Private Citizen, Carson City, Nevada  
Trish Swain, Director, Nevada Chapter, League of Humane Voters  
Christine Vaught, Vice President, Nevada Animal Owners Alliance  
Brett Kandt, Special Assistant Attorney General, Office of the Attorney  
General  
Ronda R. Clifton, Senior Deputy Attorney General, Office of the Attorney  
General

**Chairman Kirner:**

[Roll was called, and a quorum was present.] The bills will be taken out of order, beginning with Assembly Bill 137.

**Assembly Bill 137: Revises provisions governing contractors. (BDR 54-513)**

**Assemblyman John Ellison, Assembly District No. 33:**

This is a contractors' bill that contains a section on advertising. There is an amendment ([Exhibit C](#)) by the State Contractors' Board, which is available online. The bill relates to contractors, provisions regarding the advertising and soliciting of construction services and bids, increased penalties for certain violations of provisions governing contractors, and other matters.

In our area we have unlicensed people who are bidding and soliciting projects. A licensed contractor would have been fined up to \$10,000. This bill also puts the burden on the unlicensed individuals. We are saying that if you are an unlicensed contractor and if you are advertising and bidding, you should have the same penalties as those who are licensed.

This year, there was an unlicensed person who was building several houses. The builder borrowed a contractor's license from a Clark County individual. Upon completion of the project, the workers showed up to receive their paychecks, and the contractor refused to pay them. The workers were undocumented, and the builder was using that reason as leverage. The workers quit. They had families to support. These workers were beaten and appeared in my office; one of them had a broken jaw. That is one of the situations that led to this bill. Employees from the State Contractors' Board are here.

**Margi Grein, Executive Officer, State Contractors' Board:**

Thank you for the opportunity to testify in support of Assembly Bill 137 with the amendments proposed by the State Contractors' Board. Prior to today's hearing, we met with Assemblyman Ellison to discuss a proposed amendment to A.B. 137, which is before you ([Exhibit C](#)). The first Board amendment is in section 3, subsection 1, paragraph (a), subparagraph (6), which clarifies that it is the solicitation of a bid from a person known to be unlicensed that is the subject of discipline. This will protect the innocent receipt of a bid from a person not known to be unlicensed through an indirect or mass bidding process, such as solicitation by publication.

Secondly, the Board's amendment ([Exhibit C](#)) deletes subsection 2 of section 3 of the bill, which mandates suspension and revocation for certain violations. As discussed and recognized with Assemblyman Ellison, the Contractors' Board already maintains the authority to issue enhanced penalties for violations under *Nevada Revised Statutes* (NRS) 624.300, which provides a full range of options to deal with violators depending on various factors, such as the nature of the offense, the existence of injury to a member of the public,

whether the contractor willfully violated the statute, length of periods of a clean record, and the degree of egregiousness of the offense.

The Board supports Assemblyman Ellison's recommendations to increase the fine structure for convictions of a misdemeanor, gross misdemeanor, and felony for unlicensed contracting offenses; to require any advertisement by unlicensed contractors to include language that they are not licensed pursuant to NRS Chapter 624; and to make it unlawful to advertise using a license number other than a valid contractor's license number.

We believe that these changes will curb the misinformation being deceitfully provided by unlicensed persons who advertise that they are "licensed and bonded," publicly displaying their state or local business number as if that allows them the authority to perform contracting work. These advertising provisions are, therefore, necessary to protect the public from this deceptive advertising practice, which has become very common. It will not preclude handymen from legal operation, and it will allow the public to make informed decisions without the potential for deception.

The Board is concerned that the current fines being imposed on convicted, unlicensed contractors do not discourage them from continuing to operate illegally. Last year, the Board issued 484 criminal citations against unlicensed contractors for misdemeanor and gross misdemeanor charges while also receiving 363 criminal convictions. Upon being convicted of a misdemeanor crime for contracting without a license, existing law limits the penalty to a fine of no more than \$1,000 and a jail sentence of no more than six months. It is estimated through our records that the courts impose an average fine of only \$300 for a misdemeanor criminal conviction. In some cases, courts find the unlicensed contractor guilty, but will impose no fines and will assess minimum investigative costs, such as \$100.

We anticipate that the new advertising requirements and increased penalties for unlicensed contracting activities will serve as deterrents for unlicensed contractors to continue operating illegally and, instead, encourage them to seek licensure with the Board. We believe these changes represent a small but effective way to further protect the public's health, safety, and welfare and, hopefully, reduce the number of repeat offenders causing harm to Nevada homeowners.

With me is the Contractors' Board Chief of Enforcement, Dan Hammack, who can answer any questions as well.

**Chairman Kirner:**

Are there any questions?

**Assemblyman Nelson:**

I am curious about the enforcement. You mentioned a number of individuals who have been convicted of misdemeanors. How does that usually happen? Do you turn that over to the district attorney or the Office of the Attorney General to prosecute?

**Margi Grein:**

I will have Dan Hammack explain the process, since that is his area of expertise but, yes, it goes through the district attorney.

**Dan Hammack, Chief of Enforcement, State Contractors' Board:**

It is specific by statute that we work through the district attorney's office of the respective county. Cases are submitted through them for prosecution by that county.

