

COMMERCE COMMITTEE - NEVADA STATE LEGISLATURE - 58TH SESSION

April 21, 1975

The meeting was called to order by Chairman Robinson at 3:20 P.M.

MEMBERS PRESENT: Mr. Benkovich  
 Mr. Demers  
 Mr. Getto  
 Mr. Harmon  
 Mr. Hickey  
 Mr. Moody  
 Mr. Schofield  
 Mr. Wittenberg  
 Mr. Chairman

MEMBERS ABSENT: None

SPEAKING GUESTS: Assemblyman Price  
 Lawrence Gove, Subcontractors Association  
 Rowland Oakes, Associated General Contractors  
 Al Sitton, Southern Nevada Subcontractors Association  
 Gene Milligan, Nevada Association of Realtors  
 Robert Fink, Realtor  
 E.J. Silva, DMV  
 Al Chapman, Mobile Home Association  
 Herb Nye, Nevada Service Station Association  
 George L. Vargas, Registered lobbyist for the major  
 oil companies.  
 Assemblyman Jacobsen  
 Ted Bendure, Ted's Texaco  
 Ray Trease, Consumer Affairs  
 Father Larry Dunphy, Franciscan Center  
 David Hoy, Trailer Coach Association

The purpose of this meeting was to discuss the following bills:

<u>AB 592</u>	<u>AB 645</u>
<u>AJR 31</u>	<u>AB 646</u>
<u>AB 656</u>	<u>AB 130</u>
<u>AB 615</u>	<u>AB 101</u>

Chairman Robinson brought up AB 101 which has been amended.  
 Mr. Demers moved that Amendment No. 7759 be adopted to AB 101.  
 This was seconded by Mr. Schofield and carried the committee.  
 Mr. Demers moved that AB 101 be "do passed as amended". This was  
 seconded by Mr. Moody and carried the committee.

Discussion then began on AB 592 which:

Clarifies fact that National Electrical Code has  
 general application.

Mr. Price spoke on this bill saying after the Legislature adopted  
 the National Electrical Code as minimum requirements on all installatio  
 started after 1/1/74 in the 1973 Session, there developed a question  
 as to whether or not it covered installation on all structures or  
 whether public utilities and public buildings were exempt. He said  
AB 592 clarifies this and makes clear that all structures of any  
 nature built or added to after 1/1/74 would have to meet the NEC  
 minimums.

Mr. Price said Noel Clark of the Public Service Commission has requested that the bill be amended because at the present time, under the Public Service Commission rules, the utilities have to go by the National Bureau of Standards which is somewhat outdated so he asked that the bill be changed so that the installation of cable, etc., would also have to comply with the national minimums.

He said the amendment also adds a Section 2 which brings penalties into compliance with what is set forth in Section 1. Mr. Price said the present exemptions in the code are mines, anything solely owned and operated by a utility company, and automobiles.

There were no opponents to AB 592.

With regard to AJR 31, Chairman Robinson said this bill would be deferred until the meeting on Wednesday, April 23, when the rest of the utility package will be heard.

AB 656 was then heard. It:

Provides financial protection for certain persons involved in construction work.

Mr. Lawrence Gove spoke in favor of this bill. He recommended some changes:

1. Section 1 - change the word "may" to "shall".
2. Section 5 - insert the term "prime" contractor.
3. Section 6 - change the word "contractor" to "owner".

Mr. Gove said there are cases where the building has been completed, the contractor has performed and the owner has occupied the building, but the contractor has not been paid. He said it sometimes takes two or three years to collect these monies. There is no protection for the contractor after the owner has occupied the building.

With regard to Page 2, Line 23, Mr. Schofield asked what would be considered "reasonable" amount of time. Mr. Gove said a normal contract provides 30 to 35 days after completion. He said he would like that to be changed to "upon completion of the work of each subcontractor". He added that this is only for the bad contractor. 99% of the contractors cause no problems but there have been some problems in Southern Nevada.

Mr. Rowland Oakes then spoke in favor of this bill. He said it is the responsibility of the contractor to build the building and it is the responsibility of the owner to pay the contractor for the work he has done. With regard to Page 3, the word "contractor" on line 2 should be "owner" and this subsection should end at the end of line 3 - a period after the word "bond" rather than a comma. With regard to penalties, he recommended that they be the same as those provided in the Contractors Licensing Law. He felt if the owner requires a performance bond, he should be willing to supply a payment bond. He suggested that the entire bill include only Section 6 of the present bill.

