

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

**Seventy-ninth Session
April 21, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 9:05 a.m. on Friday, April 21, 2017, in Room 2135 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 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 Heidi Swank, Assembly District No. 16
Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Brittany L. Walker, Ameresco, Inc.
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Chris Chimits, Deputy Administrator, State Public Works Division, Department of Administration

Senate Committee on Commerce, Labor and Energy
April 21, 2017
Page 2

Rebecca Lynn Palmer, State Historic Preservation Officer, Administrator, Office
of Historic Preservation, State Department of Conservation and Natural
Resources

CHAIR ATKINSON:

We will open the hearing on Assembly Bill (A.B.) 247.

ASSEMBLY BILL 247 (1st Reprint): Provides for the early termination of certain rental agreements by victims of harassment, sexual assault or stalking. (BDR 10-655)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):

Assembly Bill 247 provides for the early termination of certain rental agreements by survivors of harassment, sexual assault and stalking. I will summarize my written testimony ([Exhibit C](#)). The bill builds upon A.B. No. 284 of the 77th Session sponsored by then Assemblywoman Lucy Flores. That bill gave the right of early termination of a lease agreement to survivors of domestic violence. Assembly Bill 247 extends that right to survivors of sexual assault, harassment and stalking. This ensures survivors are not forced to stay in a rental property where they are not or do not feel safe. Lack of money should never serve as a barrier to safety, especially when it comes to survivors of these types of crimes.

According to the most recent study released by the Joint Center for Housing Studies of Harvard University, after a long upward trend of home ownership rates, renting is again on the rise. Thirty-five percent of Americans now rent their homes. A disproportionate number of these Americans are under age 40. Not only are young people disproportionately represented in the rental market, but as of 2013, families with children are just as likely to be renters as are single people.

A recent study by the Rape, Abuse & Incest National Network reported that 54 percent of sexual assault survivors are between ages 18 and 34. There is a clear correlation between the age of renters and individuals in our society who are more susceptible to being victims of sexual assault.

According to a study from the Department of Numbers, rental vacancy in Nevada is 8 percent. This number is down 2 percent from last year and 3 percent from the past 3 years. Young people are disproportionately

represented in the ever growing rental market while simultaneously being more susceptible to sexual assault victimization. Allowing these victims to terminate their leases to prevent future victimization will have little to no adverse effects on homeowners renting their properties. This is due to the low vacancy rates in Nevada.

Section 1, subsection 1 of A.B. 247 adds harassment, sexual assault and stalking to the list of crimes which allow victims of those crimes to terminate rental agreements early. Subsection 2 specifies survivors of domestic violence can terminate rental agreements early. Subsection 3 is a new subsection specifying the notification requirements for survivors of harassment, sexual assault and stalking for termination of a rental agreement. It can be done with a copy of a written police report or with a copy of a temporary or extended protective order.

Section 1, subsection 4 indicates the action which prompted early termination of a rental agreement must have occurred within 90 days prior to the written notice of termination to the landlord. This is existing law, but is being extended to survivors of the additional types of crimes added to A.B. 247.

Section 1, page 4 of the bill, lines 42 through 45 and page 5, lines 1 through 8 provide clarification for qualified third parties who can fill out affidavits for victims of domestic violence, must have received training related to domestic violence and be residents of Nevada. The philosophy behind the training requirement is that the currently worded law would allow any employees of these advising agencies to complete affidavits, even without any specialized training in domestic violence. Subsection 8 requires a qualified third party who is a member of the clergy be a resident of Nevada to complete an affidavit. Residency is required because in the case of a court dispute, someone who lives out of state would not be subject to the subpoena power of Nevada courts. The residency requirement allows the courts to bring that person into court in the event of a dispute about whether these procedures are being used correctly.

Sections 2 and 3 make conforming changes to what is in section 1 of the bill.

SENATOR HARDY:

Is the rental agreement only for a six-month to one-year term, or can it also be for a renewable month to month term?

ASSEMBLYMAN YEAGER:

It can be whatever the terms of the rental agreement are between the landlord and the tenant. Section 1, subsection 1, line 8, indicates if someone invokes the procedure in the bill, termination will be effective at the end of the current rental period or 30 days after the notice is provided, whichever occurs sooner. On a 6-month lease, upon notice, a tenant has 30 days to termination. For a weekly or monthly lease, termination is quicker per the rental agreement.

