

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

**Eighty-first Session  
May 14, 2021**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:06 a.m. on Friday, May 14, 2021, Online and in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pat Spearman, Chair  
Senator Dina Neal, Vice Chair  
Senator Melanie Scheible  
Senator Roberta Lange  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Keith F. Pickard

**LEGISLATORS PRESENT:**

Assemblywoman Selena Torres, Assembly District No. 3

**STAFF MEMBERS PRESENT:**

Cesar Melgarejo, Policy Analyst  
Wil Keane, Counsel  
Kim Cadra-Nixon, Committee Secretary

CHAIR SPEARMAN:

We open the work session today with Assembly Bill (A.B.) 91, A.B. 130, A.B. 190 and A.B. 210.

**ASSEMBLY BILL 91**: Revises provisions relating to the State Board of Nursing.  
(BDR 54-60)

**ASSEMBLY BILL 130 (1st Reprint)**: Revises provisions governing insurance.  
(BDR 57-780)

Senate Committee on Commerce and Labor  
May 14, 2021  
Page 2

**ASSEMBLY BILL 190 (1st Reprint)**: Provides certain employees with the right to use sick leave to assist certain family members with medical needs. (BDR 53-379)

**ASSEMBLY BILL 210 (1st Reprint)**: Revises provisions governing the practice of chiropractic. (BDR 54-140)

CESAR MELGAREJO (Policy Analyst):

We have work session documents for A.B. 91 ([Exhibit B](#)), A.B. 130 ([Exhibit C](#)), A.B. 190 ([Exhibit D](#)) and A.B. 210 ([Exhibit E](#)). There are no amendments with these bills.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 91, A.B. 130, A.B. 190 and A.B. 210.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR SPEARMAN:

We continue the work session with A.B. 250, A.B. 290, A.B. 298, A.B. 330, A.B. 359, A.B. 391 and A.B. 436.

**ASSEMBLY BILL 250 (1st Reprint)**: Revises provisions relating to insurance to supplement Medicare. (BDR 57-142)

**ASSEMBLY BILL 290**: Revises provisions relating to financial institutions. (BDR 55-979)

**ASSEMBLY BILL 298 (1st Reprint)**: Revises provisions relating to noncommercial vehicle leases. (BDR 8-782)

**ASSEMBLY BILL 330 (1st Reprint)**: Establishes provisions governing occupational training and licensing. (BDR 54-759)

**ASSEMBLY BILL 359 (1st Reprint)**: Revises provisions governing trade practices. (BDR 52-684)

Senate Committee on Commerce and Labor  
May 14, 2021  
Page 3

**ASSEMBLY BILL 391 (1st Reprint)**: Revises provisions relating to dispensing opticians. (BDR 54-659)

**ASSEMBLY BILL 436 (1st Reprint)**: Revises provisions relating to vision insurance. (BDR 57-808)

MR. MELGAREJO:

We have work session documents for A.B. 250 ([Exhibit F](#)), A.B. 290 ([Exhibit G](#)), A.B. 298 ([Exhibit H](#)), A.B. 330 ([Exhibit I](#)), A.B. 359 ([Exhibit J](#)), A.B. 391 ([Exhibit K](#)) and A.B. 436 ([Exhibit L](#)). There are amendments with these bills.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 250, A.B. 290, A.B. 298, A.B. 330, A.B. 359, A.B. 391 and A.B. 436.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR SPEARMAN:

We continue the work session with A.B. 207.

**ASSEMBLY BILL 207 (1st Reprint)**: Provides that certain businesses which offer goods or services through an Internet website, mobile application or other electronic medium are places of public accommodation. (BDR 54-567)

MR. MELGAREJO:

We have a work session document which explains A.B. 207 ([Exhibit M](#)). There is an amendment with this bill.

SENATOR PICKARD:

I agree with the intent of this bill, however, the changes in this bill will expand the definition of public accommodation. This will open employers to suit their premises with things that have nothing to do with the bill.

SENATOR SCHEIBLE MOVED TO AMEND AND DO PASS AS AMENDED A.B. 207.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY, PICKARD AND  
SETTELMAYER VOTED NO.)

\* \* \* \* \*

CHAIR SPEARMAN:

We continue the work session with A.B. 222).

**ASSEMBLY BILL 222 (1st Reprint)**: Revises provisions governing employment practices. (BDR 53-739)

MR. MELGAREJO:

We have a work session document which explains A.B. 222 (Exhibit N). There is an amendment with this work session document.

CHAIR SPEARMAN:

I met with those in opposition to this bill and spoke with our counsel. Mr. Keane will you explain the primary provisions of this bill?

WIL KEANE (Counsel):

The amendment, Exhibit N, removes section 1, subsection 2, paragraph (c), which authorizes an employee who suffered certain unlawful employment practices to bring civil action against an employer for damages equal to the amount of the lost wages and benefits.

According to section 1, subsection 2, paragraph (d), the employee is also able to bring a legal suit for past or future compensatory damages. Several court cases relate to this bill. The bill puts in statute various provisions discussed in those court cases.

