

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

**Seventy-Eighth Session  
April 10, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 3:17 p.m. on Friday, April 10, 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's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

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

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27

**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:**

Gary K. Landry, Executive Director, State Board of Cosmetology

**Chairman Kirner:**

[The roll was taken. A quorum was present.] Today is a work session. I have talked to Committee members and would like to reconsider portions of Assembly Bill 182 on collective bargaining. We need to make an amendment on that bill. Is there a motion?

ASSEMBLYMAN PAUL ANDERSON MOVED TO RECONSIDER  
ASSEMBLY BILL 182.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Assembly Bill 182: Revises provisions relating to collective bargaining by local government employers. (BDR 23-646)**

**Kelly Richard, Committee Policy Analyst:**

The work session document ([Exhibit C](#)) from the hearing on April 8, 2015 and the proposed amendment ([Exhibit D](#)) are being distributed to the Committee. I will defer to Committee Counsel to explain the amendment.

**Matt Mundy, Committee Counsel:**

Existing law authorizes the Local Government Employee-Management Relations Board, within the limits of legislative appropriations and other available money, to appoint a commissioner and a secretary, both of whom are in the unclassified service of the state per *Nevada Revised Statutes* 288.090. An argument has been made that enactment of the bill will cause the Local Government

Employee-Management Relations Board to need an additional staff member. Therefore, this amendment proposes to add an appropriation approximated to allow the addition of a Deputy Commissioner at an approximate cost of \$300,000 for the biennium. Approval of this amendment would make the bill eligible for exemption so this issue could be further explored in the Assembly Committee on Ways and Means.

We have also provided a template copy for appropriations that provides for an example of a reversion clause to the extent that the appropriations not used in the biennium would revert to the General Fund.

**Chairman Kirner:**

I will accept a motion.

ASSEMBLYMAN PAUL ANDERSON MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 182.

ASSEMBLYMAN NELSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will remove Assembly Bill 229 and Assembly Bill 365 from the work session.

**Assembly Bill 229**: Revises provisions governing workers' compensation.  
(BDR 53-754)

**Assembly Bill 365**: Enacts provisions governing vehicle protection product warranties. (BDR 57-1055)

We will start the work session with Assembly Bill 246.

**Assembly Bill 246**: Revises provisions governing cosmetology. (BDR 54-267)

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 246 is sponsored by Assemblywoman Bustamante Adams and Assemblywoman Diaz. It was heard in Committee on March 23, 2015. This bill makes several changes to the practice of cosmetology and regulation by the State Board of Cosmetology. There are two amendments proposed for the members' consideration. [Referred to work session document ([Exhibit E](#)).]

The first amendment was the amendment received during the hearing on March 23, 2015. It clarifies exemptions provided to cosmetologists who provide certain massages from regulation by the Board of Massage Therapists. It revises section 17 to require that certain establishments include their license number in any advertising and clarifies that the fees charged for a license are for initial licensure as well as subsequent renewals. It also addresses the regulation and supervision of shampoo technologists.

There was another amendment submitted by the State Board of Cosmetology. This amendment makes changes to the shampoo technologists proposal from the original bill. It requires a shampoo technologist to practice under the supervision of a licensed cosmetologist or hair designer. It reduces the number of hours required to become a shampoo technologist from 300 to 50 hours. It provides alternate paths to registration as a shampoo technologist, thereby creating a registration process for this profession rather than requiring a license. The amendment also provides the Board with the ability to administer a practical exam to an applicant for registration as a shampoo technologist.

**Chairman Kirner:**

The chair will accept a motion to amend and do pass.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 246.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

**Assemblywoman Seaman:**

I am going to vote this out of Committee, but reserve my right to vote no on the floor.

**Assemblyman Hansen:**

Could Committee Counsel enlighten me about the Supreme Court decision which would affect a shampoo technologist.

**Matt Mundy, Committee Counsel:**

The case that you are referring to is *North Carolina State Board of Dental Examiners v. Federal Trade Commission* (No. 13-534 decided Feb 25, 2015) where they were trying to enforce teeth whitening within the scope of their practice, but teeth whitening was not, in fact, delineated as one of the things they could do. The Supreme Court found under the Sherman Antitrust Act that it was unconstitutional to the extent that the board members were all market participants and there was no oversight by the legislature.

