

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eighty-First Session  
May 29, 2021**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 10:06 a.m. on Saturday, May 29, 2021, Online and in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/81st2021](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Edgar Flores, Chair  
Assemblywoman Selena Torres, Vice Chair  
Assemblywoman Natha C. Anderson  
Assemblywoman Annie Black  
Assemblywoman Tracy Brown-May  
Assemblywoman Venicia Considine  
Assemblywoman Jill Dickman  
Assemblywoman Bea Duran  
Assemblyman John Ellison  
Assemblywoman Susie Martinez  
Assemblyman Andy Matthews  
Assemblyman Richard McArthur  
Assemblywoman Clara Thomas

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Moises (Mo) Denis, Senate District No. 2

**STAFF MEMBERS PRESENT:**

Jered McDonald, Committee Policy Analyst  
Erin Sturdivant, Committee Counsel  
Judith Bishop, Committee Manager  
Lindsey Howell, Committee Secretary  
Cheryl Williams, Committee Assistant

Minutes ID: 1420



**OTHERS PRESENT:**

Warren Hardy, representing Rinnai America Corporation; and Private Citizen, Las Vegas, Nevada  
Justin Harrison, Principal Management Analyst, Administrative Services, Clark County  
James York, Senior Director of Regulatory and Product Performance, Rinnai America Corporation, Peachtree, Georgia  
Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry  
Brennan Paterson, Chief Administrative Officer, Mechanical Compliance Section, Division of Industrial Relations, Department of Business and Industry

**Chair Flores:**

[The meeting was called to order. Committee rules and protocol were explained.] The Assembly Committee on Government Affairs is back from a very long recess. I just want to give everybody a lay of the land: We have one bill up for presentation today. We will get a pulse from the members about how we feel about that and potentially consider taking action immediately after the hearing, depending on where the members are. Afterwards, we will go into public comment, and then we will recess, just in case we have to come back for any reason. We know that we are on deadline, and we just have to be as accommodating and flexible as we can be to help move those last bills that are making their way over.

At this time, we will go ahead and open the hearing on Senate Bill 205 (2nd Reprint).

**Senate Bill 205 (2nd Reprint): Provides regulatory exemptions for certain types of boilers. (BDR 40-839)**

**Senator Moises (Mo) Denis, Senate District No. 2:**

I represent Senate District No. 2 in Clark County. Thank you for the opportunity to present Senate Bill 205 (2nd Reprint), which addresses an oversight that occurred when emergency regulations were adopted last year by the Division of Industrial Relations (DIR) of the Department of Business and Industry. As you can tell, it is a fairly short bill. If you did not have a chance to read it, you could probably do it by the time I am done with my presentation.

It is relatively simple. In adopting regulations related to boilers, the Division exempted certain gas-fired residential and commercial tank water heaters, but unintentionally failed to exempt similar tankless water heaters. The result is that the tankless water heaters are now subject to significantly more onerous regulations than similar tank heaters, which are more stringent than are necessary to ensure public safety. The goal of this bill is to seek parity in statutory regulation of tank and tankless water heaters so this type of regulatory error is not repeated in the future.

At this point, I would like to have former Senator Warren Hardy, who is here representing Rinnai America Corporation, speak. I do not think we have James York on here.

**Warren Hardy, representing Rinnai America Corporation:**

He said he is trying to call.

**Senator Denis:**

We may have James York, who is the Senior Director of Regulatory and Product Performance at Rinnai, to discuss the issue in more detail and walk through the technicalities of the bill, if that is okay.

**Warren Hardy:**

For the record, El Diablo. Thank you, Mr. Chair, for the accommodation on this bill, and I want to thank Senator Denis for his willingness to step forward on this bill. As he indicated—and I will try to be as brief as I can—this legislation was brought forward in response to an emergency regulation that occurred last year. You might recall the explosion that occurred at the University of Nevada, Reno. The Governor asked for an emergency regulation to be adopted to deal with boilers. In the course of that regulation, there was an inadvertent sweeping into the boiler regulation of certain water heaters. The Division and the construction industry recognized that immediately and provided an exemption for those in the regulation. However, what did not happen is that when they provided that exemption, they provided it only for tank water heaters and not for tankless water heaters.