SENATOR NEAL:

Compensatory damages are provided in this bill, but an employee cannot pursue civil action for lost wages. Is this correct?

MR. KEANE:

The specific item in the bill concerning damages equal to the amount of lost wages and benefits has been removed. However, as in most tort actions, a

claimant can prove compensatory damages. Those damages can be specific damages or specific items that are lost. Damages can also be items such as emotional distress. The definition of compensatory damages is very broad.

SENATOR PICKARD:

The amendment of this bill limits damages to lost wages and benefits; however, it retains the language in section 1, subsection 2, paragraph (d) which includes future compensatory damages without limitation. Is this correct?

MR. KEANE:

Yes, this section will allow for compensatory damages. Those damages would need to be proven in court.

SENATOR PICKARD:

My concern is that this will encourage disgruntled employees to pursue legal action and therefore drive up the cost of business. I will vote no on this measure.

SENATOR SETTELMAYER:

As we try to recover from the pandemic, this increase in exposure to the business community is not wise. I will also vote no on this measure.

SENATOR HARDY:

I will also vote no on this measure.

CHAIR SPEARMAN:

I will ask Mr. Keane to elaborate on the measure. I met with the sponsor of the bill as well as those in opposition. I am trying to understand what this bill would look like. I need to understand if the language in the bill supports the court case or if the court case supports the language in the bill.

MR. KEANE:

Two cases were mentioned in the digest of A.B. 222, *Wiltsie v. Baby Grand Corp.*, 105 Nev. 291, 293 (1989); *Allum v. Valley Bank of America*, 114 Nev. 1313, 1325 (1998). Both cases are relevant to this bill.

The *Wiltsie* case involved a circumstance where the Nevada Supreme Court determined that the public policy of Nevada supports whistleblowing. However, in this case, the employee who reported the conduct did not report to an

outside entity, instead reported only to his supervisor. The Nevada Supreme Court determined that while the Court was going to impute a public policy to support whistleblowers, the Court would not go so far as to say that an employee who only reports illegal action to a supervisor would not get that protection. The employee was not protected in this case because he did not report the activity to an outside entity. This bill in part codifies the *Wiltsie* decision and extends the protection of an employee who reports illegal activity to a supervisor.

In the *Allum* case, an employee reported illegal activity to an outside entity. The reported conduct did not appear to be as problematic as the employee thought it was and the Nevada Supreme Court determined, based on public policy rather than statute, many of the employees' claims should have been given more consideration.

This bill takes ideas from both cases and puts decisions in statute. This will serve a number of purposes. The bill will provide a statutory basis for the courts to interpret actions regarding whistleblowers.

Many of the concerns brought up at the hearing about what will constitute unsafe conduct, can an employee stop working, and what is a reasonable belief will be fleshed out by the courts under this statute. Attorneys who represent employees will have a good idea of what cases should and should not be brought to court. The statute is a basis by which the courts can build upon to flesh out these different concepts.

SENATOR PICKARD:

I thank Mr. Keane for his analysis of the bill in regard to the *Wiltsie* and *Allum* court cases.

I am most concerned with the language in section 1, subsection 2, which would require an employer to reinstate an employee who reported illegal or unsafe activity to a supervisor or an outside source. Requiring an employer to reinstate an employee against the employer's control is against public policy in private businesses.

I spoke to several commercial litigation attorneys and the bill would allow punitive damages and raise the intensity of possible litigation. While future

compensatory damages would have to be proven, it is problematic because it sets up a pension program for the employee.

I would be in agreement with this bill if we followed history and stated an employee is entitled to damages. This bill creates an incentive for disgruntled employees to create havoc in businesses. I am not in support of this bill because it represents an expansion of employee rights.

SENATOR NEAL:

I spoke with the sponsor of A.B. 222, and I understand the business community is concerned with section 1. It is my understanding the sponsor is willing to amend the bill on the Floor. With a reservation, I will vote yes on this bill.

SENATOR PICKARD:

If the bill is amended to soften the harshness to the business community, I might vote yes on the Floor. I will wait to see the language of the Floor amendment.

CHAIR SPEARMAN:

I would like to see a compromise concerning A.B. 222. The opposition gave an example of a reported safety violation of a worker not wearing a face mask during the pandemic. Since I have been in ICU, I would probably side with the employee reporting the unsafe work practice. I also understand the concerns of Senator Settelmeyer raised during the hearing. There must be a middle ground on this issue between rights of employees and rights of employers. We need to balance the needs of both. These rights are not mutually exclusive.

We will pause the hearing on A.B. 222 and open the work session on A.B. 51.

**[ASSEMBLY BILL 51 \(1st Reprint\)](#)**: Revises provisions governing the Recovery Fund administered by the State Contractors' Board. (BDR 54-324)

MR. MELGAREJO:

We have a work session document which explains A.B. 51 ([Exhibit O](#)). There are no amendments to this measure.