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Mr. Oakes continued by saying if the original bill was to be considered, on Line 7, Page 1, he felt the following language should be added: "except for sums retained in accordance with the contract".

Mr. Al Sitton then spoke in favor of the bill commenting that he would concur with the changes submitted by Mr. Oakes as far as contractors are concerned. With regard to retentions, he said we would like to see no retentions other than those necessary to complete the project because, for example, if a plumber does not put a sink in, it holds up the pay for all others because the Notice of Completion cannot be filed until the project is completely done. He commented that there is nothing in this bill that will hurt the honest contractor. He said subcontractors do about 90% of the work on a project and yet they are at the bottom of the totem pole at all times. As for liens, a subcontractor might collect 40¢ on the dollar if he is lucky. This bill would protect the subcontractor.

This concluded testimony on AB 656 and discussion went on to AB 615 which:

Exempts real estate brokers and salesmen from certain licensure requirements to sell mobile homes.

Gene Milligan said this bill relieve a burden to those consumers who own property with a mobile home sitting on it. He said the present law is interpreted that real estate licensees could not sell mobile homes with property. He felt this should be allowed because under present law such an owner would require the services of a real estate salesman to sell his property as well as a mobile home salesman to sell his mobile home thus requiring that he pay double commission. Mr. Milligan went on to say that the requirements to sell a mobile home are different from those required to sell land. However, a real estate licensee is trained in the complexities of land transactions which equal or exceed the complexities involved in selling a mobile home. He went on to say that with the on-going educational programs provided for realtors, it would be very simple to include a class on the sale of a mobile home. Presently, he said, to obtain a license to sell mobile homes, all you need do is register and pay a fee. No training is involved. He said this bill would be useful to the real estate industry but also to the consumer. He added that in order to sell a mobile home park, both agents must be attained and also in the sale of a ranch with a mobile home on it. Mr. Milligan added that a mobile home is considered personal property and the definition cannot be changed to real property because a mobile home would then have to be taxed as real property and would have to meet the requirements that a stick house does. Mr. Milligan said the real estate industry was not interested in getting into the business of selling mobile homes - only when property is involved. With regard to the commission on such a sale, Mr. Fink said it can be comparable to a house sale at 6 to 7 percent which is agreed upon at the time of listing. If the land is sold separately, the commission can be as high as 10% because it is considered vacant property.

Mr. Milligan explained while it is easy to obtain the license to sell mobile homes, there is a requirement that the licensee or dealer must have space for to display at least one mobile home and a \$10,000 bond must be supplied.

Mr. Silva explained that to obtain a license to sell mobile homes (which must be obtained through the DMV), a fee of \$25 must be paid per year and the dealer must have an established place of business in an area that is zoned for display of vehicles for sale and have space for the display of one or more mobile homes. He explained that the requirements are the same for an automobile or motorcycle dealer. Mr. Silva said banks would not like to see mobile homes classified as real property rather than personal property because of financing and depreciation. Another problem is that presently, a person licensed to sell mobile homes can only work for one employer and this would not be workable for the real estate industry.

Mr. Al Chapman then spoke in opposition to this bill. He said the sale of a mobile home and a conventional home is completely different. He said the mobile home sales are very technical and requirements are constantly changing and he did not feel a real estate salesman who sold a mobile home once or twice a year would be able to keep up with all the changes. He said there have been three changes in code requirements over the last five years and if a salesman was not current with these codes, he could possibly make a sale in violation of the law. He was also concerned about repairs to a mobile home under warranty. He wondered if the warranty would carry over to the new buyers even though they would not be the dealers customer. He said if a broker is in the business to resale a mobile home, he must have a resale certificate.

Mr. Silva added that sales tax must be collected in these cases and a broker or dealer must fill out a record of sale form.

Mr. Demers did not see how codes could cause any problems in the resale of a mobile home because when it was originally purchased, it had to meet current requirements. Mr. Chapman said there were some that came into the State without the proper requirements and it would be a case like this that a real estate salesman would not be aware of what is required.

