

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
February 4, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:01 p.m. on Wednesday, February 4, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Michael Roberson
Senator Scott Hammond
Senator Ruben J. Kihuen
Senator Tick Segerblom
Senator Aaron D. Ford

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Lynn Berry, Committee Secretary
Cassandra Grieve, Committee Secretary
Lynette Jones, Committee Secretary

OTHERS PRESENT:

Jeff Landerfelt, Deputy for Commercial Recordings, Office of the Secretary of State
Scott Anderson, Chief Deputy, Office of the Secretary of State
Scott Scherer, Nevada Registered Agent Association
Matt Taylor, President, Nevada Registered Agent Association
Karen Michael, Business Portal Administrator, Office of the Secretary of State
Mike Cathcart, Business Operations Manager, City of Henderson
Mary Walker, Carson City; Douglas County; Lyon County; Storey County

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Barry Smith, Executive Director, Nevada Press Association
Liane Lee, Washoe County
Yolanda King, Chief Financial Officer, Department of Finance, Clark County
Dagny Stapleton, Deputy Director, Nevada Association of Counties
Karen Duddleston, Deputy Director, Department of Planning, City of Las Vegas

Chair Brower:

I will open the hearing on Senate Bill (S.B.) 39.

SENATE BILL 39: Revises provisions relating to business associations. (BDR 7-450)

Jeff Landerfelt (Deputy for Commercial Recordings, Office of the Secretary of State):

I will present S.B. 39, a legislative measure proposed by the Office of the Secretary of State. This bill will revise statutes governing the state business license, responsibilities of agents, and the dissolution and revival of business entities.

Section 1 requires a state business license to contain a Nevada business identification number. The Nevada business identification number is a cross-reference number recognizable across agencies and at the municipal level. The identification number requirement codifies the procedure used by the Secretary of State since its administration of state business licenses in 2009.

Section 64 codifies the requirement of the Secretary of State to assign a unique business identification number in conjunction with the application for a state business license or a state business license exemption.

Section 2 of the bill requires exempted entities file an application annually for a certificate of exemption with the Secretary of State's Office. We ask that section 2 be removed because statute provides exceptions to the state business license filing requirement.

Chair Brower:

What section do you want removed?

Mr. Landerfelt:

We want section 2 removed from the bill. Section 3 requires a \$100 penalty be applied to each year that a non-Title 7 entity conducts business but fails to obtain a state business license. Statute caps the penalty at \$100 regardless of how many years the entity does business in the State but fails to obtain a state business license. This section applies the same penalty for non-Title 7 businesses that function without state business licenses as the provisions in place for Title 7 entities.

Section 4 gives the Secretary of State the authority to waive the penalty imposed on a non-Title 7 business if no business was conducted during the period for which fees and penalties apply.

Section 6 requires a registered agent to accept a process, notice or demand for any of his or her represented entities and maintain documents. This section requires the registered agent to verify and maintain the name and physical location of a contact person for the represented entity. If the agent is a commercial registered agent, the agent must maintain an agency agreement or contract with the represented entity.

Section 7 expands the violation penalty provision of *Nevada Revised Statute* (NRS) 77.447, subsection 1 to include any other applicable law or regulation of this State relating to the conduct of registered agents.

Section 63 amends NRS 14.020, subsection 2 to clarify the requirement of the registered agent to accept legal process, demand or notice for the entity regardless of the entity's status with the Secretary of State and regardless of any debts or disputes between the agent and the entity.

The provisions of the bill have been discussed with representatives from the Nevada Registered Agent Association (NRAA). The NRAA has proposed an amendment to address its concerns. We will continue to work with the NRAA on the bill and bring the Committee an agreed-upon amendment. The remaining sections of S.B. 39 amend applicable statutes to allow certain business entity types in revoked status to dissolve without paying for the annual business license and associated late fees and penalties if the entity provides evidence to support the claim that business was not conducted. Many times, entities cease to do business but delay the dissolution process. Once the entity attempts to dissolve, the late fees and penalties can be significant even if business was not

conducted. As a result, entities forgo the dissolution process and linger on the Secretary of State's registry indefinitely as revoked or permanently revoked entities. These provisions give business customers relief and allow the Secretary of State to clean up the registry.