SENATOR PICKARD:

I will vote no on this measure unless there is an amendment. This bill narrows those who are eligible for the Recovery Fund.

SENATOR NEAL MOVED TO DO PASS A.B. 51.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY, PICKARD AND  
SETTELMAYER VOTED NO.)

\* \* \* \* \*

CHAIR SPEARMAN:

We will close the work session on A.B. 51 and reopen the work session on A.B. 222. Senator Pickard, will you restate your concerns for Assemblywoman Selena Torres?

SENATOR PICKARD:

My concern is that section 1, subsection 2 creates an incentive for disgruntled employees to create problems that would not have existed before this legislation. The provisions in this section work against the interests of private industry. I am particularly concerned with the language concerning future compensatory damages. While we have always had the ability to pursue future damages in court, this legislation invites an employee to pursue future damages. We generally do not see punitive damages in private civil litigation.

Considering all of these provisions, this legislation will provide an incentive for disgruntled employees. If an amendment is forthcoming, I may vote yes on this measure.

ASSEMBLYWOMAN SELENA TORRES (Assembly District No. 3):

We have a policy difference. I worked extensively with the business community to ensure we are making this bill close to case law. There are ways for employees to seek damages through the OSHA board. We must find a way to codify those issues. I am committed to continue working with all stakeholders. There is the possibility of an amendment.

SENATOR PICKARD:

Parts of the bill are very good. Your point on OSHA is well taken; OSHA is only interested in safety, and there is little in their statute to address issues concerning whistleblowers. However, the bill as written concerns the business industry.

ASSEMBLYWOMAN TORRES:

My concern is for hardworking Nevada families who are unable to feel safe and comfortable in their workplace. In my district, when people talk to me about safety issues I encourage them to speak to their employer. Many of them express their concern because they had a friend who reported safety issues and lost his or her job.

This legislation is trying to make employees feel comfortable reporting problems to their supervisor without fear of losing their jobs. During the hearing, we heard from Senators who expressed they would like policies that encourage the employees to report issues to their employer. The unfortunate reality is that this situation does not exist. I hope this legislation encourages employees to report issues to their employer so the issue can be addressed before having to report to a regulatory agency.

SENATOR SETTELMAYER:

I think Assemblywoman Torres is 100 percent correct; it is a matter of policy. I see no reason to continue to hear this bill again. I do not think it will change the vote. The possibility of an amendment on the Floor may change people's positions. I am a manager of the third largest fatality industry in the Nation—agriculture. It is an inherently dangerous job. I understand that many choose to work in an industry that is not as dangerous.

I remain opposed to this bill unless there is an amendment.

CHAIR SPEARMAN:

Some people may not understand why I take extra time to hear a bill. I want to ensure all people have had their voice heard. Assemblywoman Torres, I hope you can do something to ensure the bill at least gets to move forward.

I will vote yes on this bill, but I want you to continue to talk with those in opposition. We will see what happens with an amendment introduced on the Floor.

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 222.

SENATOR NEAL SECONDED THE MOTION.

Senate Committee on Commerce and Labor  
May 14, 2021  
Page 10

SENATOR LANGE:

I will vote yes on this bill but reserve my right to change my vote on the Floor.

THE MOTION CARRIED. (SENATORS HARDY, PICKARD AND  
SETTELMAYER VOTED NO.)

\* \* \* \* \*

ASSEMBLYWOMAN TORRES:

I will work with the stakeholders. We already have a meeting scheduled and hope to accomplish what the Committee is encouraging me to do.

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

Senate Committee on Commerce and Labor  
May 14, 2021  
Page 11

CHAIR SPEARMAN:  
We close the work session and adjourn at 8:54 a.m.

RESPECTFULLY SUBMITTED:

---

Kim Cadra-Nixon,  
Committee Secretary

APPROVED BY:

---

Senator Pat Spearman, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Begins on Page</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
A.B. 91	B	1	Cesar Melgarejo	Work Session Document
A.B. 130	C	1	Cesar Melgarejo	Work Session Document
A.B. 190	D	1	Cesar Melgarejo	Work Session Document
A.B. 210	E	1	Cesar Melgarejo	Work Session Document
A.B. 250	F	1	Cesar Melgarejo	Work Session Document
A.B. 290	G	1	Cesar Melgarejo	Work Session Document
A.B. 298	H	1	Cesar Melgarejo	Work Session Document
A.B. 330	I	1	Cesar Melgarejo	Work Session Document
A.B. 359	J	1	Cesar Melgarejo	Work Session Document
A.B. 391	K	1	Cesar Melgarejo	Work Session Document
A.B. 436	L	1	Cesar Melgarejo	Work Session Document
A.B. 207	M	1	Cesar Melgarejo	Work Session Document
A.B. 222	N	1	Cesar Melgarejo	Work Session Document
A.B. 222	N	1	Wil Keane	Work Session Document
A.B. 51	O	1	Cesar Melgarejo	Work Session Document