

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

**Seventy-Eighth Session
February 23, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 9:01 a.m. on Monday, February 23, 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 Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Wayne Carlson, Executive Director, Public Agency Compensation Trust
Robert Balkenbush, Public Agency Compensation Trust
Michael Rebaleati, Nevada Public Agency Insurance Pool; Public Agency Compensation Trust
Dagny Stapleton, Deputy Director, Nevada Association of Counties
Mary Walker, Carson City; Douglas County; Lyon County; Storey County
Tray Abney, The Chamber
Bob Ostrovsky, Employers Insurance Company of Nevada
Danny Thompson, Nevada State AFL-CIO
Rusty McAllister, President, Professional Firefighters of Nevada

Senate Committee on Commerce, Labor and Energy
February 23, 2015
Page 2

Chris Collins, Las Vegas Police Protective Association
Ron Dreher, Peace Officers Research Association of Nevada
Ryan Beaman, Clark County Firefighters, Local 1908
Tim Ross, Washoe County Sheriff Deputies Association

Chair Settlemeyer:

We will begin the hearing with Senate Bill (S.B.) 153.

SENATE BILL 153: Revises provisions relating to occupational diseases.
(BDR 53-635)

Wayne Carlson (Executive Director, Public Agency Compensation Trust)

Public Agency Compensation Trust (PACT) is an association of self-insured public entities and worker compensation formed under *Nevada Revised Statutes* (NRS) 277.080 through .180, the Interlocal Cooperation Act. The Compensation Trust includes counties, cities, towns, special districts, school districts and hospitals in rural Nevada. I am providing a summary of my testimony ([Exhibit C](#)).

Fundamental principles of workers' compensation laws were passed during the Industrial Age in America, which required employers to waive certain rights and employees to give up their right to sue in lieu of specific benefits set by the Legislature. If an employer failed to provide workers' compensation, the employee could sue under those circumstances and the employer had no common law defense.

The historical key to this trade-off is the nexus to employment. Certain court cases modified NRS 617. Insurance coverage was expanded to include post-employment, for lifetime benefits, which original legislation did not intend. This change created a burden to the taxpayers for past employees no longer providing any service, whether that person be a short-term employee, with 5 years of service, or a long-term employee who worked in that occupation until retirement age.

The Compensation Trust supports the essential services of public safety employees, and we accept an occupational disease exposure connected with some of the work performed. However, it seems that some court cases have misconstrued the intent of workers' compensation laws to the degree that an employee with only 5 years of service becomes eligible for occupational disease benefits far beyond the years of employment. As an example, one employee

worked for 6 years as a police officer, then became an attorney. Under the existing law, that person is still eligible for heart/lung coverage although that person is no longer providing a public service.

Senate Bill 153 is brought before this Committee in an attempt to rebalance the exchange between employers and employees via these workers' compensation principles. The Compensation Trust seeks to change the interpretation of the NRS to require that occupational diseases must be diagnosed and cause disablement during employment. Such a change will remove the present interpretation that such diseases are covered long after the employment relationship ends, whether by termination, with or without cause, change of occupation or retirement.

The original language of S.B. 153 had some errors that inadvertently deleted the post-employment periods for cancer and hepatitis, which we had not requested, and the amended bill reverses, our proposed amendment ([Exhibit D](#)). Our intent was not to modify any of the provisions regarding cancer and hepatitis, with one exception.

There is another rebalancing goal with S.B. 153 to treat the employee partially disabled from an occupational disease the same as any other partially disabled employee. Under the present law, occupational disability employees are able to elect permanent, total disability on an insurance claim. The availability of this insurance election for occupational diseases is very costly since that person will receive benefits for life. Other employees can go through rehabilitation or be retrained for other positions.

Senate Bill 153 removes a long-term, unfunded liability from many government entities in Nevada, both State and local. The Compensation Trust has started a long-term liability fund, based on actuary reports, for post-employment liability ranging from \$20 million to \$80 million. This funding began approximately 10 years ago; however, we have not even raised the minimum dollar figure. Therefore, PACT is trying to eliminate the unfunded liability that was established based on the court case, *Gallagher v. City of Las Vegas*, 114 Nev. 595, 959 P.2d 519 (1998).

