

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

**Seventy-ninth Session  
May 12, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:04 a.m. on Friday, May 12, 2017, 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 Kelvin Atkinson, Chair  
Senator Pat Spearman, Vice Chair  
Senator Nicole J. Cannizzaro  
Senator Yvanna D. Cancela  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Heidi S. Gansert

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Sandra Jauregui, Assembly District No. 41  
Assemblywoman Ellen B. Spiegel, Assembly District No. 20

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Bryan Fernley, Counsel  
Daniel Putney, Committee Secretary

**OTHERS PRESENT:**

James P. Kemp, Nevada Justice Association  
Paul Moradkhan, Las Vegas Metro Chamber of Commerce  
Andy MacKay, Nevada Franchised Auto Dealers Association  
Lea Tauchen, Retail Association of Nevada  
Michael Hillerby, Nevada State Board of Accountancy

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Nicola Neilon, Nevada State Board of Accountancy  
Anna Durst, CEO, Nevada Society of Certified Public Accountants  
Jeffrey M. Cooper, Chair, Nevada Society of Certified Public Accountants  
Lynn Marie Goya, County Clerk, Clark County  
Kimberley Perondi, Deputy Secretary for Commercial Recordings, Secretary of State  
John Ocegüera, Reno-Sparks Indian Colony

CHAIR ATKINSON:

I will open the hearing on Assembly Bill (A.B.) 211.

**ASSEMBLY BILL 211 (2nd Reprint)**: Revises provisions governing compensation and wages. (BDR 53-764)

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

The intent of this bill is to protect Nevada's hardworking families who are more at risk of being victims of wage theft. Employers who fail to pay overtime wages, pay final paychecks, grant sick leave and give tips, as well as those who pay less than minimum wage or misclassify employees, hurt the people we fight to help. We need to ensure Nevada's working families are earning their fair share of wages.

Wage theft is not specific to one industry; it occurs across a wide range of industries every year. It hurts businesses that pay their workers in accordance with the law. Responsible businesses cannot compete with companies that do not fairly pay their workers. Employers who do not fairly pay their workers do not pay their fair share of taxes, forcing cutbacks of vital services. Assembly Bill 211 would act as a deterrent to employers who might take advantage of workers. With A.B. 211, if an employee prevails in an action or proceeding to recover wages, which are not paid in accordance with the provisions of this bill, the Labor Commissioner may assess up to a \$10,000 administrative penalty on the employer.

My intent is not to outright punish employers or businesses; punitive laws already exist. Currently, the Labor Commissioner can assess a \$5,000 administrative penalty. Assembly Bill 211 would simply increase the Labor Commissioner's capability up to \$10,000 with the possibility of some of the penalty being awarded to the harmed employee. For example, if an employee files a claim with the Labor Commissioner for wages owed, and the

Labor Commissioner rules in favor of the employee, the Labor Commissioner gives the employer an opportunity to make the employee whole. If the employer fails to pay unpaid wages after the Labor Commissioner's final decision, then the administrative penalty can be assessed on the employer, and some of the penalty can be awarded to the harmed employee.

I have introduced a conceptual amendment ([Exhibit C](#)) clarifying that this bill would not take away an employee's ability to bring a claim before the courts in Nevada.

Section 1.4, subsection 3 of this bill applies to employers found to have been willfully performing wage theft. The Labor Commissioner will post the names of these businesses on a Website maintained by himself or herself.

SENATOR SPEARMAN:

Did you say this bill does not punish all employers?

ASSEMBLYWOMAN JAUREGUI:

The Labor Commissioner has the authority to assess an administrative penalty. In the provisions of A.B. 211, we first give the employer an opportunity to make the employee whole and pay the unpaid wages. If the employer does not pay the unpaid wages, the Labor Commissioner can assess up to a \$10,000 penalty with some of the proceeds being awarded to the employee.

JAMES P. KEMP (Nevada Justice Association):

With the proposed conceptual amendment, we support this bill.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):

We oppose this bill. We have some concerns regarding fines in addition to whatever penalties may be available. We are concerned with section 1.3 regarding the \$10,000 fine. Typically, fines in Nevada are about \$5,000 per violation. We are also concerned with the Website posting mentioned in section 1.4, subsection 3. The posting applies to first-time offenders, and there is no time limit for how long the posting would be online. A lot of our members are small businesses. Mistakes happen. If the posting were for repeat offenders, we would not argue with that, but this penalty should not be for first-time offenders.

