

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
April 24, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:38 a.m. on Friday, April 24, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settelmeyer, Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson

COMMITTEE MEMBERS ABSENT:

Senator Patricia Farley, Vice Chair (Excused)
Senator Pat Spearman (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman John Ellison, Assembly District No. 33
Assemblyman Edgar Flores, Assembly District No. 28

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Naomi Lewis, Deputy Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services

Laurie Squartsoff, Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services
James Elste, Nevada Cyber Initiatives
Ira Victor, InfraGard Sierra Nevada Members Alliance
Jen Chapman, Recorder's Association of Nevada
Lawrence R. Burtness, County Recorder, Washoe County
Nancy Parent, County Clerk, Washoe County
Janine Hansen, Nevada Families For Freedom
Laura Tucker, Deputy Attorney General, Bureau of Consumer Protection, Office
of the Attorney General
Nicole Willis-Grimes, State Contractors' Board
Brian Reeder, Nevada Chapter, The Associated General Contractors of America
Joanna Jacob, The Associated General Contractors Las Vegas, The Associated
General Contractors of America

Chair Settlemeyer:

I will open the hearing on Assembly Bill (A.B.) 73.

ASSEMBLY BILL 73 (1st Reprint): Revises provisions governing programs of energy assistance. (BDR 58-336)

Naomi Lewis (Deputy Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services):

Assembly Bill 73 will change the date the Division of Welfare and Supportive Services reports on the status of the balance in the Fund for Energy Assistance and Conservation, from June 30 of each year to January 5. This will provide a 6-month period after the end of the State fiscal year to expend or obligate Universal Energy Charge (UEC) funds received in the State fiscal year ending in June. At that time, 30 percent of the remaining balance not expended or obligated for energy assistance would be subject to possible redistribution to the Housing Division for the weatherization program. The passage of the bill would provide agency flexibility to manage the distribution of the two funding sources of the energy assistance program in a manner that uses all available funds to assist low-income households to meet their energy needs for home heating and cooling. It allows the Division to prioritize the expenditure and distribution of Low Income Home Energy Assistance Program (LIHEAP) funds at the end of the State fiscal year. This is to ensure no loss of the federal LIHEAP funds, should 90 percent of these funds not be distributed or expended, without concurrently risking the loss of UEC funds needed to serve all eligible applicant households.

The Division receives a quarter of the UEC revenue just 2 months prior to the end of the State's fiscal year. We attempt to balance spending those dollars and the federal energy assistant dollars prior to the end of the federal fiscal year. Assembly Bill 73 would allow the Division to hold a portion of the prior year UEC funds for a short period to maintain continuous program operations when the prior year LIHEAP grant funds are exhausted and the current federal fiscal year LIHEAP grant is not yet known. It will ensure the current LIHEAP grant amount will be known at the time the decision is being made regarding the distribution of any unobligated UEC balance from the prior State fiscal year. The LIHEAP grants have been known to vary widely from year to year.

Chair Settlemeyer:

Hearing no further discussion, we will close the hearing on A.B. 73 and open the hearing on A.B. 87.

ASSEMBLY BILL 87 (1st Reprint): Revises certain provisions governing the duties of insurers with regard to Medicaid. (BDR 57-326)

Laurie Squartsoff (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

The Division of Health Care Financing and Policy supports A.B. 87. This bill and the enhancements to *Nevada Revised Statutes* (NRS) 689A.430 and 689B.300 will maximize the ability of the State to ensure Nevada Medicaid is the payer of last resort for medical claims. The Deficit Reduction Act of 2005 (DRA) made a number of changes to the Social Security Act with the intent to strengthen State regulation. Section 6035 of the DRA clarifies the entities that are considered health insurers and requires health insurers to cooperate with third-party liability efforts. Section 1902(a)(25)(A), (G) and (I) of the Social Security Act requires all available third parties to meet their legal obligation to pay claims before the Medicaid program pays for the health care of an eligible individual. The revisions proposed in A.B. 87 will more fully align NRS language with the intent of the Social Security Act, the DRA and the clarifying guidance from the Centers for Medicare & Medicaid Services. These revisions will assist the Division to recover payments from all responsible parties for health care costs.

Chair Settlemeyer:

Hearing no further discussion, I will close the hearing on A.B. 87 and open the hearing on A.B. 179.