**Assemblyman Ellison:**

As an example, we had an unlicensed person bid on a project against two licensed contractors on a concrete pour, a \$160,000 project. The unlicensed person received the bid, and the Contractors' Board was called. This was not in statute, but that person received a \$250 fine. By the time the matter went to court, he paid the \$250 fine. The licensed people were out because they had already paid the insurance, workers' compensation, and everything that goes with being a licensed contractor. The person who paid the \$250 fine went on to his next project. That is the reason we are trying to put some teeth into this.

**Assemblywoman Bustamante Adams:**

Is there an issue with identify theft when the contractors have their license number displayed?

**Dan Hammack:**

There are issues where unlicensed contractors will adopt a licensed contractor's number, or a derivative of their company name, and solicit bids to homeowners under that license number. It is problematic, and we see it fairly frequently where they try to mask themselves as a licensed contractor in order to get the homeowner to accept their bids.

**Assemblyman Hansen:**

In section 6 of this bill, the maximum penalty a judge can impose for a first offense is \$4,000. In a scenario like the one Assemblyman Ellison just

mentioned, where an unlicensed contractor outbids two licensed contractors on a \$160,000 job, the maximum penalty the unlicensed contractor can receive by law would be \$4,000? What happens in that scenario? Surely, there is more that a judge would impose rather than just \$4,000. Assuming a 10 percent profit ratio, that would be \$16,000 on a \$160,000 pour. By paying a \$4,000 fine, the unlicensed contractor receives a slap on the wrist and walks away with at least \$12,000. Does a judge basically say that the Nevada Legislature has tied my hands and this is all I can do?

**Dan Hammack:**

The scenario you just described is actually occurring. I have seen bids as high as \$1.2 million on a project. Pursuant to the current statute, the maximum criminal punishment is a \$1,000 fine. There is no restitution awarded. We issue a cease and desist order to that contractor, but then we have to go to district court to get it enforced. It would be a maximum penalty of \$4,000 under these new provisions.

**Assemblyman Hansen:**

How can we put some teeth into this new law that would be acceptable to you? If there is a \$1.2 million contract, whatever the ideal profit margin would be, they will be fined \$1,000 if caught. It seems that we have an opportunity to put some real strength in the law so there are meaningful powers behind the Board to enforce the unlicensed contractor problem in Nevada. Assemblyman Ellison, perhaps you could consider upping the ante a bit in this situation.

**Assemblyman Ellison:**

I will propose any friendly amendments that will help this situation. The second offense is up to \$10,000 in the bill. A third offense could be \$20,000. The problem is that this is a misused and unfair practice. If a contractor shows up on a job site and does not have his contractor's license number on the door, he is fined immediately. The unlicensed contractor pays nothing for workers' compensation. It is a scam. I will accept any kind of offer.

**Assemblyman Nelson:**

I agree with the comments of Assemblymen Ellison and Hansen. Maybe you would consider including something like a percentage in the bill, saying the unlicensed contractor could be fined up to 50 percent of the bid.

**Assemblyman Ellison:**

We could do that if we had a bid contract, but if the Contractors' Board rolled up on a project where there was no bid, the Board might have a difficult time coming up with an estimated cost.

As far as putting teeth into the bill, we need to do whatever we can to strengthen the law, because it is not fair to those who are being put out of business.

**Assemblyman Ohrenschall:**

Regarding the suggested changes in section 6 related to NRS 624.750, it was mentioned that the current penalties are not dissuading the unlicensed contractors. How many repeat offenders do you have? Are there many who have received the gross misdemeanor or felony convictions? Of those who have received felony convictions, have they done prison time? Have they gotten probation? Is there any data you can give us?

**Dan Hammack:**

Yes, we have that data available. I do not have it in front of me. We opened approximately 1,200 complaints on unlicensed contractors last fiscal year. Of those, probably 15 to 20 percent were repeat offenders. We have put people in prison on third offense. We have gone out to warrant on several repeat offenders who take money and do no work. It gets to the point where it is theft by the individual.

**Assemblyman Ohrenschall:**

Looking at the suggested increased fines for a felony of \$10,000 to \$20,000 if it is a \$100,000 job or a \$1,000,000 job, that sounds fair. But if it is a \$1,500 job, then I get worried. I wonder if a percentage or sliding scale might be more appropriate. Has the Contractors' Board considered that instead of putting these numbers into statute and taking discretion away from the judge?

**Margi Grein:**

We would be happy to work on increased penalties and amend this bill further, if that is the Committee's and the sponsors' decision. We would support that.

**Assemblyman Ohrenschall:**

I think the penalty should be in line with the offense.

**Assemblywoman Bustamante Adams:**

Is the license number also available online, besides the advertisement you mentioned?

**Margi Grein:**

Yes, it is. Where we see the biggest problem is that you might observe a handyman's truck that says "licensed and insured," and the license number listed might be his county or state business license. That is causing confusion, and the Board has no way of regulating that.

The information is available online. We try to encourage homeowners and other contractors hiring these people to check the website and get the information. That is an ongoing educational process, but it is clearly a problem.

**Assemblyman Ellison:**

I have another example. A county manager found the name of a home builder in the telephone book, called him, and asked if he was a licensed contractor. The man responded yes, so the county manager hired him. When I saw the name of the person he hired, I knew he was not a licensed contractor." The county manager called the alleged contractor and was told that he had a handyman's license.