Tankless water heaters are becoming increasingly popular because of their efficiency. The example I use is an athletic club, which I have never been to, but I have heard about. They like them in series because when they are first there in the morning, they may run one or two, and then they ramp it up as demanded. They are efficient; they do not take up as much space. They are becoming very popular. We wanted to make sure that they can continue to function and operate on par with tank heaters. We brought this legislation forward, although it could be dealt with in regulation, and DIR expressed a willingness to do that. But we thought that would take a year or so, and in the meantime, these tankless heaters would be at a competitive disadvantage. We did meet with DIR on this legislation. In the bill itself, the second reprint, the definition of "water heater" itself is taken from suggestions from DIR. Section 1.4, with relation to the types of water heaters we are trying to exempt, was taken directly from the regulation.

The sticking point on this—and I will just speak to it in advance because I know that the Division is here to speak to it—the Division feels strongly that when these are installed in series, there should be additional regulation. We do not have any quarrel with that. These are currently regulated through the Uniform Mechanical Code and the local governments. We feel that is sufficient. No state in the United States, with the exception of Massachusetts, goes the extra step of regulating these at the state level. If that is something the DIR feels strongly about, we have no objection to their promulgating a regulation to do that. We just feel like that type of policy decision—again, where we would join Massachusetts in regulating these at the state level—should be done through a complete regulatory process and

not accidentally through an emergency regulation. We have included language in this bill to specifically give the authority and ability of DIR to promulgate that regulation. We did not want to foreclose on their ability to take a strong look at it and consider the safety issues related to it.

But I would just reiterate for the Committee, and then I will stand down for questions, that no state regulates these at the state level except Massachusetts. As I understand it, Massachusetts did it because they were more interested in a type of tankless or in-series apparatus than they were concerned about the safety issue. On the Nevada Electronic Legislative Information System, you should have letters from many members of the industry, from associations in the industry, from all folks who believe this should be corrected and allow DIR to go forward and adopt the regulation if they feel it is necessary. Also, and I know Clark County is here as well, there should be letters there from the local governments speaking to the efficiency of having them regulated by the Uniform Mechanical Code at the local level. [Senate Committee on Health and Human Services, March 23, 2021.]

With that, Mr. Chair, I would be happy to answer any questions the Committee might have.

**Chair Flores:**

With that, members, we will open it up for questions.

**Assemblyman Ellison:**

El Diablo, I am glad to see you here. I have some questions. Number one, you are starting to see more tankless water heaters; the problem you have is that they are trying to make everything go energy-efficient. Look, if you are going to put your house on a tankless system, it creates all-new services because of the loads. The loads are twice as heavy as a regular water heater. Then, the water heaters that are replaced—or new—are inspected by the cities and the counties. That regulation has already been implemented; it is there, and 99.99999 percent of them are regulated with the thermostat on them for controlled temperatures. I am kind of confused about what we are trying to get at because they are already regulated. They are already inspected. I have both; I have tankless water heaters and some things for small bathrooms, and that is all they do. Then I have tons of regular water heaters that are in residential rentals or commercial.

**Warren Hardy:**

This legislation put before you today attempts to make sure there is not the additional regulation at the state level for tank or tankless water heaters that are installed. The issue, for DIR, is when they are installed in series. In-series installations and parallel installations are done regularly on tankless water heaters and tank heaters in areas such as the restaurant industry, for example, where they need the redundancy because the health code says if you do not have hot water, you cannot operate—so they install these in series. Interestingly enough, while we were holding the hearing in the Senate, I got a text from my former colleague and former congressman, former Senator Joe Heck, saying, Hey, I have in-series tank heaters in my house—in some homes, they do.