ASSEMBLY BILL 179 (1st Reprint): Revises provisions governing personal information. (BDR 52-756)

Assemblyman Edgar Flores (Assembly District No. 28):

Assembly Bill 179 revises NRS 603A, the data breach notification law. I will summarize from the submitted document outlining the provisions of A.B. 179 (Exhibit C). When a business or data collector is a victim of a breach, a cybercriminal has broken into their system and personal information has been stolen. *Nevada Revised Statute* 603A states that notification to the victims must be made when personal information is taken. A data collector is a government entity. "Personal information" has a narrow definition. It includes financial credentials, driver's license numbers and social security numbers. I propose to expand the definition of personal information to include driver authorization card numbers, emails with passwords and medical identification numbers.

Adding a driver authorization number harmonizes with the driver's license number. The medical identification number is necessary to align State law with federal law. Emails with passwords are not personal identifying information, but personal information can be accessed through a person's email. It is important to include these things in the definition of personal information.

Assembly Bill 179 is a consumer-friendly law and provides consumer protection. Nevada is the gold standard in data breach notification laws, recognized by the Nation as a business-friendly law. Other states have detailed and complicated laws; our laws are reasonable. The bill does not alter the current "reasonable measures" standard to protect personal information or alter any of the current remedies. It does not create new penalties or punishments for cybercrime. Most of the cybercrimes are made by out-of-state individuals. It is difficult to police people outside of our state line. We are forced to be defensive and reactive. Companies must comply with the provisions of the bill by July 2016. The cities requested this date to give them time for compliance.

James Elste (Nevada Cyber Initiatives):

Nevada Cyber Initiatives supports A.B. 179, and I will read from my written testimony (Exhibit D). Protecting personal information, the credentials and identification we use to transact business, to access financial accounts or access other resources online is fundamental to preventing identity theft. This is the objective of the proposed bill. Nevada is considered the gold standard in

identify theft protection and breach notification laws. California, Massachusetts and Nevada are regularly cited as being leading examples of this type of law. Improvement on that gold standard is made with A.B. 179 and we encourage your support.

Ira Victor (InfraGard Sierra Nevada Members Alliance):

I am a member of the Technological Crime Advisory Board of the Attorney General's office and immediate past president for Sierra Nevada InfraGard. InfraGard Nevada is the largest cybersecurity organization in Nevada. We deal with cybercrime issues on a daily basis. I just returned from the country's largest cybersecurity convention in San Francisco, where the topic of transparency was very high on the agenda of being transparent about what is going on with our networks and what we are doing to protect them. To improve upon those things are priorities.

One of the sessions from the convention in San Francisco covered cybersecurity insurance. In the wake of the large breaches to some large companies, including Target, Lowe's and LinkedIn, businesses are seeking cybersecurity insurance and realizing how important it is to protect information. The improvements to NRS 603A with A.B. 179 are very market-focused. It provides incentives for businesses in Nevada to protect data, and should they not protect it, they must go public with the fact that the data was not protected. That is in complete alignment with where the cyber industry and cyber insurance is heading. The improvements in the law keep Nevada in the forefront of the cyber field. A username with passwords spreadsheet from one of the large company databases was compromised. We provide a market-based incentive with A.B. 179 for those companies to protect the data and not end up with horror stories.

Chair Settlemeyer:

Are you amending the provision in section 8.5 of A.B. 179 stating the businesses are not required to comply until July 2016?

Assemblyman Flores:

No, the provision as stated is fine. The bill is effective immediately with a 1-year compliance window to July 2016.

Jen Chapman (Recorder's Association of Nevada):

The Recorder's Association of Nevada supports A.B. 179. Any changes to NRS 603A will affect the local recorder offices that maintain public records. We

appreciate the communication process in this bill, and we agree with balancing transparency with protection of information.

Lawrence R. Burtness (County Recorder, Washoe County):

I support A.B. 179 as a custodian, preserver and protector of public records, specifically property records. I understand my responsibility to protect personal information; it is a critical function of my office.

Nancy Parent (County Clerk, Washoe County):

I support A.B. 179 and appreciate Assemblyman Flores working with Washoe County to be sure our public information is protected.

Chair Settlemeyer:

Are the last three testifiers in agreement with the effective date of the bill?

Ms. Chapman:

Yes.

Mr. Burtness:

Yes

Ms. Parent:

Yes.

Janine Hansen (Nevada Families For Freedom):

Nevada Families For Freedom supports A.B. 179. I have worked for many years on protecting people from identity theft. Some of the unprotected information is used to injure people. There have been breach issues at Target and other large corporations, and this bill is important.

Laura Tucker (Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

I represent the Attorney General's Office on the data privacy multistate working group for the National Association of Attorneys General. I will read from my written testimony explaining how cyber criminals steal information and what these criminals do with that information ([Exhibit E](#)). This testimony is neutral on A.B. 179.