People are being misled through advertising and the purchase of a handyman's license for \$150. The work could not have been done even if the handyman wanted to do the work. That was totally out of his scope. The handyman is only licensed up to \$1,000. It is a violation of the law, but these misleading practices are being carried out, and that is why the advertising portion needs to be changed.

**Assemblyman Silberkraus:**

I want to add to what Assemblymen Nelson and Hansen said regarding punishments. If there is going to be a discussion regarding that, I would like to be involved. I have some ideas that might add strength to the bill.

**Assemblywoman Neal:**

In section 4, the existing law mentions that an "administrative fine and any interest" can be imposed. If there is an issue with the felony or misdemeanor, is there a tiered effect? Do the two fines work cooperatively?

**Dan Hammack:**

Normally, we choose one or the other to proceed with prosecution. A lot of times, an unlicensed contractor will ignore the administrative fine. We may have no support from whoever could issue a warrant to bring the person to court. If he is a habitual violator and we try to go the administrative route, he would just ignore us. So we go through the court to get a bench warrant for his arrest if he ignores the criminal citation or the filing. We usually proceed with our unlicensed folks through the criminal prosecution.



**Assemblywoman Kirkpatrick:**

You do a good job of sending me notifications of all the unlicensed individuals. It is alarming to learn of incidents after there have been sting operations in Clark County. We have been trying to catch the unlicensed persons, but Assemblymen Hansen and Nelson make good points. By the time the process is finished, the fine has been paid, and the person has changed his name and moved on. I have seen businesses with different identifying numbers on the side of their truck, including Nevada identifiers, and including licensing information from another state as well. There is, obviously, a way to work in several states.

Regarding advertising, how do we get people who have violated the law to appear in court when the word "knowingly" is in the bill?

**Margi Grein:**

The word "knowingly" is defined in NRS 624.024: "'Knowingly' imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry." That was adopted in 2003, and I hope that will suffice in addressing the "knowingly" issue.

**Assemblywoman Kirkpatrick:**

It would seem that by adding "soliciting a bid" that you would be able to apprehend the person immediately, as opposed to going through the entire process, correct? Because if an individual knowingly signs his name on a document used for the bid, it should move through the process fairly quickly. Does that help put some teeth in it? If someone gives me a bid, to me that means he knew exactly what he was doing.

**Margi Grein:**

I believe that is our intent.

**Assemblywoman Carlton:**

The concerns that I read in this bill are that the person who is asking for the work to be done could, possibly, be caught up in this. I think back to the legislation we had last session with the handyman's provision and the issue with the real estate agents. The way this legislation is worded, as a homeowner, if I hire a handyman, could I be penalized for hiring the wrong person?

**Margi Grein:**

That is not our intent.

**Assemblywoman Carlton:**

Is that not what the bill says? It says if I solicit a bid or an estimate from an unlicensed person, I could be found guilty. Am I reading that incorrectly?

**Margi Grein:**

I believe that is not the intent. I believe that applies to licensed contractors soliciting bids from an unlicensed person.

**Assemblywoman Carlton:**

I want to be sure we do not put other folks in jeopardy and that the homeowners are protected.

**Margi Grein:**

I will put that on the record that it is not our intent to go after the homeowners.

**Assemblywoman Carlton:**

Or the real estate agents.

**Margi Grein:**

It is to go after no one other than the unlicensed contractors who are not playing by the rules and the licensed contractors who violate that certain section of the law.

**Assemblywoman Carlton:**

I think we are splitting hairs, Mr. Chairman. We will get deeper into it a little later.

**Assemblyman Nelson:**

You would also go after an unlicensed contractor if that contractor were soliciting bids from another unlicensed contractor. Is that correct?

**Margi Grein:**

That is correct.

**Chairman Kirner:**

I would like to invite those who are supportive of the bill to please step to the witness table. For those who will be testifying, we are sensitive about our feed to Las Vegas. We have another bill with representatives in Las Vegas. If your comments are similar to the last one, say ditto. If there is something new, please feel free to testify on it.

**Kelly Martinez, Government Affairs Officer, City of Las Vegas:**

The City of Las Vegas is in support of this bill. We feel the changes will help government entities and anticipate that there will be more of an effort for contractors to ensure that they and their subcontractors are licensed.

**James Sala, Government Affairs Coordinator, Southwest Regional Council of Carpenters:**

In 2003 and 2005, the administrative side of this bill was worked on heavily and made some progress. I am happy to see that you are going to try to finish this on the criminal side. It is about time and well deserved. It sounds as if many of you are well versed on what happens in subcontracting of unlicensed contractors: avoiding taxes, avoiding workers' compensation, and unleveling the playing field for licensed contractors. I would be happy to provide the following information. Oklahoma passed a measure with a similar structure as this bill being presented. The penalty was 10 percent of the bid. That addressed some of the concerns about the size of the bid and the size of the fine. It also helped in complying with safety, tax issues, and other things mentioned that unlicensed individuals try to avoid.

The current structure, especially on the criminal side, is the equivalent of having the penalty for bank robbing being, if you get caught, you give back 20 percent of the money and then tomorrow, you get to rob a bank again. Hopefully, this Committee will tighten that situation. We will work with anyone who would like additional information.