SENATOR HARDY:

Would a 30-day notice apply to a 6-month lease?

ASSEMBLYMAN YEAGER:

Yes, that is correct. Upon notification of termination, the tenant has 30 days to vacate. Section 1, subsection 6, page 3 indicates the landlord is able to recover from the adverse party any money lost due to the early termination of the agreement. If a landlord is unable to re-rent the unit in a timely manner, he or she could go to civil court to recover from the adverse party.

SENATOR HARDY:

Who is the adverse party?

ASSEMBLYMAN YEAGER:

The adverse party is the perpetrator of the crime, whoever is named in the police report.

SENATOR SPEARMAN:

Does the party seeking termination of a rental agreement have to be a resident of Nevada? Sometimes women might be living in Nevada temporarily to get away from domestic violence. If a perpetrator stalks a woman to Nevada, would the tenant also have to wait 30 days upon termination of the rental agreement? Would there be any way to terminate the rental agreement without negative consequences?

ASSEMBLYMAN YEAGER:

The bill envisions it to be a Nevada lease so the court has jurisdiction. There is no requirement in the bill that the survivor of the violence be a resident of the State. The rental agreement can be terminated per the provisions of the law. An affidavit must be signed by a resident of Nevada. A rental agreement termination in domestic violence cases can be done with a police report or with

a protective order. If the report is from another jurisdiction, it would be sufficient as evidence. The affidavit is a different way of doing this, so the person would have to reside in Nevada in case of a dispute. Most of these cases do not end up in court. When a victimized tenant brings the information to the landlord's attention, the landlord would, most likely, agree to allow the tenant out of the lease. We want the court to have jurisdiction over the person signing the affidavit in the event of a substantial dispute.

SENATOR HARDY:

Does the adverse party have to be convicted in order for the landlord to seek restitution for lost rent?

ASSEMBLYMAN YEAGER:

I do not know of any circumstances in which this has happened. The Nevada State Apartment Association and some real estate professionals spoke in the Assembly Committee on Commerce and Labor in March 2017, supporting the bill. They indicated they had yet to seek restitution from an adverse party. That is because there is no problem finding renters. Since it would be a civil proceeding, I think it would be a preponderance of the evidence from both sides presenting their cases, and the court would decide whether the plaintiff, the landlord in this case, had met the burden criteria.

The Apartment Association claims to have one survivor of domestic violence per week seek lease termination in southern Nevada. This demonstrates the need to expand the protections to other victims.

Kimberly Mull, representing Nevada Coalition to End Domestic and Sexual Violence will send a letter to the Committee showing her support of the bill. She was unable to attend today's hearing.

CHAIR ATKINSON:

Hearing no further testimony, we will close the hearing on A.B. 247. We will open the hearing for A.B. 160.

ASSEMBLY BILL 160 (1st Reprint): Requires consideration of alternatives to window replacement in certain state buildings. (BDR 58-725)

ASSEMBLYWOMAN HEIDI SWANK (Assembly District No. 16):

Assembly Bill 160 seeks alternatives to window replacements in public buildings. Windows are often the first work considered on buildings when renovations are needed, and often the default has been to replace them. The types of windows that often get replaced are single-paned windows. It is thought the savings in energy offsets the costs of the windows. In 2012, the National Center for Preservation Technology and Training (NCPTT) did a study called "Saving Windows, Saving Money" ([Exhibit D](#)). The NCPTT is an office of the National Park Service. It conducted the study of strategies for increasing energy efficiency of windows.

I will read from the presentation on the findings of the study ([Exhibit E](#)). I will compare the cities of Phoenix and Boston having similar weather patterns to Nevada and compare the various costs and types of window upgrade options. The data in the presentation shows the relationship between costs and energy savings. There are big differences between one inexpensive option compared to installing new windows. For example, surface film is one of the best energy efficiency strategies in a very warm climate. Using interior window panels and exterior window panels are also cost-saving options. A climate like Boston shows insulated cellular shades and interior window panels are good, cost-effective options.