An additional factor relates to post-employment physicals. During active employment, employees are subject to physical exams. If a precursor to heart or lung disease is found, the doctor is obligated to correct that condition. If the

employee does not have the correction done, that employee is not entitled to the presumption of benefits. During post-employment, the employer has no control over the medical process. No physical is required and there is no obligation for an employee to comply with doctor orders. This is not currently addressed in the NRS.

The PACT members have established a cardiac wellness program to help prevent heart disease, yet once employees leave, the benefit is no longer available. Medical risk is no longer in the employers' control; however, employers' do have financial obligation for certain occupational diseases. Former employees can relocate to a different state, yet still collect benefits from Nevada if he or she has met the minimum 5-year employment requirement.

In the mock-up proposed amendment, [Exhibit D](#), here are a few of the proposed changes. On page 3, line 3, in green, is clarifying language that cancer causing disablement diagnosed during employment is presumed to have arisen from such employment.

Any language in orange had inadvertently been deleted in the original bill, which was not our intent; therefore, we are reinstating that language. The Compensation Trust recognizes there are certain cancers that have a manifestation period. Existing law provides a time of up to 60 months for post-employment manifestation, which PACT agrees should be retained in the language.

On page 4, lines 12-13, language is being added regarding disabling lung diseases that are diagnosed during the course of employment, so the language is consistent for occupational diseases referenced in S.B 153. On page 4, lines 24-30 are deleted. This is the benefit election for permanent, total disability, which I mentioned earlier. Eligibility for rehabilitation continues to be accessible; however, every employee must follow the same procedure for disability benefits. An employee cannot just elect permanent, total disability.

The following changes on page 6, are as follows: lines 6-12 deletes the same language regarding election of permanent, total disability: lines 21 and 22, consistent language is added for hepatitis needing to be diagnosed during the course of employment. Page 7, line 17 reinstates language that was mistakenly deleted; lines 19-22, regarding post-employment manifestation, are deleted:

lines 23-30, regarding election of permanent, total disability status, from hepatitis, are deleted.

Robert Balkenbush (Public Agency Compensation Trust):

Senate Bill 153 requires heart, lung and hepatitis diseases to be diagnosed, and cause disablement, during employment, for an employee to be eligible for medical benefits, which is consistent with existing law, and the language regarding election for permanent, total disability is being omitted. Existing law allows firefighters, police officers or other law enforcement officials to elect permanent, total disability, even if they are only diagnosed as partially disabled, which allows that employee a benefit of 66.75 percent of their average monthly wage, for life.

If an employee is diagnosed as totally disabled, that person is eligible for the lifetime benefit. However, if an employee is diagnosed as partially disabled, that claim is submitted to the rehabilitation aspect of workers' compensation. That is a service provided by insurance to allow an employee to be rehabilitated to purposeful employment, even if that employment is different from the employment that person had prior to injury.

Michael Rebaleati (Nevada Public Agency Insurance Pool; Public Agency Compensation Trust):

As a recent retiree as an auditor and recorder for Eureka County, I have seen the prohibitive costs associated with the current law and how the court case of *Gallagher* created liability for local governments. We need to balance benefits with workers' compensation principles. For the record, "I have been a volunteer fireman for 32 years and plan to continue."

Senator Atkinson:

Can you clarify whom you are representing?

Mr. Rebaleati:

The Nevada Public Agency Insurance Pool and the Public Agency Compensation Trust represent 15 of the 17 counties for coverage of workers' compensation, liability and casualty insurance.

Senator Atkinson:

What particular problems caused the necessity of S.B. 153? Are costs being exceeded?

Mr. Carlson:

Public Agency Compensation Trust is a self-insured workers' compensation provider, owned by the local governments that are our members. The problem arose from the court case of *Gallagher*, which interpreted the law for a lifetime benefit, where a public employee would be eligible for certain workers' compensation benefits, long after the termination of employment. Thus, an employee with only 5 years of service is entitled for the same benefit as an employee who has 20 years of service.