**Jack Mallory, representing Southern Nevada Building and Construction Trades Council:**

I support what I have heard from Assemblymen Ellison and Hansen regarding the penalty not being stiff enough. In the eight years that I have been coming here, I have been an advocate for doing away with the handyman exemption in its entirety and requiring them to be licensed contractors if any of this type of work is to be performed. I think that would resolve a lot of issues.

Assemblyman Ohrenschall asked about a \$1,500 bid and a \$20,000 penalty. That should be a third offense. Pay the fine and go to jail, as far as I am concerned. I think this bill is a definite step in the right direction.

**Joanna Jacob, representing Associated General Contractors Las Vegas Chapter; and Nevada Contractors Association:**

We are the regulated industry. There is a licensing structure that has been set up in Nevada. Unlicensed activity is a major concern for our members, and we support the bill.

**Chairman Kirner:**

Are there any others who wish to testify in support of the bill? [There was no one.] Is anyone neutral on the bill? [There was no one.] Is anyone opposed to this bill? [There was no one.] Assemblyman Ellison, would you like to make closing comments?

**Assemblyman Ellison:**

I would be happy to work with these individuals concerning an amendment. This is so important and needs to be resolved as quickly as possible, especially for the residents of the state of Nevada.

**Chairman Kirner:**

I will close the hearing on A.B. 137 and open the hearing on Assembly Bill 119.

**Assembly Bill 119: Revises provisions governing the practice of veterinary medicine. (BDR 54-247)**

**Assemblywoman Heidi Swank, Assembly District No. 16:**

There is an amended version of this bill ([Exhibit D](#)) on the Nevada Electronic Legislative Information System (NELIS). We have been working on this bill with the American Society for the Prevention of Cruelty to Animals (ASPCA) and other interested groups since summer 2014. The intent of this bill is to provide assistance to law enforcement and animal control agencies when they move against a dogfighting ring, puppy mill, or other such criminal activity when local resources would otherwise be overwhelmed by the number of animals.

This legislation would have been very useful last week. There was a puppy mill in Tonopah with 67 dogs and 2 cats that were moved to a shelter in Pahrump, which was already at its capacity of 35 animals. The shelter accepted an additional 69 animals, which has left them overwhelmed and needing pet food and pet carriers.

The ASPCA is a free service that provides assistance to agencies in other states. The veterinarians who have worked with organizations like the ASPCA are licensed in other states. The doctors are trained in triaging maltreated animals and also in gathering evidence to assist law enforcement.

There are two points I want to emphasize, which, in talking to other groups, brought up concerns. First, this is only to assist law enforcement and animal control agencies. It does not allow organizations to conduct their own investigations, nor are they equipped to do so. Second, this assistance is given only if requested by the agency. It is nothing proactive.

I will go through the amended version of the bill ([Exhibit D](#)).

Section 1 states that the authority to request assistance is limited specifically to law enforcement and to animal control agencies.

Section 2 states that this is solely for cases of animal fighting and/or cruelty. It can only be used in cases where animals are numerous enough to overburden local veterinarians. A warrant has to have been issued or an arrest already made, and the veterinarian must be licensed in another state.

Section 3 allows the Nevada State Board of Veterinary Medical Examiners to issue a temporary license, certificate, or permit specifically to assist in that event and that event only.

Section 4 lays out the requirements for which veterinarians can be issued a license, certificate, or permit. Qualified veterinarians must have held a license for the preceding three years in a location that either has equivalent licensure or more stringent licensing requirements. If there was no license for the preceding three years, they could substitute a certificate of good standing from their state board. They could not have been charged with a felony, and they must be a United States citizen or allowed to work legally in the U.S.

Section 5 states that the Nevada State Board of Veterinary Medical Examiners will grant a temporary license within two days of a request. Those two days were set by the Board, which we thought was very generous of them and is a quick turnaround time so that these animals are not waiting.

The license that is issued by the Board can last for 60 days or the end of the event. If the event ends in 45 days, the license expires in 45 days. The license can be extended for an additional 60 days, but only if the Board approves that extension. Again, if the event lasts for 75 days, the license ends at the end of 75 days.

Section 6 lays out the requirements for veterinary technicians to assist in the event.

Section 7 is the same as section 5, but is specifically for veterinary technicians, whereas section 5 is for veterinarians only.

Section 8 states that the organizations that may assist law enforcement and animal control agencies with an animal cruelty event must be qualified under section 501(c)(3) and have been organized for preventing animal cruelty. A temporary animal shelter can be established to provide veterinary care, food,

and water. The facility need not be registered with the Nevada State Board of Veterinary Medical Examiners because through the licensing process, that is implied. An official invitation has to have been extended by either law enforcement or an animal control agency.

Section 9 authorizes the Board to adopt regulations for those provisions.

**Chairman Kirner:**

If a neighborhood resident has an issue, could the resident go to the police and tell the police the concern? Would that initiate this process?

**Assemblywoman Swank:**

The resident could go to local law enforcement, who would need to do a lengthy investigation and either issue a warrant or make an arrest. Law enforcement could request assistance through a qualified 501(c)(3) agency. Often, when these types of investigations occur, there is a bit of lead time between the time of discovery and actual movement, and there would be a lot of investigation before that.