After a discussion with the Business Law Section of the State Bar of Nevada, we will amend S.B. 39 to remove the requirement for the entity to complete a certificate of intent to dissolve. It was determined that this form could be confusing to the filer and viewed as a surrogate for dissolution. We believe the general provision required by NRS 78.780 accomplishes the same result. Sections 8, 10, 14, 19, 20, 26, 35, 37, 45, 47, 55 and 57 apply this concept for dissolution to domestic and foreign entities by amending the relevant provisions in their respective NRS chapters.

Sections 11, 12, 15, 16, 21, 22, 27, 28, 31, 32, 36, 38, 40, 41, 46, 48, 50, 51, 56, 58, 59, 60 and 61 add provisions to statutes to authorize certain domestic- and foreign-qualified entities to revive their charters, if expired or revoked. These sections add the same name reservation provision associated with the new revival provision that exists for applicable entity types. It also eliminates the requirement of the client to create a new entity that can have legal consequences if transactions or holdings of the business predate the formation of a new entity. The Business Law Section of the State Bar of Nevada recommends that these sections be removed since the revival of these entities can be accomplished under the general authority of the Secretary of State through statute. We are discussing the recommendation with our deputy attorney general.

Section 62 requires certain documents be provided by the constituent entity at the time of filing the articles of conversion. Other sections in the bill simply amend language in existing statute to reference newly created sections of this bill where applicable. We are considering the recommended amendments to S.B. 39.

Chair Brower:

The Committee will review the proposed amendments to the bill once you have met with all interested parties.

Scott Anderson (Chief Deputy, Office of the Secretary of State):

Due to the early hearing of this bill, we have not fully reviewed the proposals from NRAA and the Nevada State Bar. We are open to working with them to make sure the bill is amended in a way that works for our Office and the business community. We will submit our amendments later.

Chair Brower:

The Committee appreciates your efforts to reach a compromise on this bill.

Scott Scherer (Nevada Registered Agent Association):

We have discussed our proposed amendments ([Exhibit C](#)) with Mr. Anderson and Mr. Landerfelt from the Secretary of State's Office. We are working together to reach an agreement on the amendments. We can outline those amendments with the Committee today.

Chair Brower:

The Committee would prefer that the proposed amendments not be addressed until an agreement has been reached.

Mr. Scherer:

We are happy to do that.

Matt Taylor (President, Nevada Registered Agent Association):

The Secretary of State's Office is receptive to our suggestions. We agree on the basic concept of the bill, and we are working together on specific language.

Chair Brower:

The bill is extensive and has many details to work out. I will close the hearing on S.B. 39 and open the hearing on Senate Bill 59.

SENATE BILL 59: Revises provisions relating to the state business portal.
(BDR 7-448)

Mr. Anderson:

I will present S.B. 59, which relates to Nevada's business portal called SilverFlume. We are in contact with parties interested in this bill. An agreement has been reached on certain provisions that alleviate many concerns of today's testifiers. Using SilverFlume, we are working with State and local agencies to

increase business and make it easier for constituents to conduct business in Nevada.

Chair Brower:

Can you provide the Committee with some background information on the concept of the business portal and SilverFlume?

Karen Michael (Business Portal Administrator, Business Portal Division, Office of the Secretary of State):

We support S.B. 59. This bill contains critical cleanup provisions that enable SilverFlume—Nevada’s business portal—to operate efficiently, add more services for the business community and eliminate time-consuming governmental processes. The Secretary of State’s Office has worked with State and local agencies to resolve concerns about mandatory participation language. The Secretary of State’s Office wants to clearly state this legislation is intended to be enabling and not mandatory. We will continue to review amendatory language. To reduce confusion about the difference between State, local and other forms of licensing, we request the term “state business license” be changed to “state business registration.” We understand that the state business license responsibility may return to the Department of Taxation as part of the Governor’s Executive Budget. We request this terminology be included in any upcoming changes.