Mr. Hoy then spoke for the Trailer Coach Association saying they were generally opposed to this bill. Although it was not the intent of this bill, he could envision a situation where a new mobile home subdivision or planned unit development with new mobile homes on it could be sold without a license because of the way the bill is written - "if the mobile home is sold incidental to the real estate, no license is required". Also, under this bill, a mobile home real estate salesman could sell the mobile home to one person and the land to someone else. There is no restrictive language in the bill that says that both must be sold to the same person in the same transaction. He felt the language in the bill should be tightened up to make certain the sale is of the used mobile home that is a casual sale and situated on the property and owned by the person who has the title to the real estate.

Mr. Hoy said another addition to the bill should be made with regard to the bond that a mobile home dealer must put up. He did not think the real estate fund would apply to a mobile home sale because it is restricted to the sale of real estate. He, therefore, felt that NRS 645 should be amended to provide that the broker is liable and the client recovery fund is liable for actions or misrepresentation by the broker in the sale of a mobile home. Mr. Hoy also felt that the sales and activity of a broker in the sale of a mobile home should be subject to regulation by the fire marshal and/or the DMV. He said there was a question in his mind as to whether this would constitute a taxable sale. He said a dealer's report of sale would have to be done. He said tax law provides that if you sell personal property and if you sell more than two units per year, you are a dealer and you are subject to the tax. He felt all this should be consolidated under AB 27.

Mr. Getto wondered if the word "used" was inserted into the bill if this would solve some of the problem. Mr. Hoy said it would and also by providing in the bill that the used mobile home be conveyed with the property.

Mr. Silva commented that dual licensing is cumbersome and the person really being hurt was the consumer.

Mr. Milligan said he had no objection to the proposed amendments as far as inserting "used" into the bill and that it be conveyed with the real property because this was the original intent of the bill. He also said he would have no objection to inserting into the bill that a real estate broker when selling a mobile home must fill out a dealers report of sale.

This concluded testimony on AB 615 and discussion then turned to AB 645 which:

Prohibits supplier of petroleum from establishing or operating service stations after certain dates.

Mr. Herb Nye spoke on this bill saying they did not want protection for the bad dealers. He said they wanted protection for the dealer who has invested time and money to assure him that if, in the near future, he steps on the toes of a jobber or retail representative that he is not going to lose his business. This bill provides that an oil company can terminate a dealer under certain circumstances and it gives the dealer more as far as time is concerned. He commented that the problem did not exist here in Nevada as it does in other states but that the oil companies have marketing concepts that they use in other areas and if they are successful, they are used elsewhere. He said an example of this is when Phillips suddenly changes a brand name station to a non-brand name without considering the dealer and lowers the retail price of the gas but not the price the dealer must pay for it. The dealer was making 8¢ per gallon and now 3¢. It was ultimately decided by the oil company that this practice would not work and changed back to the original practice but by this time the dealer has gone broke and must lose his station. He did not feel that the oil companies should be able to come in and run the retail end of it as they see fit and he felt the time was

now to stop the development of these practices. He said the consumer was ultimately the victim. He said if dealers are allowed to be moved out, the price of gas will go up. He added that if dealers were allowed to choose which brand of tire they wanted to sell, the price would be more competitive.

Mr. George Vargas, registered lobbyist for the major oil companies, then spoke in opposition to this bill. He commented that AB 646 was essentially the same as AB 265 and he said that Mr. Cason, the Phillips jobber in Las Vegas would like to be notified so that he might testify before this committee. Mr. Vargas said he felt it was important that this man be heard because he was the largest volume dealer in the Las Vegas area. He said a couple years ago there was some kind of boycott which Mr. Cason refused to go along with and since then there has been "bad blood" between Mr. Cason and the other station dealers and there have been complaints to the Federal Trade Commission about Mr. Cason.

With regard to AB 646, which:

Provides standards of conduct between distributors of petroleum products and service station franchise holders.

Mr. Vargas commented that it is about the same as AB 265. With regard to AB 645, he said this was a new subject and commented that Mr. Nye said there is not currently a problem in Nevada as elsewhere. Mr. Vargas then quoted from the statistics he submitted to the committee on April 4 and are appended to those minutes with regard to the number of company operated stations in Nevada. He commented that at the last hearing on this subject, Mr. Nye stated Mobile Oil was operating company stations in the Las Vegas area. Mr. Vargas stated that he called the Mobile Oil Company and determined that this is untrue - that the Mobile Oil Company does not operate any stations in the Las Vegas area.