**Assemblywoman Bustamante Adams:**

From a western region standpoint, what other states have this type of proposal?

**Assemblywoman Swank:**

At this time, there are several other states considering this—New York, Illinois, and California. Also, there is similar legislation for natural disasters, where you can bring in a nonprofit to house animals. It is analogous legislation to that natural disaster concept, but this is not a natural disaster.

**Chairman Kirner:**

Do we have any other questions? [There were none.] Is there anyone in support of the bill? We will take Las Vegas first.

**Stacia Newman, President, Nevada Political Action for Animals:**

I would like to share my concern and ask you to pass the bill. We firmly support A.B. 119.

**Shyanne Schull, Director of Regional Animal Services, Washoe County Regional Animal Services:**

We support A.B. 119 with the amendments. We believe this will expand our resource pool in the event of a critical response.

**Kevin O'Neill, Senior Legislative Director, Western Region, American Society for the Prevention of Cruelty to Animals:**

We are in support of A.B. 119. Assemblywoman Swank highlighted what the bill does very effectively. It is intended to be an available resource when local resources cannot cover a situation. We have seen that happen in a number of states. In Eldorado County, California, the local animal control had over 90 horses that came into their ownership. They have struggled to try to pay for the care of those horses. There have been similar situations with fighting roosters in New York. The issue is that we do not know when or where these incidents will happen, and it happens in diverse locations. As in the case of natural disasters, where Nevada has already acted in past legislation, this would be a resource for Nevada. Thank you to everyone for working on this measure and for the opportunity to voice our support. [Submitted letter of support ([Exhibit E](#)).]

**Chairman Kirner:**

You mentioned paying for the care of the horses. How is that service paid for?

**Kevin O'Neill:**

When the ASPCA is asked to respond, we deploy our resources, typically under a local veterinarian. We do not request reimbursement from the local agencies for our role in helping with the housing or care of the animals. Oftentimes, these incidents can overwhelm a local agency. The horse rescue agency in Eldorado County spent over \$30,000 in about two months. Those fees are absorbed by the ASPCA when we are asked to take part.

**Kevin Ryan, Chief Executive Officer, Nevada Humane Society:**

The Nevada Humane Society (NHS) operates shelters in both Washoe County and Carson City. We are here to voice our support of this bill on behalf of our 100,000 supporters and 8,000 active volunteers. We have also been on the receiving end of this. About 15 years ago, the NHS received 1,500 rabbits from a cruelty case. It is essential to be able to absorb that kind of response with the help of national organizations. We are also rescue and response partners with organizations, such as the ASPCA. The Nevada Humane Society tries to return the favor. This bill is an important step in making Nevada more able to respond to these kinds of situations.

**Margaret Flint, representing Canine Rehabilitation Center and Sanctuary; and Nevadans for Responsible Wildlife Management:**

Considering those I represent, we would like to be on the record that we are in support of this bill.

**Caron Tayloe, Private Citizen, Reno, Nevada:**

I am speaking as a 15-year SPCA foster parent. I am in support of this bill.

**Leah Sturgis, Private Citizen, Carson City, Nevada:**

I strongly support A.B. 119. I feel this is extremely necessary to ensure the animals can get the care they need in emergency situations, or in instances where the state cannot provide the needed care.

**Trish Swain, Director, Nevada Chapter, League of Humane Voters:**

We are strongly in favor of this bill. It is wise to be prepared. We do not know what will come along. It sounds to me like an excellent idea, and I would encourage its acceptance. [Submitted letter of support ([Exhibit F](#)).]

**Chairman Kirner:**

Seeing no others testifying in support, is there anyone neutral on the bill? [There were none.] Is anyone opposed?

**Christine Vaught, Vice President, Nevada Animal Owners Alliance:**

I am here to voice opposition to A.B. 119. As a pet owner, I am opposed to out-of-state members and national groups coming to Nevada when there has been no showing that we need such a law at this time. There is much experience and expertise in Nevada on which to draw. We have many good rescue groups and humane societies. One of the reasons put forth as a need was the Hurricane Katrina disaster but, as has already been mentioned, we have something in state law that allows a mechanism should something like that occur.

I have the highest regard for the veterinarians in this state. They should be permitted to do their job and should not be put in a position where their judgment may be in direct conflict with a group from out of state. I am aware of several situations where outside rescue groups have been brought in to these situations and the animal owner's local veterinarian says the animals are fine. There is no evidence of abuse and everything is fine. The outside group's veterinarian is saying the opposite, and charges are filed based on the outside group's advice. Situations like these should not occur in Nevada. That does not serve the citizens well, and it does not serve the veterinary community or its members well, and it does nothing to enhance animal welfare.

One of the concerns expressed about the bill is the potential for influence from outside animal groups. I understand that the language has been changed, and that the bill now allows only law enforcement and animal control to call in veterinarians from outside the area. I also have the highest regard for law enforcement and their responsibility to keep us safe and uphold the laws.



It pains me to see the erosion, lately, of the trust that has occurred with our law enforcement officials. Law enforcement should be, and for the most part I believe they are, upholding their duties free of outside agendas and influence. Citizens want to believe in and should be able to trust the judicial system, which starts with our law enforcement officers having their due process rights respected throughout the entire process.