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ANDY MACKAY (Nevada Franchised Auto Dealers Association):

We oppose this bill. Frankly, A.B. 211 is unnecessary. Existing remedies in State law are sufficient. We have some concerns with the Labor Commissioner posting the names of businesses on his or her Website.

LEA TAUCHEN (Retail Association of Nevada):

We oppose this bill. The remedies already available in employment cases are sufficient and fair. We are concerned with the severity of the penalties and the Labor Commissioner publishing the names of businesses online. We would like to see the existing remedies unchanged.

SENATOR SPEARMAN:

If the claim is found to be justified, then why are you all opposed to the Labor Commissioner publishing the names of businesses on his or her Website?

MR. MORADKHAN:

The posting may be appropriate for a second- or third-time offender, but a lot of small businesses make mistakes by accident. They are not that familiar with *Nevada Revised Statutes* (NRS) and are trying to be good employers. The posting penalty is not appropriate for first-time offenders. If there were a tier structure, we would be more agreeable to this penalty.

SENATOR SPEARMAN:

Have you talked to Assemblywoman Jauregui regarding that?

MR. MORADKHAN:

We have not talked to her about our concerns with the Website posting, but we have met with her over the course of this bill's development. We will meet with her after the hearing.

SENATOR HARDY:

The violation under existing law is a misdemeanor. Does existing law make the employee whole? Does it ensure the employee is paid?

MR. MACKAY:

I believe existing law makes the employee whole, but I would defer to legal counsel.

ASSEMBLYWOMAN JAUREGUI:

Some small businesses might make mistakes. The Website posting is not intended to hurt those who do not act willfully. The penalty only applies to employers who knowingly violate the provisions of this bill. A small business not familiar with NRS would not have its name posted on the Website. We did not give specific details regarding how long the names of businesses would be on the Website because we are leaving that to the discretion of the Labor Commissioner.

Under existing law, the Labor Commissioner has the authority to administer a \$5,000 fine, but none of that gets awarded to the employee. If the Labor Commissioner rules in favor of the employee, and the employer fails to pay the owed wages, then nothing happens to make the employee whole. There are currently no provisions available to make the employee whole. That is why I wanted to give a portion of the administrative penalty to the harmed employee.

SENATOR SPEARMAN:

Could our legal counsel find out if Nevada has administered any fines above \$5,000?

BRYAN FERNLEY (Counsel):

I found a few examples of fines above \$5,000. There have been timeshare violations, tax licensing violations and a particular hospital violation.

SENATOR SETTELMAYER:

Does this bill allow for judicial review of fines, or is the process completely an administrative action?

ASSEMBLYWOMAN JAUREGUI:

The judicial review process would still be available. I added the amendment because I do not want to take that ability away from the employee. There are federal laws that would allow an employee to take action against the employer.

SENATOR SETTELMAYER:

If the employer felt the action taken by the Labor Commissioner was improper, would there be a judicial review process for the employer?

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ASSEMBLYWOMAN JAUREGUI:

If that process currently exists, it would still exist because we did not cover it in A.B. 211.

SENATOR SETTELMAYER:

I will look into it.

CHAIR ATKINSON:

We will make sure the judicial review process for the employer remains the same.

I will close the hearing on A.B. 211 and open the work session on Senate Bill (S.B.) 286.

**SENATE BILL 286 (1st Reprint)**: Revises provisions governing the regulation of applied behavior analysis. (BDR 39-633)

MARJI PASLOV THOMAS (Policy Analyst):

I will read the summary of the bill and proposed amendments from the work session document (Exhibit D).

CHAIR ATKINSON:

We heard this bill, voted on it and rereferred it to the Senate Committee on Finance. Finance sent it back to us, so we are voting on it again.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 286.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

\* \* \* \* \*

CHAIR ATKINSON:

I will open the work session on A.B. 190.

**ASSEMBLY BILL 190 (1st Reprint)**: Requires certain health and safety training for entertainment industry workers and supervisors. (BDR 53-151)

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Ms. PASLOV THOMAS:

I will read the summary of the bill from the work session document ([Exhibit E](#)).