They could potentially include shampoo technologists in regulation in the Legislative Commission if they approve that regulation, and the *North Carolina* case would not apply. But if they did not do so and tried to enforce a particular industry like shampoo technology without having specific statutory or regulatory authority, that case could potentially implicate them. I am not sure whether or not the Board would continue to regulate these people in light of that case.

**Assemblyman O'Neill:**

I want to see where these 50 hours fit into the curriculum for the student and are they applicable to the higher degree?

**Gary K. Landry, Executive Director, State Board of Cosmetology:**

The 50 hours are included in any cosmetology student's curriculum for hair design and studying to be a cosmetologist. These are not additional hours and are included in the course of practice. They are typically covered within the first several weeks of training. It includes basic infection and sanitation control, and the first thing they do when they are performing services where they touch the public would be shampooing.

**Assemblyman Hansen:**

If this bill does not pass and you catch someone shampooing hair, would you fine them or what would happen?

**Gary Landry:**

Cosmetologists and hair designers are able to practice shampooing because it is in their scope of services. If this bill does not pass, no one except those two professions could shampoo the public's hair within a licensed cosmetology establishment. Cosmetologists need 1,800 hours of training, and we are asking to reduce that to 1,600 hours. Hair designers require 1,200 hours of training.

**Assemblyman Ellison:**

I was concerned about the background checks and state prison training. My concerns have been addressed.

**Assemblyman Silberkraus:**

You see teeth whiteners as freestanding locations in malls and other locations. Are there free standing shampoo locations or is it something that would only be done in an established salon?

**Gary Landry:**

There are no freestanding shampoo areas because you would have to be a licensed cosmetologist or hair designer in the state of Nevada. That function would probably not generate the money that it would cost to have a freestanding operation.

**Chairman Kirner:**

I will call for the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN FIORE VOTED NO.)

We will move to Assembly Bill 249.

**Assembly Bill 249: Makes various changes relating to collective bargaining.  
(BDR 23-521)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 249 is Assemblyman Wheeler's bill. [Referred to work session document ([Exhibit F](#)).] It was heard in Committee on March 25, 2015. It makes various changes relating to collective bargaining. The bill makes changes generally to collective bargaining agreements and their disclosure by a local government. The bill requires a chief executive officer of a governing body to report whether the agreement is financially sustainable and that the local government employer has the financial capacity to pay, giving consideration to certain reserve money, nonrecurring revenue, or potential loss of revenue. It also makes changes to the things that a fact finder has to consider regarding the local government's ability to pay

There was an amendment at the original hearing on the bill submitted by Mary Walker. It modifies the revenue and expenditures that may not be considered by a fact finder in making determinations of the amount of compensation and monetary benefits that is financially sustainable for the local government employer.

I understand there is an additional amendment to the bill ([Exhibit G](#)).

**Matt Mundy, Committee Counsel:**

This is similar to the amendment on Assembly Bill 182 and for the same reasons. Existing law authorizes the Local Government Employee-Management Relations Board, within the limits of legislative appropriations and other available money, to appoint a commissioner and a secretary, both of whom are in the unclassified service of the state per *Nevada Revised Statutes* 288.090. An argument has been made that enactment of the bill will cause the

Local Government Employee-Management Relations Board to need an additional staff member. Therefore, this amendment proposes to add an appropriation approximated to allow the addition of a Deputy Commissioner at an approximate cost of \$300,000 for the biennium. Approval of this amendment would make the bill eligible for exemption so this issue could be further explored in the Assembly Committee on Ways and Means.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYMAN NELSON MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 249.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

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

We will move to Assembly Bill 330.

**Assembly Bill 330: Provides requirements relating to the sale or lease of certain systems for the generation of electricity. (BDR 58-934)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 330 was sponsored by Assemblywoman Kirkpatrick and was heard in Committee on March 27, 2015. [Referred to work session document ([Exhibit H](#)).] The bill provides requirements relating to the sale or lease of certain systems for the generation of electricity. The bill requires sellers and installers of distributed generation systems to provide express written warranties for the system covering both parts and labor. Sellers and installers of a distributed generation system must also provide certain disclosures and information to a buyer. The contents of any agreement for the financing, sale, or lease of a distributed generation system is also prescribed in the bill. There is a provision in the bill allowing these agreements to be voidable prior to system installation.

The bill sponsor submitted the attached amendment during the hearing on the bill, which makes various changes to substitute terms, and makes warranty requirements consistent with the minimum warranty terms for solar photovoltaic (PV) systems. It also includes the common model for residential solar PV installations, inserts a "reasonable person" requirement regarding disclosures, and makes certain violations of deceptive trade practices under

*Nevada Revised Statutes* Chapter 598C. It requires that any person or entity that installs a distributed generation system to first register with the Office of Energy, and also requires the Director of the Office of Energy to adopt regulations.