The intent of this, Assemblyman Ellison, is to try to specify that the local government regulation is sufficient. However, we did not want to foreclose on the ability of DIR—if they thought it was important to go forward, investigate, and look at this—to promulgate a regulation to that effect. If we did go forward with it, they will be the second state in the country that does it. In the interest of full disclosure, I will oppose that regulation for that very reason. These are safe, far safer than the tank heaters we are talking about because they are very small units. That is why we put the language in relative to equip with automatic controls, which limit the heat. That is our intent, Assemblyman Ellison—to make sure that there is not an additional burden in regulation on the installation of these, which will drive up the cost of commercial construction. I think you will learn from the DIR that they currently do not regulate residential, so this would not impact that. These are becoming increasingly popular in construction. I think if we do not clarify this, what will happen is construction will move away from tankless heaters until this is resolved. They will go back to the full tank heaters, which are designed to keep the temperature of the water the same 24/7, whether you need it or not. Tankless heaters are on demand; they only heat the water when you need it.

I hope that answers your question. It was typically long-winded for me, but I do not know how to do it otherwise.

**Assemblyman Ellison:**

It is the shortest I have ever heard him do.

**Senator Denis:**

Just to clarify because we keep referring to it: When he refers to "in series," you would wonder, Why would you need to do an in series if it is an on-demand water heater? But each on-demand water heater can only produce so much water. Eventually, it is not hot anymore, even though it is doing it on the fly. These are put next to each other so that you have multiple of these tankless heaters next to each other in what he called "series." He also mentioned "parallel," which is a different setup. What we have been talking about here is the in series.

**Assemblyman Ellison:**

I totally agree with that. The reason is because you can create heat in one and not the other. But the singles seem to be what you say, but now they are going to the bigger ones to take a whole house for showers, laundry, kitchens, and things such as this, which is creating such a massive load on the house. If it is an older home, the service equipment all has to be changed. But if you are putting one in a bathroom, garage, or something such as this, it is easy to do. In commercial building, you see now that they are starting to put them in areas; for example, one at the dishwasher unit. Then you will see one strictly for the bathrooms, and then usually another one. I have not seen a lot of them together, necessarily, but I have seen them. Yes, I have.

**Warren Hardy:**

What you are talking about, Assemblyman Ellison, is that this has become an increasingly popular device for construction. We do not know what the future holds. We think the DIR should take a look at this and promulgate a regulation if necessary, which is exactly why we wanted to be careful not to foreclose on their ability to do that. Because as this technology advances and moves forward, it is entirely appropriate for the DIR to be able to look at it and make sure that the public is safe. This legislation is about nothing more than putting tank heaters and tankless water heaters on par in statute, so we can never have a situation where this happens again, where they adopt a regulation, and it inadvertently applies to one and not the other.

**Assemblywoman Considine:**

I have one question. Thank you for bringing this forward. I know you have probably already addressed this, but it is just my curiosity: Do you know that tankless water heaters are fairly new? They are becoming more popular; I am not surprised that many states do not have any rules on that because they are fairly new. I was reading all of the exhibits from the Senate bill hearing [Senate Committee on Health and Human Services, March 23, 2021]; there was a mention that in the first reprint of the bill, there was language in that bill to allow DIR to continue to regulate them. It is not in this second reprint. My question is this: Was it intentionally in the first reprint, and if so, what has changed? Or why was it in an earlier version and not in this version?

**Warren Hardy:**

Section 1.5 is the section that enables them; the language did change. It broadened because the original language was a little too direct and specific about their ability to potentially promulgate a regulation relating to this very specific type of water heater. The language changed; section 1.5 is the provision that allows them to promulgate a regulation. The difference between the first reprint and the second reprint is that this is far broader. This allows them to look at every aspect. I think the DIR is going to testify that their interpretation of section 1.5 is that it only allows them to adopt a regulation related to the connection of the water heater. I checked with legal counsel in the other house and they said that they did not believe that was the case. Our intent is not to limit them to the connection of water heaters; it is to allow them to promulgate any regulation they see fit on the in-series installation or anything related to these water heaters. That language is there; it is broader than it was before, but it is still in the language.