My other concern is this bill allows law enforcement only to call local animal control, but I have recently been made aware that there is a formal collaborative partnership now between the ASPCA, The Humane Society of the United States (HSUS), and the National Sheriffs' Association (NSA). Even though the language of the bill now reads that only law enforcement and animal control can call these groups, with the national partnership that now exists between the National Sheriffs' Association and the ASPCA, my concern is that undue influence and pressure will be put on local law enforcement in the state by these national groups under the guise of the NSA relationship. Thank you for the opportunity to speak.

**Chairman Kirner:**

Are there questions from the Committee?

**Assemblyman Hansen:**

Could you elaborate on your testimony that there are relationships that exist where the Sheriffs' Association has allowed certain organizations to call themselves law enforcement? What is the connection to allow them to bypass the provisions in the law that say it has to originate with a local law enforcement agency?

**Christine Vaught:**

The press release said there is now a collaborative partnership between the national animal groups and the National Sheriffs' Association. An app has been developed that will allow citizens to take a picture and send in. I was confused when I read the press release, which said that the information will go to an HSUS-funded agent. I do not know whether that means that HSUS has what are being called "agents" in a bank somewhere that get those, or if they are funding an agent with the NSA. Either way, I was uncomfortable with the situation.

**Assemblyman Hansen:**

You have been watching these issues for a long time locally, as have I. Have there been any cases in Nevada where the veterinarians have indicated they are overwhelmed? Give me a scenario, if you have seen any, where this new law would be needed.

**Christine Vaught:**

No, I have not seen anything, and I have been following these things for quite some time. I cannot speak for any of the veterinarians, but regarding the situations that have occurred in the state—for instance, those mentioned last week—the shelter was involved but no veterinarians, from what I understand, in terms of those animals going through the care of the veterinarian who was overwhelmed.

**Assemblyman Hansen:**

Mr. Chairman, I would like the record to reflect that no one from any veterinarian organizations are here in support of this bill, nor is there anyone from law enforcement. I just met with the Sheriffs' and Chiefs' Association, and it was not mentioned. Where is the need from law enforcement or the veterinarian side of this bill?

**Assemblywoman Kirkpatrick:**

When there is a situation where a lot of animals are found—for example, the 150 cats in North Las Vegas—before being put up for adoption, those animals still have to be checked by a veterinarian, correct? Whether or not veterinarians are present here today, is that your experience? We do not want to return these animals to a situation where it is unsafe for the animals or the individuals who will care for them. Would that not be something to be considered?

**Christine Vaught:**

In most situations, there are allegations of abuse and neglect, and we do not advocate abuse or neglect for animals. In those cases, the animals need to be checked. The cases I have seen in other states, where an outside rescue has come in, there has been a local veterinarian who says, "There is no issue." They have been pressured by the outside group that says, "Yes, there is. We do not like the way the animals look." In some cases, the animal might be older, and when they get old, they look pretty sad sometimes. They have been under the care of a local veterinarian, and the animal owner ends up having charges brought against him or her based on pressure from outside groups. I do not think that is fair to put our veterinarians in that situation, especially when there has been nothing to show a need for this, from the standpoint of the veterinary community saying, "We have been overwhelmed."

**Assemblywoman Kirkpatrick:**

That may be true in Washoe County and perhaps across our state. We saw different things happening in the south, especially during the foreclosure crisis. In North Las Vegas, it was an ongoing, everyday situation where animal control had more animals than people.

I would love to reach out and talk to you, because where I live in North Las Vegas, it is becoming an issue. We have a limited number of veterinarians. I would never want someone charged with an offense just for caring for an animal. When North Las Vegas was inundated with all those cats, there was not much that could be done for them quickly, and that is not fair to the animals.

**Assemblyman Ellison:**

If someone has 150 cats, most of them will be wild and cannot be placed in other homes. Feral cats either need to be eliminated or be adopted by ranchers as "mousers," correct? Is it not true that they are so wild, they cannot be controlled?

**Christine Vaught:**

There is a distinct difference between feral cat and domestic cat issues. There are other mechanisms in place to deal with feral cats. Every one of these situations is different. The numbers and types of animals are different, which pose challenges. I have not seen that we have not been able to deal with them in the state.

**Assemblywoman Carlton:**

The instance you brought up with a problem in another state, it would be helpful if could you provide that documentation. I did a little research, but if there has been an issue in another state, I have not been able to find it, and I would appreciate you providing the information.

**Christine Vaught:**

Thank you, I will.

**Assemblywoman Diaz:**

Do you not see this bill as strictly crisis intervention? I do not see where it is going to interfere with any groups that currently exist that help facilitate in the placement of five, six, or seven dogs or cats, or whatever it might be. To me, the reading of this bill stipulates that in an emergency, when there is an overwhelming number of cats or dogs, as Assemblywoman Kirkpatrick mentioned, outside assistance can be contacted. It is similar to training our children how to respond to a fire drill or an emergency situation. Are we going to wait until that emergency happens in order for us to be prepared? I understand your concerns, but I do not see this taking away from anybody who currently has a role and a place in the community. I see this as an exception to the rule when we need it. Who would want those dogs and cats suffering for days?