To date, SilverFlume has processed more than 950,000 business transactions and generated \$195 million in revenue. SilverFlume provides business customers with a one-stop shop, one place where the customer is guided through a multiple governmental registration process in a simplified format. The customer may enter one form of payment during checkout, which allows for the direct transmittal of customer payments to a variety of governmental agencies. SilverFlume development continues to streamline governmental services online, but the Secretary of State’s Office requests changes to ensure that progress is not hindered by outdated statutes and processes.

Sections 7 and 8 of S.B. 59 eliminate a requirement for cities and counties to report attestations if businesses have already completed this step electronically through SilverFlume. The Department of Business and Industry, Division of Industrial Relations, Workers Compensation Section can go directly into SilverFlume to receive the attestation reports, eliminating a redundant step.

Section 10 allows the Department of Employment, Training and Rehabilitation to share data with SilverFlume, which allows the program to guide businesses through required unemployment insurance and Modified Business Tax registrations. Using SilverFlume, the customer completes the common business registration process online, and SilverFlume uses the information to register the customer across authorized government agencies. Common business registration (CBR) is designed to be shared with authorized governmental agencies in its simplest format at no cost. The CBR extends beyond the commercial recording of public record information to include nonpublic information such as physical locations, business descriptions, industry codes, owners lists, numbers of employees and other information that most agencies need but cannot get through the commercial recordings public record.

Section 3 pertains to how CBR can be used and ensures information is confidential and privileged while being transmitted through SilverFlume. Section 3 does not hinder any existing methods of accessing public records.

Section 6 updates the public records statute to reflect the provisions of section 3. The CBR eliminates up to 80 percent of redundant steps required of the customer, and it contributes to economic development in the State by providing information on the number of businesses exporting goods and services. The Governor's Office of Economic Development can use this information to connect with businesses and help them grow.

Section 4 allows sharing of the CBR among partner agencies to simplify business registration; enable agencies to accept electronic signatures; protect SilverFlume's technical information as confidential and privileged; and establish the Nevada business identification number. Section 4 allows a business to indicate if portions of its common business information may be released for purposes of a public directory. The directory allows businesses to look up other Nevada businesses that may be in the supply chain based on physical location, industry and number of full- and part-time employees per location. Senate Bill 59 will provide a comprehensive directory of Nevada business information online and through an optional public directory.

Section 5 requires a Nevada business identification number be assigned to each entity with a state business license, state business license exemption or exception. This will ensure consistency in business data.

Section 9 cleans up a statutory conflict that allows a fictitious firm name to be filed by a person without qualification to do business under Title 7 of NRS in certain circumstances. This conflict was investigated by the Secretary of State's Office and identified for removal.

Section 12 repeals an outdated statutory requirement in NRS 237.180 and replaces it with a requirement that SilverFlume establish common business registration. The change will eliminate the need for a time-consuming annual meeting of representatives from several agencies to review an outdated Nevada business registration form. Section 12 eliminates affidavits regarding fictitious firm names, change of ownership and associated filing fees.

The Secretary of State's Office has been in close contact with State and local agencies regarding recommended changes in language. We understand a similar bill is to be proposed with several provisions the Secretary of State's Office believes to be beneficial to SilverFlume and the business community. We are happy to work with interested parties in refining language and possibly combining provisions into one bill. Senate Bill 59 clears the way for SilverFlume to move forward.

Mr. Anderson:

This bill started as an idea in the early 2000s. In 2006, we started working on SilverFlume, the Nevada business portal. This is a one-stop shop where businesses can come to Nevada and deal with one business portal. We have a number of agencies participating, and we are aware of other jurisdictions signing memorandums of understanding in regard to becoming partners with the Nevada business portal. This is the only portal of its kind in the Country. Other business portals are generally used for the creation of entities similar to the Secretary of State's online filing system. No other business portals exist that are going in the same direction as Nevada. We have the opportunity to move forward to make this a full reality. We are willing to work with those who will be partners with us through the Nevada business portal to make sure we do this right. We are not mandating anything that would require significant cost to participating agencies. At the basic level, agencies can participate at no cost. Agencies may elect to participate in SilverFlume when they have the required infrastructure in place.