Although an employee is no longer providing service, PACT is not relieved of the obligation to provide that employee with presumptive benefits for the remainder of his or her natural life. This benefit is where the cost is derived. The Compensation Trust had two separate actuarial analysis reports completed on cost implications. Both reports confirmed the same approximate costs of \$20 million to \$80 million, depending on specific assumptions made for benefits.

The Department of Taxation collected data from other individual self-insured governments. Between both sets of data, the collective costs could reach \$2 billion of unfunded liability. The significant fiscal impact, for which the public is not benefiting, is the problem we are trying to address, and it has caught the attention of the Nevada Taxpayers Association.

Senator Atkinson:

Have these dollar figures come from reports at your agency or another organization?

Mr. Carlson:

Our agency is a Nevada organization for local governments. The \$20 million to \$80 million range is PACT's figure for post-employment liability. The \$2 billion figure is the total Nevada number based on data from the Department of Taxation, only for post-employment liability.

Senator Atkinson:

Where is this data located?

Mr. Carlson:

Two actuarial studies were provided to the Department of Taxation, which remain on record at the Department. I am providing the Department of

Taxation's report of liabilities for 2014 ([Exhibit E](#)) and an analysis on liabilities associated with public employees ([Exhibit F](#)).

Senator Spearman:

As a disclaimer, I am a disabled veteran. All of my disabilities are connected to my military service. I know military personnel who had health issues manifest long after their service to our Country, and are having issues with obtaining benefits. How can you put a value on human life?

Mr. Balkenbush:

The difference between having military service-related health manifestations, whether mental or physical, and what is in S.B. 153, is a conclusive presumption which takes away proof of causation. A person does not need to prove a connection between his or her service and the disease. The benefit is simply granted by law. Our agency is adding a work connection to S.B. 153, so a past employee must prove a connection of an illness to past work service. It is not a question about the value of life, as it is the association with payment of benefits with causation of a disease.

Senator Spearman:

Are you able to place a value on a human life? Why is there a 5-year limit to claim benefits, when exposure to caustic agents may not manifest until long after that time frame?

Mr. Balkenbush:

The 5-year period is existing law. Our agency did not propose that time period.

Senator Spearman:

Are you trying to make the law better? Are you going to change the time frame of manifestation?

Chair Settlemeyer:

What is prompting S.B. 153? Are there any examples that fall under unfunded liability?

Mr. Balkenbush:

One example was an individual who had not worked in law enforcement for 15 years. This individual had bypass surgery that was paid for by health insurance. Three years later the individual filed a claim for a heart transplant.

Under existing law, the county would have to pay benefits due to a conclusive presumption, meaning regardless of the disease, it is presumed to have arisen from the individual's employment.

Chair Settlemeyer:

Was there any intervening cause that clearly shows the condition did not derive from that person's prior employment?

Mr. Balkenbush:

Additional facts found this individual had been abusing alcohol and tobacco; however, these facts did not change the payment of benefits. The current language of the law does not allow past employees to be medically monitored, allowing individuals to live medically unsafe yet still collect on benefits years after employment.

Senator Farley:

Between the unfunded liability and the counterbalance, what percentage of people is actually accessing the heart/lung fund? Do you have to account for all employees less some percent that actually use the fund? Are your associations worried about what could happen or what is actually happening?

Mr. Carlson:

We looked at the population of police and fire personnel within our employment base, and then took data from national health statistics to estimate the percentage of people who would likely develop heart, lung or hepatitis diseases. Cases involving those major surgeries typically cost over \$1 million. Once the analysis was complete, we put together a funding plan, meaning the establishment of a separate rate to collect toward the initial \$20 million for post-employment liability. That cost has been passed on to the member governments, which is a burden to taxpayers.

A driving factor is the demographic known as the baby boomer age, which is going to be a large group. Part of the funding is to help handle the larger number of claims that will be filed. Reserves are set for these potential liabilities. If you do not fund this type of potential liability in advance, then benefit dollars will come out of current operations dollars. There are several large self-insured governments funding on a pay-as-you-go basis. This is a significant risk because if certain factors come into play, the insurers will have to meet the benefit claims first as they are priority obligations.