**Chairman Kirner:**

We have a proposed amendment. It is not a friendly amendment, so I am not inclined to address it. If the sponsor of the amendment wishes to deal with the sponsor of the bill when the bill is heard in the Senate, it may be a good idea. In the meantime, I will entertain a motion.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 330.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Nelson:**

Is the requirement to list every serial number still in the bill?

**Assemblywoman Kirkpatrick:**

I met with people who are submitting the amendment. However, with the deadlines, I have not had time to meet with the people with whom I originally worked, which would be the Consumer Advocate. The Consumer Advocate does not have the ability to work with those submitting the amendment and the amendment seems to gut the bill. I am committed to working with the people who submitted the amendment. I try not to put things out there with which I am not comfortable because I do not like to go back on my word. We still have ten days of floor to try to address the issue.

**Assemblyman Nelson:**

I will vote for this, but I reserve my right to change my vote on the floor. I want to discuss one issue with Assemblywoman Kirkpatrick.

**Assemblyman Silberkraus:**

My concerns are the same as Assemblyman Nelson's. I will vote the bill out of Committee and reserve my right to change my vote on the floor.

**Assemblyman Ellison:**

I have a different issue, and I will meet with the bill sponsor. I will also vote it out of Committee and reserve my right to change my vote on the floor.



**Chairman Kirner:**

I would appreciate it if the bill sponsor works on this in the next ten days.

THE MOTION PASSED. (ASSEMBLYMEN FIORE, HANSEN, AND SEAMAN VOTED NO.)

We will move to Assembly Bill 336.

**Assembly Bill 336: Revises provisions governing human trafficking.  
(BDR 52-166)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 336 revises provisions governing human trafficking. [Referred to work session document ([Exhibit I](#)).] Assemblywoman Benitez-Thomson and Assemblyman Hambrick are the sponsors. It was heard in Committee on March 27, 2015. As drafted, the bill requires certain businesses and other establishments to post a sign concerning the National Human Trafficking Resource Center hotline. It further requires Nevada's Departments of Transportation and Business and Industry to develop a model sign and make the model sign available. The measure provides a penalty for failing to post a sign.

The attached amendment was submitted by the bill sponsor. The amendment allows certain businesses and other establishments to post a sign inside of women's restroom facilities or the back passenger seat area of a taxi or limousine. Sexually-oriented businesses are still required to post the sign as prescribed in the bill. The amendment also shifts responsibility for development of the model sign to the Secretary of State, and the size and contents of the sign are reduced. Finally, the amendment reduces the fines for noncompliance, which now only apply to sexually-oriented businesses.

**Chairman Kirner:**

I would like the bill sponsor to come to the table for some clarification.

**Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27:**

When we submitted the amendment to the Committee staff and the Chairman, we put the intent on top so that drafting could follow through. The intent is when we talk about sexually-oriented businesses, it is a business whose primary engagement is the definition of the language as following sexually-oriented business. That would be the intent.

**Chairman Kirner:**

I think the question had to do with gaming establishments.

**Assemblywoman Benitez-Thompson:**

The question had to do with certain types of shows or activities that gaming establishments might have, but their primary business is not to engage in those types of shows. Some members had concerns about topless shows. They are casinos, first and foremost, and I do not think in any other way fall under the definition of a sexually-oriented business.

**Chairman Kirner:**

Are there any questions?

**Assemblyman Ellison:**

My biggest concern was the fine.

**Assemblywoman Benitez-Thompson:**

We reduced the fine from \$500 to \$250 for a second offense. After the first offense, the sexually-oriented business would have 30 days to correct and post the sign. If they did not, it would be a \$500 fine. I had some members of the Committee suggest that the fine be much more, since it is only prescriptive for sexually-oriented businesses and that would meet my intent.

**Chairman Kirner:**

Committee Counsel will address that from the perspective of what is written in the bill.

**Matt Mundy, Committee Counsel:**

It is a civil penalty that the district attorney and the county would have to recover in a civil action brought in the name of the State. It is not a fine in the sense of a citation that is issued without any kind of hearing.