The premise of A.B. 160 is to find ways to stretch meager public works dollars and keep the windows in place and still save money.

Section 1, subsection 1 lists the different strategies the State Public Works Division of the Department of Administration must consider when working with windows in public buildings. The list comes directly out of the NCPTT study. Subsection 2 requires the Division use a strategy or strategies with the best return on investment. Subsection 3 states prisons are exempt since they have different issues than energy efficiency. An emergency replacement for a broken window can always be done.

Subsection 4 states if a building is over 50 years old, the Office of Historic Preservation (SHPO) of the State Department of Conservation and Natural Resources must sign off on the evaluation. Windows play a very large role in the historic integrity of many of our public buildings. It allows collaboration between the Division and SHPO.

Section 2, subsection 2, paragraph (e) places similar language as section 1, subsection 4 relating to the Historic Preservation Office.

BRITTANY L. WALKER (Ameresco, Inc.):

Ameresco, Inc., has submitted a conceptual amendment to A.B. 160 ([Exhibit F](#)). The bill saves public money and promotes energy efficiency in public buildings. The provisions in the conceptual amendment also increase energy efficiency in public buildings and save money by extending the length of performance contracts which pay for energy conservation upgrades, such as retrofitting windows for energy cost savings. There is a one-word change to *Nevada Revised Statutes* 333A.0916 in the conceptual amendment. It extends the maximum length of the performance contracts from 15 years to 25 years. This change will allow for more energy conservation measures to be included under a performance contract. Local governments are allowed to have these contracts for 25 years, and this change will allow State agencies the same.

SENATOR GANSERT:

Does that mean the Division has to look at a 25-year timeframe to realize the cost benefits?

MS. WALKER:

No, the length of the performance contract extends how much cost-saving measures a public agency can take and it increases the amount of different measures public agencies can use, such as weather stripping and so forth. It would not require the Division to look back 15 or 25 years.

SENATOR GANSERT:

It would be interesting to know what timeframe the Division is supposed to look at to realize cost benefits. I have a concern about adding the authority to SHPO to get the okay on buildings over 50 years old. There are many buildings in Nevada over 50 years old. It brings us back to 1967. The procedures necessary to ensure a stamp of approval from another agency when attempting a building remodel gives substantial authority to that agency.

ASSEMBLYWOMAN SWANK:

The Division and SHPO have a good working relationship. Corroboration on projects is part of it. We could ask them to come and speak on that today.

SENATOR GANSERT:

Requiring approval of work done, rather than a review of work done, is putting a high threshold on the project. Relationships are good now, but employee turnover may interpret it differently. It is important they work together, but the term to "approve" is my issue. It gives significant authority on any building over 50 years old. The Division goes to the maximum degree when it is evaluating how to proceed on a building, whether for a remodel or a replacement.

SENATOR SPEARMAN:

Sometimes the shape and color of a building has to conform to specific standards. There are some places in Las Vegas requiring a particular building style. For the approval process by SHPO, are there standards of that nature available from the homeowners association (HOA) or someone else?

ASSEMBLYWOMAN SWANK:

This bill applies to just State, publicly-owned buildings under the purview of the Division. This does not apply to county- or city-level structures. There is no HOA element.

SENATOR SPEARMAN:

There are already processes in place for HOAs and so forth. If the threshold appears to be too high, is there anything like what is done at the HOA that you could appropriate to this process? Some places have approval requirements already in place.

ASSEMBLYWOMAN SWANK:

There is a standard building evaluation form used by the Division. Using the form does not create a burden. It is an easy process. The good working relationship and preexisting collaboration with SHPO helps the Division in the approval process. There does not appear to be a burden for the Division to do evaluations and get approvals from SHPO.

SENATOR SETTELMAYER:

Some of the buildings at the Stewart Indian School are well over 50 years old. The windows were replaced about 15 to 20 years ago. Are you concerned with the building being 50 years old or the windows being 50 years old? Will you still require SHPO to sign off on any work, even with windows only 20 years old?

ASSEMBLYWOMAN SWANK:

Yes, it is about the integrity of the building. I have 2007 windows in my 1956 home. Windows are part of the evaluation. There will be fewer energy efficiency needs with newer windows.