Senator Manendo:

How many members does PACT cover?

Mr. Carlson:

There are approximately 125 local governments with 14 counties and 13 cities.

Senator Manendo:

What is the number of actual people covered?

Mr. Carlson:

There are approximately 11,000 employees.

Senator Manendo:

How many actual claims have been filed?

Mr. Carlson:

I do not have the breakdown of claims filed specifically for heart, lung and hepatitis diseases; however, the total number of claims filed per year is approximately 800-900.

Senator Manendo:

Of those claims, how many are accepted?

Mr. Carlson:

Most claims are accepted, although I do not have an exact figure.

Senator Manendo:

Are the claims all paid?

Mr. Carlson:

Some of the claims are being paid over time; others have been paid and closed.

Senator Manendo:

Has there been any study conducted on the cost to taxpayers if an individual's post-employment must seek medical assistance after the time period on the proposed amendment has elapsed?

Mr. Carlson:

I do not have that information. Senate Bill 153 and the proposed amendment pertain to workers' compensation and an employment-based issue. Where you obtain health coverage after employment at any given occupation should be up to the next employer or some other health plan.

Senator Manendo:

If any person cannot pay for medical aid received at any hospital, that charge becomes a burden on taxpayers; this must be taken into consideration during deliberations for S.B. 153.

Senator Atkinson:

Is there a number of retirees that have filed claims?

Mr. Carlson:

I will need to obtain that information from our claims administrator.

Senator Atkinson:

When does coverage for a retiree end?

Mr. Carlson:

Coverage does not end until the retiree's death, at which time the benefit transfers to a surviving spouse and expires at the death of the spouse.

Senator Atkinson:

Can you provide the total number of claims submitted with the amount of claims approved and the amount of claims denied? Can you explain the actual studies leading to S.B. 153 and the proposed amendment?

Mr. Carlson:

There were two studies conducted. The first study was completed in 1999 after the decision on the *Gallagher* court case. The Compensation Trust tried to get legislation amended immediately after the court decision, and has been unsuccessful since. The second study, completed in 2008, had data consistent with the 1999 study. Each study was conducted by different actuaries.

Senator Atkinson:

Is there a fair comparison between the data collected in 1999 and 2008?

Mr. Carlson:

Since there were two independent actuaries who conducted studies at different times, the conclusions are consistent. The important information is the combined data from the actuaries and all entities. It is over \$2 billion. \$20 million to \$80 million is a very large amount for the Compensation Trust. Our annual revenue for all services, programs and claims provided, is \$14 million. There is a huge impact to the rural cities and counties with membership in the PACT.

Senator Atkinson:

Would you expect any additional differences in information between 1999 and 2015?

Mr. Carlson:

The purpose of an actuarial study of this type is focused on reserve dollars that need to be set aside to fund claims when they manifest.

Senator Hardy:

What are you doing to meet your \$14 million expenditure? Are you doing anything with reinsurance to allow for additional expenditures? How are you charging each of your member counties?

Mr. Carlson:

Annual revenue for the PACT is approximately \$14 million for all coverage, service and claims for every employee, including \$2 million toward post-employment heart-lung exposure. There is a separate rate charged to full-time police and fire employees, per \$100 of payroll. Of the \$2 million collected, we place that in reserves for future claims on assumption that the money will be paid at some point because it is such an uncertain area of law, based on the actuarial studies.

To date, we have accumulated approximately \$13 million toward the initial \$20 million. By Board of Directors policy, the Compensation Trust has consistently raised the rate for public safety category by 10 percent per year to accelerate the accumulation of needed funding.

Senator Hardy:

Do you use reinsurance?

Mr. Carlson:

Yes, we do use reinsurance. The Compensation Trust pays a premium to the reinsurer; however, in the public safety category, our retention is \$500,000 with the self-insurance fund. The Compensation Trust also has its own captive insurance company that shares in the excess claim amount up to \$3 million with the reinsurer. Most of the risk is retained between the PACT captive insurance and the reinsurer.

Senator Hardy:

If a large claim was initiated, are you currently covered up to \$20 million or more?