**Senator Denis:**

In our first hearing, we talked about that issue. This was not about not taking away DIR's ability to regulate. We were trying to clarify that when we did this other amendment; we wanted to say, Hey, we just want to fix this issue that happened because of the emergency regulation. If you want to promulgate, we were trying to put something in statute that would say, Go ahead and go through your whole regular, regulatory process so that the industry has an opportunity to weigh in on the regulations and whether they want them or not.

**Assemblywoman Considine:**

Mr. Hardy, you mentioned that you requested that legal opinion on the other side. Was that on the record?

**Warren Hardy:**

That discussion was on the record. Mr. Keane from the Legal Division of the Legislative Counsel Bureau helped us draft this amendment. I doubled back with him after I heard that concern from DIR because we do not want to limit that in any way. If we need—and of course, at this late date, I would hate to have to have an amendment—but we do not want to foreclose on their ability to promulgate a regulation on anything they feel is necessary under their stewardship.

**Assemblywoman Thomas:**

Thank you so much for the opportunity to address S.B. 205 (R2). I would like to take the liberty of saying to Senator Denis that, instead of around the kitchen table, I can ask you questions here in public. I appreciate that. My question to both you and former Senator Hardy, if I may ask, is this: As a homeowner, I would like to know the lifespan of the tankless water heater. I do have a follow-up.

**Warren Hardy:**

I do not know if it is possible—apparently Mr. York is on the phone—and I do not know if we have that technology.

**Chair Flores:**

I think we are having a difficult time getting ahold of Mr. York. The last report that I got from the team internally is that we were having a difficult time connecting.

**Warren Hardy:**

Mr. York, if you are listening, I did forward you a copy of the Zoom link that was provided by Senator Denis' office this morning. Mr. York would be able to answer those questions. I know that one of the reasons these are so popular is because of the lifespan and the efficiency of them. They do not have the water sitting in the tank. I have left my house while my wife was in California visiting the grandkids. I left the house for two weeks. That water is heating. I turn it down, but it is heating. The water is sitting there; the corrosion is occurring. None of that occurs in a tankless heater, which is why these are so popular.

**Assemblywoman Thomas:**

That answer leads into this segue: Does it have an automatic shutoff valve in case it got too hot or might hurt someone?

**Warren Hardy:**

That is an excellent question. This technology, I think, is additionally popular because of the safety. When you have a boiler—I was talking to my good friend Danny Thompson about this, and he was explaining how boilers work. There is a six-inch gas line, or something such as that, leading into these boilers. He said it is like a small nuclear bomb when they explode.

These are in series, small—they are individually fed in the installation. But all of the things that Assemblywoman Thomas is talking about—the safety is the same. They have the pressure relief valves; they have all those safety devices.

I should indicate at this point—and thank you for reminding me, Assemblywoman Thomas—if you look at the guidance from the companies, these are designed to be installed in series. They are warrantied; this is the purpose of them. They want to be able to accommodate that use that I spoke of, where one comes on when it is low demand, and then you have five when it is high demand. All of those safety things that are related to the others are absolutely incorporated into these systems.

**Chair Flores:**

Members, are there any additional questions? [There were none.] At this time, we will go to those wishing to testify in support of Senate Bill 205 (2nd Reprint).

**Justin Harrison, Principal Management Analyst, Administrative Services, Clark County:**

I am here today in support of S.B. 205 (R2). We would first like to thank Senator Denis and Mr. Hardy for presenting the bill and going through the details. We would like to reiterate some of the comments that were made by our presenters. Currently, local governments already have local codes and ordinances that appropriately address the permitting, as well as inspection, of these in-series installations. Particularly, I will speak to Clark County and our local codes that address this through our building department, as well as through the Uniform Mechanical Code that was mentioned and has also been adopted by Clark County. With that, Mr. Chair, I would be happy to answer any questions and thank the Committee for indulging me today.