Chair Settlemeyer:

Hearing no further discussion, I will close the hearing on A.B. 179 and open the hearing on A.B. 137.

ASSEMBLY BILL 137 (1st Reprint): Revises provisions governing contractors.
(BDR 54-513)

Assemblyman John Ellison (Assembly District No. 33):

I am here to present A.B. 137. If a licensed contractor hires an unlicensed subcontractor, the fines for the contractor are massive. I will relay a story that illustrates why A.B. 137 was proposed. An individual, acting as contractor to build three large houses in Spring Creek hired unlicensed subcontractors. This contractor rented a license from a licensed contractor and hired undocumented people. When these workers attempted to collect pay, the individual beat on them, broke one person's jaw and refused to pay them. These people came to me and a complaint was filed with the district attorney. The fine for the offending individual was only \$250. Another story is about a concrete project that was bid by three licensed contractors and one unlicensed contractor. The unlicensed contractor was awarded the project. Licensed contractors pay insurance, workers' compensation, bonds and whatever Nevada law requires of them. These contractors filed a complaint and the State Contractors' Board issued a citation of just \$250 to the unlicensed contractor. If this contractor had been licensed, his fine would have been \$10,000 and the potential loss of his license.

Assembly Bill 137 attempts to even the fairness factor for all contractors. Ira Hansen and other contractors on the Assembly Committee on Labor and Commerce agreed on the fine amounts. Section 6, subsection 2, paragraphs (a), (b) and (c) of A.B. 137 identify the fine amounts, and subsection 3 identifies a fine percentage applicable to larger projects. This bill pertains to licensed and unlicensed contractors.

Senator Hardy:

Is there a law against renting out a contractor's licenses?

Assemblyman Ellison:

Yes, it is a violation of Nevada law.

Senator Hardy:

In the situation with the contractor who injured the workers and refused to pay them, does not the law cover that crime?

Assemblyman Ellison:

The individual had about 20 violations of Nevada law. If the individual had been a licensed contractor, other remedies could have been put into play. This is just one of many stories of unlicensed-contractor abuse of Nevada law.

Senator Harris:

What are the current fines for someone who rents out his or her contractor's license?

Assemblyman Ellison:

The State Contractors' Board can answer that question. The fines are heavy and the bond and license of the individual could be revoked.

Senator Harris:

Are there fines for an unlicensed individual who borrows a license?

Assemblyman Ellison:

Assembly Bill 137 addresses these issues. The fines will increase with the number of offenses. This will also influence the district attorney's office to enforce the law.

Senator Harris:

A \$1,000 fine would not be a deterrent on a million-dollar project. How did you arrive at the penalty scheme?

Assemblyman Ellison:

Section 6, subsection 3 of A.B. 137 explains the percentage fine applicable to a million-dollar project. Our goal is for these individuals to obtain a valid contractor's license.

Nicole Willis-Grimes (State Contractors' Board):

The State Contractors' Board supports A.B. 137 and appreciates Assemblyman Ellison's efforts to put forth this bill and address the related concerns and provide additional and increasing penalties for those who choose to abuse Nevada law. Advertising is another component of the bill. An

unlicensed contractor or person who operates as a handyman must not misrepresent or omit licensing status in advertising.

Many of the fines questioned by Senator Harris are outlined in the regulations of the Board, and we will cross-check these and get back to the Committee with some specifics.

Brian Reeder (Nevada Chapter, The Associated General Contractors of America):

The Associated General Contractors of America (AGC) Nevada Chapter supports A.B. 137 and this legislation about going after the bad actors. The AGC represents members who are honest, work clean, work safe and work hard to maintain that reputation.

Joanna Jacob (The Associated General Contractors Las Vegas, The Associated General Contractors of America):

I agree with Mr. Reeder and AGC of Las Vegas supports A.B. 137. We represent the licensed members and we support any legislation that seeks to enforce the law for people who do not comply with the licensing and the regulations to which our members are subject.

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Chair Settlemeyer:

I will close the hearing on A.B. 137. As there is no further discussion, the meeting is adjourned at 9:19 a.m.

RESPECTFULLY SUBMITTED:

Renee Fletcher,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	3		Attendance Roster
A.B. 179	C	10	Assemblyman Edgar Flores	Data Breach Notification Law document
A.B. 179	D	3	James Elste/Nevada Cyber Initiatives	Written Testimony
A.B. 179	E	1	Laura Tucker/Office of the Attorney General	Written Testimony