Mr. Carlson:

The Compensation Trust retains an approximately \$2-million risk fund in its own captive insurance, and reinsurers provide the balance up to the workers' compensation statutory limit.

Senator Hardy:

Are you covered up to any amount of benefit claim?

Mr. Carlson:

Yes, we are covered up to any dollar amount.

Senator Spearman:

What does the term "scheme" mean? What are presumptive benefits?

Mr. Carlson:

The term "scheme" stands for "benefits."

Senator Spearman:

Are you separating firefighters and police officers as a separate category from other employees and the presumption of what claims can be filed for particular benefits?

Mr. Carlson:

For police officers and firefighters, the particular diseases of heart, lung and hepatitis, the Legislature decided the conclusive presumption was work-related, regardless of any proof. The court case, *Gallagher*, decided the benefit was

receivable for life. No other employee type has heart, lung, cancer or hepatitis as a presumed disease.

Senator Spearman:

Aside from police officers and firefighters, how many other professions have a presumption of danger when they go to work?

Mr. Carlson:

From a statutory standpoint, police officers and firefighters are the only categories with a presumption of danger. Philosophically speaking, others may be exposed to conditions believed to be dangerous.

Dagny Stapleton (Deputy Director, Nevada Association of Counties):

The Association of Counties supports the efforts to manage costs of long-range presumptive eligibility for workers' compensation benefits due to the significant unfunded liabilities that exist in county budgets across the State. The Association continues to poll members regarding individual unfunded liabilities.

Mary Walker (Carson City; Douglas County; Lyon County; Storey County):

We support S.B. 153. It brings more reason to the workers' compensation statutes.

Tray Abney (The Chamber):

The Chamber members support S.B. 153. Police officers and firefighters should definitely be well paid and compensated for their health care costs, as well as for any injuries they acquire on the job. Public safety employees put their lives on the line every day, not knowing if they will come home at the end of the day. However, if an individual leaves the fire department after 5 years of employment, moves to another state and drinks, smokes and eats badly, then at age 60 can claim a manifestation of a disease was caused by his or her employ at the fire department. Nevada would be liable to pay benefits to that individual, without any proof that the manifestation was caused by his employment in Nevada.

Senate Bill 153 changes the law so an individual would need to prove that any heart, lung or hepatitis disease was caused by employment as a public safety worker. Every dollar spent on paying these lifetime benefits is one less dollar that a local government has to pay toward current salaries, benefits for current employees, parks or any other fund paid by each local government.

Bob Ostrovsky (Employers Insurance Company of Nevada):

There is a necessity for clarification on S.B. 153, section 6. Public safety employees retire with the expectation of a future benefit if needed. If S.B. 153 with the proposed amendment passes, the future benefit is taken away. It is only fair that if a previously qualified individual leaves work or retires, then that individual should remain qualified. Section 6 does not address if a qualified recipient of benefits stays qualified or loses the ability to file a future claim.

Under NRS 617.358, any employee not working in public safety filing a claim for compensation due to an occupational disease faces a rebuttable presumption that the disease did not arise out of and in the course of employment. An individual no longer employed and diagnosed with an occupational disease faces a hard road to prove the disease was attributed to his or her employment. For firefighters and police officers, the law is totally opposite by covering any occupational disease with lifetime benefits.

Employers Insurance would like some middle ground or clear lines for what is covered and not covered under any particular policy, and would support a more liberal benefit interpretation. A premium was collected for an insurance policy based on the current statute; therefore, retroactive benefits cannot be added nor benefits taken away at a later date. If there were unfunded liability, it would need to be dealt with by the agency or insurance company that accepted the liability.

Senator Hardy:

There is funding available for policies in place. Are you saying we should not offer the lifetime presumption of benefits to new hires?

Mr. Ostrovsky:

Insurance policies should be clearer regarding presumptive benefits for all employees starting with new hires. These policies are written as of a specific date, claims made after a certain date, or state a manifestation time, such as 10 or 20 years, but not a lifetime.