**Chair Flores:**

I do not think we have any questions for you. I was notified that Mr. York is now joining us via Zoom. I know there were some questions directed at Mr. York.

**James York, Senior Director of Regulatory and Product Performance, Rinnai America Corporation, Peachtree, Georgia:**

I was listening earlier; I was on the public call-in. I did hear a couple of the questions. I will try to address those right now. One of the questions was on lifespan. These water heaters typically carry a warranty on the products from 12 to 15 years and are expected to last between 10 and 20 years, typically, in the market. That is on par and usually superior to most commercial gas water heaters that are currently on the market that carry from three- to seven-year warranties on the storage water heater market. The other question was this: Do these have safeties? These are all fully CSA-certified products. All carry a third-party recognition in the industry, the same as any other water heater that is currently on the market. They do have safety limit switches, as well as dual-monitoring temperature indicators, or thermistors, that measure the outgoing temperature. Because tankless water heaters, unlike storage water heaters, are delivering on demand, we deliver a precise temperature of our civic water to the end user based on the selection. We monitor that with two different inputs.



Any time there is a difference between those inputs, the water heater would shut down in a safe manner, just like any other water heater on the market. Hopefully, that answered those questions, and I appreciate the time.

**Chair Flores:**

Members, are there any additional questions? [There were none.] Thank you for joining us this morning. At this point, we will go back to those wishing to testify in support of Senate Bill 205 (2nd Reprint). [There was no one.] At this time, we will go to those wishing to testify in opposition. [There was no one.] Lastly, we will go to those wishing to speak in the neutral position.

**Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry:**

Our office is neutral on Senate Bill 205 (2nd Reprint).

Our mechanical compliance section regulates boilers and water heaters only in commercial buildings. I think it is important to note that we do not regulate water heaters or most boilers in single-family homes. Our primary concern is public safety.

Local governments were brought up. They do installation permits of these water heaters; in contrast, our office does an initial permit and operating permits every two years of the devices that we regulate. Under current law, water heaters that do not exceed certain limitations are exempt from the permitting requirements. However, this only applies to the traditional tank water heaters. The tankless water heaters of any size that are currently installed in a commercial setting are required to obtain an operating permit. Senate Bill 205 (2nd Reprint) would change these requirements. For single installations of tankless water heaters meeting these criteria, those are a very low safety risk, and our office is supportive of exempting those devices to make sure that they have parity between both the traditional and the tank water heaters.

However, the Division also currently regulates water heaters that are installed in series. These are often called "rack units." In these cases, these water heaters are combined together to have a higher level of input heat. For example, a rack of six of these tankless water heaters provides a maximum input heat of over 1 million British thermal units (BTUs). That is comparable to a large commercial boiler. Just to give you some examples of the ones that are currently regulated: We have the Alexis Park Resort—nearly 3 million BTUs; T-Mobile Arena—1.6 million BTUs; and Primm Valley Resort and Casino—3.6 million BTUs. When you have an input heat of that amount, that is a large amount of gas. We recommend that these continue to be regulated because there are definitely some safety concerns with that. In our regulations, an emergency shutoff valve is required; that was something that was put in place in 2020 in the wake of the Argenta Hall explosion. Just for reference, that boiler was 1.2 million BTUs. We also look at the emergency exits, the fire rating of the room, and room ventilation. Those are things we believe are important to be reviewing every two years. The regulatory authority that is being provided in the proposed S.B. 205 (R2), in our reading, only applies to the connections to the water heaters, not the water heaters themselves.

However, in the first reprint, there was specific language about the interconnection of water heaters installed in a series in section 1.4 and making those exempt from the exemption. We would recommend that the second reprint language is actually much stronger and actually ensures that those water heaters installed in a series would continue to be regulated. With that, we also have our chief administrator, Brennan Paterson, who is available for any technical questions. Thank you.

[Written testimony was also submitted, [Exhibit C](#).]

**Chair Flores:**

Thank you for joining us this morning. Members, are there any questions? [There were none.] I do not know if you wished to add any other remarks, sir, or if you were just here for the questions.