SENATOR SPEARMAN MOVED TO DO PASS A.B. 190.

SENATOR HARDY SECONDED THE MOTION.

SENATOR SETTELMAYER:

I have worked with Randy Soltero from the International Alliance of Theatrical Stage Employees on this bill. If the continual process of renewing licenses becomes problematic or seems duplicative, he told me it could be eliminated in a later session.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

I will open the work session on A.B. 223.

**ASSEMBLY BILL 223 (1st Reprint)**: Revises provisions relating to energy efficiency programs. (BDR 58-660)

Ms. PASLOV THOMAS:

I will read the summary of the bill and proposed amendments from the work session document ([Exhibit F](#)).

SENATOR CANCELA MOVED TO AMEND AND DO PASS AS AMENDED A.B. 223.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

I will open the work session on A.B. 245.

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**ASSEMBLY BILL 245 (1st Reprint)**: Enacts provisions governing the dispensing of biological products and interchangeable biological products. (BDR 54-504)

MS. PASLOV THOMAS:

I will read the summary of the bill from the work session document ([Exhibit G](#)).

SENATOR HARDY MOVED TO DO PASS A.B. 245.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

I will open the work session on A.B. 445.

**ASSEMBLY BILL 445 (1st Reprint)**: Revises provisions governing transportation network companies. (BDR 57-1027)

MS. PASLOV THOMAS:

I will read the summary of the bill from the work session document ([Exhibit H](#)).

SENATOR SETTELMAYER:

We have not had enough time to determine if the \$1.5 million amount is too high or if the minimum amount should be adjusted. I have not seen any data suggesting we change our law. A change is not necessary at this time. I will be voting no.

SENATOR HARDY:

In this bill, I like what is essentially workers' compensation for drivers and those involved in an accident, but decreasing the amount for liability is not wise. I will be voting no.

SENATOR GANSERT:

I am concerned about the insurance amounts as well. I am going to vote yes because it is important for drivers in transportation network companies to have insurance, and I appreciate the medical aspect of this bill. I reserve the right to change my vote on the Floor.



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SENATOR SPEARMAN MOVED TO DO PASS A.B. 445.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY AND SETTELMAYER VOTED NO.)

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CHAIR ATKINSON:

I will open the work session on Assembly Joint Resolution (A.J.R.) 10.

**ASSEMBLY JOINT RESOLUTION 10**: Expresses opposition to the development of a repository for spent nuclear fuel and high-level radioactive waste at Yucca Mountain in the State of Nevada. (BDR R-1012)

Ms. PASLOV THOMAS:

I will read the summary of the joint resolution from the work session document ([Exhibit I](#)).

SENATOR HARDY:

Realistically, if we bury something for a long time, it removes our options.

SENATOR SPEARMAN MOVED TO DO PASS A.J.R. 10.

SENATOR CANCELA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

I will open the hearing on A.B. 454.

**ASSEMBLY BILL 454 (1st Reprint)**: Makes various changes to provisions relating to accountants. (BDR 54-109)

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MICHAEL HILLERBY (Nevada State Board of Accountancy):

This bill makes a variety of changes to State law to reflect updates in the Uniform Accountancy Act and to remove references to public accountants, which is an outdated term.

NICOLA NEILON (Nevada State Board of Accountancy):

I will read from written testimony in support of this bill ([Exhibit J](#)).

ANNA DURST (CEO, Nevada Society of Certified Public Accountants):

I will read from my written testimony in support of this bill ([Exhibit K](#)). I support Senator Atkinson's Proposed Amendment 4454 ([Exhibit L](#)). Kim R. Wallin of the Nevada Society of Certified Public Accountants submitted testimony in support of this bill ([Exhibit M](#) and [Exhibit N](#)) but could not be here today.

JEFFREY M. COOPER (Chair, Nevada Society of Certified Public Accountants):

I will read from my written testimony in support of this bill ([Exhibit O](#)).

CHAIR ATKINSON:

I will close the hearing on A.B. 454 and entertain a motion on this bill.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 454.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR CANCELA WAS EXCUSED FOR THE VOTE.)

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CHAIR ATKINSON:

I will open the hearing on A.B. 317.