Policy requirements are very clear. Under NRS 616C.015, an employee must provide written notice of an on-the-job injury within 7 days. Per NRS 616C.020, the insurance company must be notified within 90 days of the injury. These policy requirements are very clear and simple, yet it gets complicated with diseases that manifest in the future.

Senator Atkinson:

Should benefits be received at a reduced rate?

Mr. Ostrovsky:

Employers Insurance is not advocating any position other than what the statute requires. There is a plethora of choices the Committee has as a matter of policy. If you retire or leave employment, you need to look to the law at the time of retirement. The benefit should not be taken away. Current lifetime benefit claims already exist so it does not help with the reserve problem. As a matter of policy, the same position taken when trying to increase benefits should be taken when you decrease benefits. You should not take away what an employee has earned.

Danny Thompson (Nevada State AFL-CIO):

The AFL-CIO represents more than 200,000 individuals in the State ranging from construction, hotel, public safety and other workers who have varying exposure to risk. The recent tunnel for water from Lake Mead was completed by our members. There was a known risk since the workers on the tunnel had to agree to an Office of Safety and Health Administration waiver. An unforeseen, unplanned accident took the life of one individual.

Although trained for many different scenarios, when public safety workers show up to a call, such as with the tunnel accident at Lake Mead, no amount of planning can anticipate for the unknown things that can happen at any particular job.

The original part of the Legislative Building was built with asbestos. If the building caught on fire, the responding firefighters do not have the opportunity to spend time with an analysis of the building materials, or determine if any transformers contain polychlorinated biphenyl; both substances are known as cancer-causing substances.

There are substances proven to cause cancer that take many years to manifest, sometimes up to 20 or 30 years. The current law is in place to compensate the workers who take these risks to provide safety measures for the public; they are well-deserved benefits. When I was a legislator, I brought forth this measure due to all of the claims that were being denied. Every single claim for an occupational disease, post-employment, was denied by local government. Every member of the AFL-CIO opposes S.B. 153.

Rusty McAllister (President, Professional Firefighters of Nevada):

I have provided Website links ([Exhibit G](#)) for seven of the hundreds of studies proving public service workers are exposed to known cancer-causing substances. Proponents of S.B. 153 must be well aware of this fact since the insurance companies are paying the claims. Since benefit payments are getting expensive, insurance companies want to change the law.

The heart and lung provisions for police officers and firefighters were added in the statute in 1965 and 1967. Cancer protections were provided in 1987 for firefighters. In 2001, hepatitis protection was added as an occupational disease, and in 2003, police officers were added to coverage only specified for firefighters. Since the inception of the statutes, there have been numerous amendments with each one meant to strengthen the statute. Every proposed amendment to exclude the occupational disease benefit has failed since 1999 after the court case *Gallagher* approved the benefit for life.

The heart and lung benefits extend into retirement. The cancer provisions only protect us for 5 years post-employment, even though scientific evidence shows the latency period for many types of cancer is over 10 years, with a few cancers manifesting as much as 30 years after exposure. The 5-year coverage period is not enough, yet it is all we have. Hepatitis coverage only follows a post-employee for 1 year. When the hepatitis coverage was added to the statute in 2001, scientific evidence, at that time, showed manifestation should occur within 12 months.

The proposed amendment, [Exhibit D](#), leaves the cancer and hepatitis provisions in the statute; however, S.B. 153 totally restructures the heart and lung benefits. The heart and lung benefits would completely stop once a person left employment, regardless of time served. The firefighters association believes that veterans should be well compensated with benefits to take care of them after their service. Public safety workers are exposed to many of the same risks as the veterans, and should be compensated in much the same way. The statute only provides benefits for medical coverage, which should not be revoked.

I can provide evidence showing benefits have been denied on claims which diagnoses are conclusively presumed to have arisen from employment, some cases dragging on longer than 3 years.

Actuary reports can be skewed to a person's benefit, depending on the information given them. Actuary reports can also be wrong, as is the case with two reports provided by one of the larger cities in Nevada. They say if the hepatitis law passed, payment of benefits would break the city due to unfunded liability. There have only been three cases of hepatitis since that time which have been treated and cured. No such bankruptcy happened.