**Christine Vaught:**

I do not see this as taking away from the rescue community. I am saying that we have a lot of expertise and many groups in the state, in addition to a lot of resources. My main concern is that we might end up with our veterinarians in a bad situation. Because of the relationship at the national level, I am concerned there will be influence at the time to make something a crisis that it may not otherwise be.

**Assemblyman Ohrenschaal:**

Do you know how many licensed veterinarians there are in Nevada?

**Christine Vaught:**

No, I do not.

**Assemblyman Ohrenschaal:**

Do you know how many hours of volunteer work that veterinarians have done in the last year or so?

**Christine Vaught:**

I do not. I know that I spend a lot of time at the veterinarian's office with my own animals, and I give them many, many dollars.

**Assemblyman Ohrenschaal:**

I am concerned there is a feeling that when an emergency arises, we might not need help from licensed veterinarians from other states when we do not know how many hours have been donated, and whether we have the pool of skilled veterinarians who are willing to donate the time when these events happen, especially when they happen in some of the counties that do not have a good number of veterinarians. I think it illustrates a need for the bill.

**Chairman Kirner:**

Assemblywoman Swank, would you like to make any closing comments?

**Assemblywoman Swank:**

We would be happy to meet with Ms. Vaught and work on the bill between now and the bill's work session. I want to emphasize that we have worked with several groups, including the Nevada Veterinary Medical Association to get where we are, as well the Nevada State Board of Veterinary Medical Examiners. We worked with these groups to produce the amendments you see today.

I also want to emphasize that this is only when a warrant is issued or an arrest has already been made. On average, the events in which there are numerous animals involved take about 50 days to resolve. That leaves matters difficult

for our local veterinarians to leave their practice for 50 days to work on these issues. Organizations such as the ASPCA have folks on staff who do this. They travel and are specially trained to work with police in these types of situations.

**Chairman Kirner:**

Are there any closing comments or questions for Assemblywoman Swank? [There were none.] We will close the hearing on A.B. 119 and open the hearing on Senate Bill 85.

**Senate Bill 85: Revises certain provisions of the Nevada Insurance Code. (BDR 57-153)**

**Brett Kandt, Special Assistant Attorney General, Office of the Attorney General:**

With me is Senior Deputy Attorney General, Ronda Clifton. We are presenting Senate Bill 85 for your consideration. [Read from letter of support ([Exhibit G](#)).] This bill clarifies in the Nevada insurance code that a person who commits insurance fraud in Nevada is subject to prosecution, even if the insurance policy is issued outside the state. As you know, the Attorney General has primary jurisdiction to investigate and prosecute any alleged act of insurance fraud in Nevada, pursuant to *Nevada Revised Statutes* (NRS) 228.412.

*Nevada Revised Statutes* 686A.2815 currently provides that a defendant commits insurance fraud when the defendant makes a false statement or application concerning a policy of insurance issued pursuant to the Nevada insurance code. However, it is not clear from the language of the current statute whether, in order for the person to be charged with insurance fraud in Nevada, the policy must be written as a Nevada policy. In approximately 95 percent of our insurance fraud cases, it is not an issue. Most insurance fraud crimes happen from a policy that was written in Nevada and only concerns property that is physically located in Nevada.

The prosecutors in our office have problems with the other 5 percent of the cases. Because of the transient nature of our state's population, particularly in southern Nevada, it is not uncommon for an individual to bring property, specifically a vehicle, into our state that is insured under an insurance policy issued in another state. Once the person arrives in Nevada, he or she may decide to commit acts which would normally be insurance fraud; for example, burning the vehicle and reporting it as stolen. Or, after getting into a car accident, the individual may misrepresent the facts of the crash to his or her insurance company. Then the person is caught lying by the insurance company, and the case is reported to our office. Since the insurance policy on the vehicle was written in another state, under the current law, it is not clear that the

person could be prosecuted for insurance fraud in Nevada. This is despite the facts that surround the fraud occurring in Nevada and not the state in which the insurance policy for the vehicle is written.

This language would clarify the statute to allow our insurance fraud unit to charge any act of insurance fraud relating to property located in Nevada at the time of the fraudulent activity. The need for this amendment was recently demonstrated when our insurance fraud unit prosecuted a case involving a vehicle insured in Arizona. The defendant in the case confessed to concealing his vehicle and reporting it stolen in Las Vegas to collect the insurance money. Due to the policy being written in Arizona, we asked Arizona's insurance fraud unit if they were willing to investigate and prosecute the case. Arizona replied that given their current resource challenge, even if we sent the case to them, they did not possess adequate resources to handle it. Since we did not want the defendant to get away with stealing \$30,000 from the insurance company, we kept the case. We filed cases for theft and obtained a conviction. However, the prosecution would have been more effective had we been able to file the insurance fraud charges.

This bill remedies this by revising the statutory definition of insurance fraud set forth in NRS 686A.2815 to include fraudulent activities involving (1) policies of insurance issued pursuant to Title 57 of NRS by an authorized insurer, and (2) policies of insurance issued outside the state by an authorized issuer which relate to property that is located in Nevada at the time of the alleged fraud or the incident giving rise to the alleged fraud.

**Chairman Kirner:**

Do the Committee members have any questions?