SENATOR SETTELMAYER:

I am still concerned with requirements on a 50-year old building with 20-year old windows.

WENDY STOLYAROV (Legislative Director, Libertarian Party of Nevada):

When A.B. 160 was first heard in the Assembly Committee on Commerce and Labor, the Libertarian Party of Nevada opposed it on the grounds it would result in delays to minor repairs and incur substantial increases in window spending in State buildings. The Party was concerned about the unintended consequences of preventing damaged or broken windows from being replaced efficiently. It appreciates the amended version of the bill allowing the Division to replace broken windows without delay. The Party is neutral on the bill, and it still prefers the repair and replacement decisions be left to maintenance personnel as needed. The decisions should not require a mandate. The amendment improves the bill.

SENATOR GANSERT:

I would like to ask questions of the State Public Works Division and SHPO. Can you go over the evaluation process of a remodel? I am aware it is a thorough vetting process starting from rough drawings, to plans, to working with the Legislature to ensure everything is approved and going to the Interim Finance Committee for different things. It seems there is a heavy vetting process whenever the Division considers a remodel or new construction.

CHRIS CHIMITS (Deputy Administrator, State Public Works Division, Department of Administration):

The relationship the State Public Works Division has with SHPO, as depicted by Assemblywoman Swank, is very accurate. It uses the 10-year payback period in its evaluations of a project. The process begins with a schematic design. Upon approval of the schematic, it goes to design development. Design development is the architectural process where systems are evaluated. The Divisions' project managers follow a project checklist, which is consistent throughout all building development processes. Windows are integral parts of the architecture.

It is not the Division's practice to isolate different systems. It works with SHPO on the context of the whole building, not separate components, which would be an arduous process. Therefore, a 70-year-old building with 10-year-old windows requires the same process as any of the Division's projects when working with SHPO.

At design development, the Division considers and evaluates the payback period on HVAC systems and window systems. The information in [Exhibit E](#) is an accurate depiction of the different options considered in an evaluation. The Division evaluations on payback periods for window blinds, insulating systems and reflective films are very close to what the presentation depicts.

The additional process requirements the bill is asking of the Division are minor. Its process is exhaustive. The analysis for window options is the same for HVAC systems. If there is a good payback or reasonable performance period, it will pursue what is in the best interests of the State rather than replace windows.

Windows are an important component of historic buildings or buildings of architectural significance. Rather than replace windows, the Division welcomes the input of SHPO to sustain the architectural character of a building. The Division will find a supplement to meet the Model Energy Code or get as close to it as possible. I am encouraged by all that I have heard on the bill. This process of evaluating windows is easily incorporated into the current process.

SENATOR GANSERT:

I appreciate the collaborations of the agencies on historic buildings. My issue with the bill is the approval requirement versus the collaboration in the review process.

SENATOR SETTELMAYER:

Prior to implementing repairs, it takes time for notices, reviews of structures and so forth. For example, with the County's recent flood repairs, how long will it take for the Divisions' review processes?

Senate Committee on Commerce, Labor and Energy
April 21, 2017
Page 11

REBECCA LYNN PALMER (State Historic Preservation Officer, Administrator, Office of Historic Preservation, State Department of Conservation and Natural Resources):

The activities you are referring to for the Carson River repairs are federal undertakings, and the federal government has designated 30 days to review projects. The reviews SHPO does for the Division are done quickly, usually within a day or two. Two weeks is the longest it has ever taken. The Office of Historic Preservation takes a different approach from the federal agencies.

CHAIR ATKINSON:

We will close the hearing on A.B. 160.

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

Senate Committee on Commerce, Labor and Energy
April 21, 2017
Page 12

CHAIR ATKINSON:
Hearing no further testimony, I adjourn this meeting at 9:43 a.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	2		Attendance Roster
A.B. 247	C	1	Assemblyman Steve Yeager	Written Testimony
A.B. 160	D	59	Assemblywoman Heidi Swank	National Center for Preservation Technology and Training Study
A.B. 160	E	6	Assemblywoman Heidi Swank	Presentation
A.B. 160	F	1	Brittany L. Walker / Ameresco, Inc.	Conceptual Amendment