In 2004, a questionnaire was sent to all employers of police and fire personnel consisting of questions pertaining to the number of claims received between active and retired personnel, as well as how many claims were approved and denied. I am providing a report from the City of Las Vegas showing data collected on heart and lung cases from 1984 through 2004 receiving permanent total disability for claims ([Exhibit H](#)). There are only 32 cases in 20 years.

Of the companies that responded to the questionnaire, there were 722 total claims, with only 43 from retired employees. Total claim payments, medical and indemnity, were \$7,768,000. Of the \$7.7 million, \$1,195,000 was paid on the 32 heart and lung cases over a 20-year period.

On the bottom of the provided report, [Exhibit H](#), you will see changes to the amount of self-insurance per claim, or attachment point. From the January 1986 through June 1998 reporting period to the July 1998 through June 2002 reporting period, the attachment point actually dropped from \$500,000 to \$350,000. However, the next recording period of July 2002 through June 2003, the attachment point shot up to \$2 million, then up to \$5 million in the July 2003 through June 2004 period.

After going over all the data provided, it was hard to determine what caused the attachment point value to skyrocket. After additional research, it was determined that the first large increase occurred after the attack on the Twin Towers of the World Trade Center in New York City, when many public safety workers lost their lives, which seems to be the reissuing of terrorist insurance. Our Firefighters Association submits that insurance companies are losing money in payments on many claims other than just heart and lung claims. Firefighters and police workers will continue to pull people out of burning buildings and protect the public from harm. These workers will continue to expose themselves to detrimental reliance, knowing if they get injured, they will be taken care of. Therefore, our Firefighters Association opposes S.B. 153.

Chris Collins (Las Vegas Police Protective Association):

Police officers and firefighters have no idea what awaits them when responding to service calls. Safety workers are exposed to chemical, biohazard and nuclear materials as well as meth labs. Some of our members have been exposed to ricin and anthrax, and the association had to enter into litigation to get the benefit claims accepted.

I was on the Special Weapons and Tactics team for many years and executed quite a few search warrants, many of which were on active meth labs. Upon returning to our home base, the team requested to fill out workers compensation C-4 Forms to cover ourselves for the poisonous fumes we inhaled. The entire team was informed that we did not need to fill out the forms because all safety workers would be taken care of. Every team member believed their Country would take care of them medically for the service provided. Senate Bill 153 is trying to strip us of hard-earned coverage.

The proponents of S.B. 153 stated that the baby boomer generation would soon be trying to collect on benefits so the insurance industry needs to ramp up for liabilities. However, in Nevada, the number of police and firefighters in 2007 was 11,936; in 2008, there were 12,367; and now in 2015 there are 11,817. Facts show the baby boomers did not arrive. There are fewer safety workers serving a greater population. The increased insurance liability due to heart, lung and hepatitis disease simply is not true and our Police Association strongly opposes S.B. 153.

Chair Settlemeyer:

Many states are trying to address the same medical liability issues. Medical benefits should be available for the workers who deserve it. A few states have taken away the presumptive clause if the worker is a cigarette smoker. How is the best way to preserve the liability when a worker leaves one job for another far more dangerous job for another 10 years where he or she was most likely infected?

Mr. McAllister:

I agree that every deserving safety worker should have a protected benefit. In 2011, I offered an amendment stating a safety worker who is vested at 5 years and then leaves employment should be covered for 5 years then be off the policy. For longer employment time, workers should be covered for the same

number of years he or she worked. I was informed by a representative for the PACT that they wanted all terms on the proposed bill or nothing at all.

There is stipulation in the NRS stating that if an employee does not make a good-faith effort toward correcting a pre-existing condition and/or submit to X-rays at specified intervals during employment, then that individual is no longer eligible for benefits. I would like to comment that I am submitting written testimony from Francesca Litow ([Exhibit I](#)).

Chair Settlemeyer:

What about post-employment? If Nevada is going to offer medical coverage to individuals after employment, should not the individuals share the responsibility for their well-being?

Mr. McAllister:

Our Firefighters association would support post-employment physical examinations.