**Assemblywoman Kirkpatrick:**

I want to understand how this affects going across state lines. I am confused. I thought, in the past, the Department of Motor Vehicles (DMV) statute said a resident had to purchase a policy through an insurer licensed in the state of Nevada. Is this more for auction vehicles that come and go? What specifically is this for?

**Brett Kandt:**

We still have situations where, with our transient population, people move to Nevada and their vehicle is insured, but it is insured on a policy issued in another state. The policy has not been switched to a Nevada policy, and that is where there is a gap in the law that we want to address. It is only an issue in a small percentage of cases. Nevertheless, we think it is appropriate that if the

fraudulent activity takes place in this state, we have jurisdiction to prosecute for the insurance fraud.

**Assemblywoman Kirkpatrick:**

To me, it is a bigger issue if the DMV is not enforcing the insurance rules to verify that the policies are written within our state. Are you saying that this will allow you to go across state lines to prosecute? Is that your intent?

**Ronda R. Clifton, Senior Deputy Attorney General, Office of the Attorney General:**

We would only prosecute the fraud if the fraud happens in Nevada. Sometimes, insurance is issued in another state. As an example, a person from Utah was driving through Ely, hit a deer, and lied about a lot of the circumstances. The insurance policy was issued in Utah, but the fraud happened in Nevada. I prosecuted the case, but we had to fight through this because the statute was not completely clear. The policy was not issued pursuant to this title, and that was the argument. It was decided to make the law completely clear that if the fraud happens in Nevada, and the policy is written in another state, the case could still be prosecuted.

**Assemblyman Silberkraus:**

To clarify, this bill would cover any type of insurance, including someone visiting Las Vegas with a \$10,000 diamond bracelet, which was insured in California. The person makes a claim that the bracelet has been stolen from his hotel room, but he put the bracelet in his pocket. You would then be able to prosecute that in Nevada, even though it was a California insurance policy.

**Ronda Clifton:**

Yes, that is a good example.

**Assemblywoman Carlton:**

How big a problem is this? I understand why the rental car companies are interested, but I am trying to figure out if we are looking for more work to do. I cannot see this happening very much.

**Brett Kandt:**

In fiscal year (FY) 2013, we filed 34 cases of insurance fraud. For FY 2014, we opened 57 cases, so that gives you some idea of the number of cases our unit handles. I can get you more historical data.

As I indicated, in roughly 95 percent of the cases, this is not an issue, because the insurance fraud involved property that was insured under a policy issued in Nevada.

**Assemblywoman Carlton:**

I am concerned about using our state resources to pursue insurance fraud that is another state's responsibility.

**Assemblywoman Seaman:**

To clarify, these crimes are happening in Nevada, and that is why this bill is important, correct?

**Brett Kandt:**

That is the whole point. The fraud we want to address is that occurring in our state.

**Assemblyman Ohrenschall:**

In your past experience, regarding the 5 percent of cases where you feel there might be confusion as to the current NRS language, what happened? Did your office try to pursue the prosecution? Was there any prosecution pursued in the home state, or was there no remedy in criminal law, leaving just civil remedies for the insurance company?

**Ronda Clifton:**

My experience focuses on the northern part of the state. This issue has come up several times where I have had to fight the matter at the justice court level. In Las Vegas, they were not allowed to prosecute a case because the statute was unclear. If we fail and money was paid, we could probably prosecute on a theft charge. Generally speaking, if there was no money paid out and it was just the insurance fraud, we would not be able to prosecute.

**Assemblyman Ohrenschall:**

Can you provide the Committee with any information regarding the southern Nevada case?

**Ronda Clifton:**

Yes, I believe that was the theft case where the car was driven to Nevada from Arizona with the policy issued in Arizona. The fraud was committed in Nevada. The case could not be prosecuted as insurance fraud and was prosecuted as theft.

**Assemblyman Ohrenschall:**

The case was prosecuted successfully?

**Ronda Clifton:**

Yes.



**Assemblywoman Bustamante Adams:**

For the 5 percent of the cases, what kind of fiscal impact will this have on your team, as far as prosecuting for those cases?

**Brent Kandt:**

I did not come prepared with that information. I would need to do some research with our insurance fraud unit and come back to you with that.

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

**Chairman Kirner:**

Are there questions from those who are in support of S.B. 85? [There were none.] Is anyone neutral? [There was no one.] Is anyone opposed to S.B. 85? [There was no one.] With that, we will close the hearing on S.B. 85 and open the meeting to anyone with public comment. Seeing no one in Las Vegas or Carson City, the meeting is adjourned [at 2:49 p.m.].

RESPECTFULLY SUBMITTED:

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Connie Jo Smith  
Committee Secretary

APPROVED BY:

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Assemblyman Randy Kirner, Chairman

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

**EXHIBITS**

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

**Date:** March 2, 2015

**Time of Meeting:** 1:31 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 137	C	Margi Grein, State Contractors' Board	Memo and Proposed Amendment
A.B. 119	D	Assemblywoman Heidi Swank	Proposed Amendment
A.B. 119	E	Kevin O'Neill, ASPCA	Letter of Support
A.B. 119	F	Trish Swain, League of Humane Voters	Letter of Support
S.B. 85	G	Brett Kandt, Office of the Attorney General	Letter of Support
S.B. 85	H	Mark Sektnan, Property Casualty Insurers Association of America	Letter of Support