**Assemblyman Hansen:**

My problem is if the issue is child prostitution, are we really going to sit here and pretend that there are no prostitution issues on the Las Vegas Strip and in the casinos? I am going to support the bill, but the biggest amount of prostitution by far is in Clark County, and there has to be a percentage of underage girls, which is what we are trying to target. I understand the political ramifications, but I want to protest that we are not going far enough.

**Assemblywoman Benitez-Thompson:**

There has been a lot of discussion on this bill. There are some members who want it in more places. I would agree with that depending on the desire of the Committee Chairman. I think this is a good starting place, especially since this measure has been tried before and it has not gone out of this legislative body. If we get the win of the posting in sexually-oriented businesses, it is a good first step, especially for people who would need the number to call.

**Chairman Kirner:**

There would be nothing to prohibit some sort of a community engagement with these casinos to see if they were voluntarily willing to post this information. Is that correct?

**Assemblywoman Benitez-Thompson:**

That is correct.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYMAN SILBERKRAUS MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 336.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, FIORE, AND  
SEAMAN VOTED NO.)

**Chairman Kirner:**

We will open the discussion on Assembly Bill 356.

**Assembly Bill 356: Revises provisions governing labor organizations.  
(BDR 53-844)**

**Kelly Richard, Committee Policy Analyst:**

Assembly Bill 356 was heard in Committee on April 6, 2015 and was sponsored by Assemblywoman Fiore. [Referred to work session document ([Exhibit J](#)).] As drafted, the bill addressed labor organizations. I will speak to the mock-up because that is what the hearing was regarding. That is attached to the work session. It strikes the majority of the bill's provisions and instead proposes to prohibit a person from damaging or disrupting the lawful activities of any business or its employees or representatives. It provides for presumed damages and attorney's fees as costs in a civil action brought by a party injured by the unlawful activities.

The mock-up would delete sections 5 through 9 and add a new section in Chapter 207 of *Nevada Revised Statutes* (NRS) addressing picketing generally, and repealing NRS 614.160, which addresses picketing by a labor organization. As discussed following the hearing, it is my understanding that the sponsor wished to strike out presumed damages in the amount of \$5,000 or the amount of actual damages so it would just read the amount of actual damages under section 4.5 of the mock-up.

**Chairman Kirner:**

I will entertain a motion.

ASSEMBLYWOMAN FIORE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 356.

ASSEMBLYWOMAN SEAMAN SECONDED THE MOTION.

Is there any discussion?

**Assemblywoman Carlton:**

I am in very strong opposition to this bill. I think what Assemblywoman Fiore is trying to get to could be in Chapter 207 of the NRS which is the malicious crimes chapter. I see no reason to remove it from Chapter 613 of the NRS, which is employment practices, where labor organizations have the right to picket when they are in an economic struggle with their employer. I have concerns about taking this out of employment practices. If we really want to get to the root cause of the problems that I believe were discussed in the hearing, we would leave the labor picketing where it belongs, and we would add a new chapter to miscellaneous crimes to deal with the issues that were brought up and definitely segregate them. I do not believe that they overlap. By overlapping these, we are basically making the expression of free speech a criminal act. By putting it into Chapter 207 of NRS, and without an actual citation of what this crime is, it will become a misdemeanor, which means it could be punishable by 364 days in jail or a \$2,000 fine. If I am standing outside of a business, picketing them because of child labor issues, there is an issue with that, and I could end up with a gross misdemeanor charge. I believe that if there are issues and problems, there is enough in the statutes to deal with these things. Putting it in with criminal behavior would make freedom of speech a criminal act. I have serious concerns about that.

**Chairman Kirner:**

Are there others who wish to comment? Seeing none, I will call for the vote.

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

Assemblywoman Neal and Assemblyman Silberkraus reserved their rights to  
change their votes on the floor.

I will close the work session and call for public comment. [There was none.]  
This meeting is adjourned [at 3:49 p.m.].

RESPECTFULLY SUBMITTED:

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Earlene Miller  
Committee Secretary

APPROVED BY:

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Assemblyman Randy Kirner, Chairman

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

**EXHIBITS**

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

**Date:** April 10, 2015

**Time of Meeting:** 3:17 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 182	C	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 182	D	Kelly Richard/Committee Policy Analyst	Proposed amendment
A.B. 246	E	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 249	F	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 249	G	Kelly Richard/Committee Policy Analyst	Proposed amendment
A.B. 330	H	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 336	I	Kelly Richard/Committee Policy Analyst	Work session document
A.B. 356	J	Kelly Richard/Committee Policy Analyst	Work session document