Senator Atkinson:

What is the longest time frame an individual has been in retirement before accessing needed benefits? How many retirees have accessed benefits?

Senator Harris:

Data on the handout provided, [Exhibit H](#), in the fourth column, what do the initials FF and CO stand for? Is there any data available more current than 2004? Is the data provided for active duty employees or retirees?

Mr. McAllister:

The FF stands for firefighter and CO stands for correctional officer. I do not have more current data than what has been provided. To the best of my knowledge, the data provided is on active duty employees.

Ronald Dreher (Police Officers Research Association of Nevada):

I am a 26-year retired police officer and a veteran of the U.S. Army who served in Vietnam. I have seen this legislation worked on by the former State Industrial Insurance System and the PACT for many years. Some of my fellow officers had heart and lung cases that were denied, even an on-duty police officer who was conclusively presumed had his claim denied. Senate Bill 153 does not fix this issue. The amount of denied claims is an insult to the men and women who

have served this Country and the Peace Officers Association opposes S.B. 153. Our Peace Officers Association is about the future of law enforcement. Senate Bill 153 is retroactive; there is no closure date. If this bill passes, I and every retiree from law enforcement and firefighting will have zero coverage. Every law enforcement and firefighting association request this Committee oppose S.B. 153.

Ryan Beaman (Clark County Firefighters, Local 1908):

On behalf of my members and every first responder in the State, I ask this Committee to stand with those who serve and protect its communities. Assembly Bill No. 345 of the 71st Session collected a lot of data regarding acceptance and denial of claims. The 2013 report was amended to only collect the information regarding police and firefighters. In 2014, the data shows 349 reported claims for police officers and firefighters; 3 claims were for cancer, which were accepted; 4 were lung claims; 9 were heart claims. There were a total of 164 denials. The report information states the average medical cost per claim is approximately \$5,700. The report does not state if the claims are for active or retired employees. This association opposes S.B. 153.

Tim Ross (Washoe County Sheriff Deputies Association):

Police officers and firefighters do not have the luxury of knowing they will be safe on any day they go to work. Our associations want safety workers to be taken care of if an injury or death befalls them. Regarding a proposed \$2 billion unfunded liability, it would take every single firefighter and police officer to file a claim tomorrow to get near the \$2 billion figure.

Senator Atkinson:

The proponents stated that all submitted claims were approved; however, the firefighter and police associations are stating numbers of denials. I need to see factual data on approvals and denials.

Mr. Dreher:

I have represented law enforcement officers in Nevada for 31 years. I have personal experience of seeing denied claims, even claims that have been submitted while individuals were still employed and there was conclusive evidence that the heart attack was work-related.

Senator Spearman:

What is the length of time a newly hired safety worker needs to be employed before being put into a dangerous situation?

Mr. Dreher:

A newly hired safety worker can and will be put into dangerous situations on day one.

Chair Settlemeyer:

Due to time constraints, we are not able to hear all those who have signed in to testify. We have received additional Web links to studies provided by Virginia Hunt ([Exhibit J](#)), and a letter from Nancyann Leeder ([Exhibit K](#)).

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Commerce, Labor and Energy
February 23, 2015
Page 22

Chair Settlemeyer:

This Committee meeting is adjourned at 11:09 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	27		Attendance Roster
S.B. 153	C	1	Wayne Carlson	Written Testimony
S.B. 153	D	9	Wayne Carlson	Mock-Up Proposed Amendment 9668
S.B. 153	E	2	Wayne Carlson	Department of Taxation FY 2014 Statewide Report on Liabilities Associated with Public Safety Employees
S.B. 153	F	1	Wayne Carlson	Analysis on Liabilities Associated with public Employees
S.B. 153	G	2	Rusty McAllister	Web links to Studies
S.B. 153	H	1	Rusty McAllister	Disability Claims for Heart/Lung
S.B. 153	I	7	Rusty McAllister	Letter from Francesca Litow
S.B. 153	J	2	Senator James A. Settlemeyer	Web links to studies provided by Virginia Hunt
S.B. 153	K	1	Senator James A. Settlemeyer	Letter from Nancyann Leeder