**ASSEMBLY BILL 317 (1st Reprint)**: Revises provisions governing limitations on conducting business using certain fictitious names. (BDR 52-1019)

LYNN MARIE GOYA (County Clerk, Clark County):

Clerks issue fictitious firm names to businesses as required by law. This bill allows clerks to refuse to issue fictitious firm names to businesses that mimic

government agencies. This is important because some businesses deceive the public by using seals from the government agencies their fictitious names mimic to acquire higher fees for public records.

ASSEMBLYWOMAN ELLEN B. SPIEGEL (Assembly District No. 20):

If any of you have ever refinanced a house, you have probably received letters from companies offering to do your homestead declaration. These companies may have names that sound like official entities. The name could be something like Recordings of Nevada, Inc. A company may charge you \$50 to \$75 for this service, and you may think it is an official government entity. The company says you need to use its services, but the forms can be downloaded from the Internet and be completed yourself.

Assembly Bill 317 seeks to make it impossible for entities that have names sounding like government entities to have fictitious business names. This bill works at every level and provides protections for indigenous tribes.

Ms. GOYA:

This bill would not stop companies from offering their services, but it would stop companies from mimicking government agencies so that it is clear these are outside agencies.

SENATOR SETTELMAYER:

I appreciate A.B. 317. It seems similar to how we handle license plates in the State. Would this bill work retroactively?

ASSEMBLYWOMAN SPIEGEL:

This bill works going forward. The provisions come into effect upon renewal of a company's name. A company would still be able to do its business, but it would have to change its name.

SENATOR SETTELMAYER:

How often are names renewed?

ASSEMBLYWOMAN SPIEGEL:

I believe it is every five years.

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SENATOR SPEARMAN:

It seems like this bill would be an inadvertent protection for senior citizens. Can you speak to that?

Ms. GOYA:

It is not an inadvertent protection. These companies target individuals who either quickly look at things or do not understand them. Some businesses follow up with phone calls and present themselves as if they are part of government agencies. This bill is designed to protect senior citizens, people who do not speak English as their first language and those who are busy.

SENATOR SPEARMAN:

I meant to say this bill would protect senior citizens.

KIMBERLEY PERONDI (Deputy Secretary for Commercial Recordings, Secretary of State):

We support this bill. Title 7 of NRS sets forth the requirements for business entities to establish themselves and includes prohibitions against certain words in business names. We have referred to the U.S. Code of Laws in establishing our policies. This bill would further solidify our position.

JOHN OCEGUERA (Reno-Sparks Indian Colony):

We support this bill. We appreciate Assemblywoman Spiegel including recognized Indian tribes in this bill. Sometimes tribes are forgotten in bills like this, but Assemblywoman Spiegel made sure we were considered in A.B. 317.

CHAIR ATKINSON:

I will close the hearing on A.B. 317 and entertain a motion on this bill.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 317.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR CANCELA WAS EXCUSED FOR THE VOTE.)

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CHAIR ATKINSON:  
I adjourn the meeting at 8:56 a.m.

RESPECTFULLY SUBMITTED:

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Daniel Putney,  
Committee Secretary

APPROVED BY:

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Senator Kelvin Atkinson, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	4		Attendance Roster
A.B. 211	C	1	Assemblywoman Sandra Jauregui	Proposed Conceptual Amendment
S.B. 286	D	60	Marji Paslov Thomas	Work Session Document
A.B. 190	E	1	Marji Paslov Thomas	Work Session Document
A.B. 223	F	5	Marji Paslov Thomas	Work Session Document
A.B. 245	G	1	Marji Paslov Thomas	Work Session Document
A.B. 445	H	1	Marji Paslov Thomas	Work Session Document
A.J.R. 10	I	1	Marji Paslov Thomas	Work Session Document
A.B. 454	J	3	Nicola Neilon / Nevada State Board of Accountancy	Written Testimony
A.B. 454	K	2	Anna Durst / Nevada Society of Certified Public Accountants	Written Testimony
A.B. 454	L	30	Senator Kelvin Atkinson	Proposed Amendment 4454
A.B. 454	M	2	Kim R. Wallin / Nevada Society of Certified Public Accountants	Written Testimony
A.B. 454	N	1	Kim R. Wallin / Nevada Society of Certified Public Accountants	Written Testimony 2
A.B. 454	O	1	Jeffrey M. Cooper / Nevada Society of Certified Public Accountants	Written Testimony