Chair Brower:

I appreciate that the Secretary of State's Office is here to help with this bill and is open to amendments.

Mr. Anderson:

We have spoken with many individuals representing municipalities, counties and State agencies. We are aware of agencies' concern that participation will be required in the program before funding for computer upgrades is in place. The language of the bill may have caused some confusion, but it is not our intent to mandate participation. When an agency is ready to participate, the Secretary of State will help. We will ensure that the language in the final bill works for everyone involved.

Mike Cathcart (Business Operations Manager, City of Henderson):

We have proposed an amendment to S.B. 59 ([Exhibit D](#)). The amendment will clarify the enabling language in section 4, subsection 3 that states ... "shall, to the extent practicable." This section will be clarified. We are a partner with the Secretary of State's Office, and we have signed the SilverFlume agreement. We are moving forward to utilize SilverFlume in our processes for business licensing.

Chair Brower:

Is your proposed amendment in line with the Secretary of State's position that the bill is not intended to be mandatory but permissive?

Mr. Cathcart:

Yes.

Chair Brower:

The Committee will review the proposed amendment at a later date.

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

We support the concept of SilverFlume; however, rural counties have old computer systems that are not compatible with SilverFlume. System upgrades to each of the counties would cost upwards of \$100,000. We propose an amendment to section 3 of S.B. 59, which has been submitted to the Secretary of State ([Exhibit E](#)). The proposed amendment provides additional language to section 3 stating that a local agency or health district is not required to upgrade its information technology system or incur significant expense to comply with

the requirements of S.B. 59. The amendment clarifies that the Secretary of State does not intend to create an unfunded expense to local governments. Over time, old systems will be upgraded, but this will take time.

Barry Smith (Executive Director, Nevada Press Association):

I have a concern regarding section 3 of S.B. 59. This section addresses the confidentiality of information. I want to ensure that the bill does not open confidential records or close access to public records. The language in the bill is confusing and conflicts with the general philosophy behind the records statute that states everything is confidential except what is public. I understand that the business portal gathers information, some of which is exempt under statute and some of which is public. I want to make sure that the language of the bill does not modify records law.

Chair Brower:

Once the bill is amended, the Committee will review the changes and work toward finalizing the bill. If there are still concerns, we will have another discussion.

Liane Lee (Washoe County):

We oppose this bill as written. Washoe County has contracted a vendor to upgrade our permit and license software application. We included language for the developer toward software that can electronically query with SilverFlume. We support the amendment submitted by the City of Henderson, which will allow us to work on our regional business licensing process and eventually work into SilverFlume.

Chair Brower:

Does Washoe County have the same concerns as Henderson?

Ms. Lee:

Yes, we are working with the City of Henderson and other municipalities regarding the proposed amendment.

Yolanda King (Chief Financial Officer, Department of Finance, Clark County):

We have the same concerns as Washoe County regarding S.B. 59, and we oppose the bill as written. We support Henderson's amendment. Allowing our governing body the choice to join SilverFlume will allow time to address the fiscal impact and provide funding needed to upgrade our system.

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

We support the proposed amendment. It will allow time for local governments to implement technology system upgrades within budget constraints.

Karen Duddlesten (Deputy Director, Department of Planning, City of Las Vegas):

We support Henderson's proposed amendment. The City of Las Vegas has been a partner with the Secretary of State's Office, and one major project has been completed with the business portal. We are within a few weeks of launching another major improvement to make the licensing process seamless with the portal. We request the Committee's consideration of the proposed amendment.

Chair Brower:

The Committee will consider the proposed amendments. We will close the hearing on S.B. 59 and open the meeting to public comment.

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Chair Brower:

Seeing no public comment, I will close the hearing at 1:44 p.m.

RESPECTFULLY SUBMITTED:

Lynette Jones,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 39	C	7	Nevada Registered Agent Association	Proposed Amendment
S.B. 59	D	1	City of Henderson	Proposed Amendment
S.B. 59	E	1	Mary Walker	Proposed Amendment