**Brennan Paterson, Chief Administrative Officer, Mechanical Compliance Section,  
Division of Industrial Relations, Department of Business and Industry:**

I believe Administrator Carreón has spoken very well already on this, but if anyone has any technical questions, questions about how these items are currently regulated, or what is seen in the field, I am here to answer anything you might wish to ask.

**Chair Flores:**

Members, are there any technical questions? [There were none.] Thank you again. We will go to the phone lines for those wishing to speak in neutral. [There was no one.] Senator Mo Denis, do you have any closing remarks?

**Senator Denis:**

We do not have any additional remarks. As I said at the very beginning, we are just trying to make sure that we can put that parity in the law. Thank you.

**Chair Flores:**

Thank you. With that, we will go ahead and close out the hearing on Senate Bill 205 (2nd Reprint). Thank you all for engaging in that very high-level, fun boiler language. El Diablo, thank you for joining us.

**Senator Denis:**

Mr. Chair, if you will permit, just because it is a Saturday, I just wanted to "tank" you very much. We usually try to do this on the floor; sometimes we do the puns. The other one is this: We all have this "tank"-less job.

**Chair Flores:**

I wish I had a drum set. With that, members, I think I got a temperature read of the room—there you go, I got one in. At this time, I would like to entertain a motion to do pass Senate Bill 205 (2nd Reprint).

ASSEMBLYWOMAN TORRES MADE A MOTION TO DO PASS  
SENATE BILL 205 (2ND REPRINT).

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

Members, is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

For such an exciting conversation, I think it would be prudent and only appropriate that our TikTok sensation, Assemblyman McArthur, do that floor statement. Assemblyman McArthur will be doing the floor statement on Senate Bill 205 (2nd Reprint).

Next on the agenda, we have public comment. [There was none.] Members, I wanted to repeat the lay of the land for the remainder of the next two days. We will recess, not because we anticipate coming back, but we want to leave the door open should there be any bills or anything that moves at the last minute, so we are ready to address that matter at that time.

Because I do not know if we will be meeting again, I just wanted to take a quick personal point of privilege. Last time, I did not do this because I did expect a bunch of bills to come into the Committee. Had I known that they were not going to make their way here, I would have done this before. I wanted to first thank all our staff for their incredible work this session. As you all understand, this work is easy because of them. I am talking about everybody—secretaries, minutes, the folk who are in my office, committee managers, policy analysts, lawyers, every single one of you—we are incredibly indebted to you. For those of you following us along, know that the legislators show up and get this work done only because of them. They truly are amazing, so we are incredibly grateful to have them.

Members, it has been an honor to serve alongside all of you. I appreciate the dialogue. We come from very different walks of life, very different angles and perspectives. There is no question that maybe outside of this room, you would doubt that a lot of us would be sitting at the same table. But I think a lot of us have grown a friendship, and I appreciate that. I appreciate the different perspectives, and I think this is what Nevada is all about. We do not always agree, but we can be respectful and engage in some good dialogue. Thank you, members, for your service. It has been an absolute honor serving alongside of you. I hope that we can continue working together in the interim for the betterment of Nevada.

Again, thank you to all of you. For all folk who engage with this Committee, thank you for indulging us in all the fun times we have had. Mr. El Diablo—for those of you who do not know that reference, every time he would call in, we would hear, "Caller with the last three numbers 666 . . . ." Then it would always seem as though El Diablo showed up.

**Warren Hardy, Private Citizen, Las Vegas, Nevada:**

I am not changing it, Mr. Chair.

**Chair Flores:**

Yes, please keep that number forever. With that, members, we are in recess [at 10:43 a.m.].  
[The meeting was adjourned at 11:10 p.m.]

RESPECTFULLY SUBMITTED:

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Lindsey Howell  
Committee Secretary

APPROVED BY:

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Assemblyman Edgar Flores, Chair

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony dated May 29, 2021, submitted by Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry, in neutral to Senate Bill 205 (2nd Reprint).