Mr. Vargas went on to say that usually when someone comes before a Legislative body and requests legislation, it has to do with some problem in the State. The explanation as to why this legislation has been requested is because "someday" the problem might exist.

Mr. Vargas also brought up the situation where a company is building a station which will be completed about July 1 (which is when this bill would go into effect if passed), construction would have to be suspended on that building after all the initial investment because with the passage of AB 645, an oil company would not be able to establish a station after July 1, 1975 which they would operate by company personnel, subsidiary company or commissioned agent. Also under this bill, oil companies would be prohibited from operating stations after July 1, 1976 which would mean that in the stations they are presently operating, they would have to be out one year hence and this would wipe out all company operated stations in the State of Nevada.

Mr. Vargas commented that the most recent court decision on this matter was in the State of Florida where the Supreme Court ruled that a statute which prohibits companies from operating more than 3% of their stations which they own or control in the State to be an unconstitutional statute. He then read a statement of an economist, Phillip E. Sorensen, Associate Professor of Economics at Florida State University, who read this statement before both the Florida Legislature as well as the court. Mr. Vargas said his statements are addressed to the public welfare and public interest in this special legislation area. (This entire statement is quite lengthy and supports Mr. Vargas's opposition to AB 645 and can be heard on the tape of this hearing).

Assemblyman Jacobsen then spoke in opposition of this bill saying he felt it would cause many problems to the commissioned distributors. He said he had very little jurisdiction in the area of enforcement. He could just report back to the Company. He felt the most fault he could find with all three of these bills (AB 265, AB 645 and AB 646) is that the distributor is not really defined. He felt this bill must have been designed to get at a personal problems. If this is to be passed, the bill must set out what a distributor is and what his responsibilities are. He said there is no way he as a distributor could conform with some of the provisions in this bill. He said he could not do it legally nor could he justify it.

Mr. Ted Bendure then spoke saying he agreed with Mr. Jacobsen in that the distributor is not defined and the bill really "sits" down on him about things that he really has no control over. He felt the bill should be changed to apply to major oil companies and refineries. He commented that he did not think an oil company should be able to come in and take over when a man has a big investment into a station. He felt Section 12 on Page 3 should be amended to prevent the oil company from "getting their foot back in the door".

Mr. Nye then spoke again with regard to statements made by Mr. Vargas. He said he would like Mr. Cason to come testify. He said Mr. Cason was the number one reason for this legislation. None of this measure is aimed at people in operation as Mr. Jacobsen. This is aimed at the jobber. If it was restricted to the major oil refineries, it would miss a large segment of the operation-- i.e. the distributor that owns the property. It is crucial that this segment of the industry be brought under this legislation. He said he did not like the way Mr. Cason operates and that personalities don't enter into it. He said Mr. Cason sells to his stations on a wholesale level some 6¢ to 12¢ cheaper than Mr. Nye can buy his gas for and Mr. Cason doesn't have to pay for an employee in the station doing the job or for a compressor, etc. He said the companies are making more money while he and other dealers are making the same with increased operating costs. He said language should be put into the bill to differentiate between people like Mr. Jacobsen and Mr. Cason.

There was some discussion about AB 130 which enacts the Fair Rental Housing Act but it was decided that the amendments would

have to be looked at more carefully as the reprint of AB 130 included provisions which should not have been included and has excluded important provisions which should be in the bill. Chairman Robinson said the bill would be taken up again on April 28. Chairman Robinson asked Mr. Getto to study the bill with regard to the small counties to be sure they were taken care of. Mr. Moody will assist Mr. Getto in this area.

AB 279 was then taken up. Mr. Hickey said he talked to Mr. Oliver regarding amendments to this bill and submitted Amendment No. 7517 to AB 279 for the committee's consideration commenting that it would tighten up control over Mr. McCracken's Department and his expenditures out of this fund.

Mr. Hickey moved that Amendment No. 7517 be adopted to AB 279. This was seconded by Mr. Benkovich and carried the committee.

Mr. Hickey moved that AB 279 be "do passed as amended". This was seconded by Mr. Benkovich and carried the committee.

SB 283 was then discussed. The compromise amendments between the designers and the architects were presented to the committee (Amendment No. 8079). Chairman Robinson said copies would be made for each committee member so that they could be studied and the bill would be taken up at a future meeting.

Chairman Robinson asked Mr. Getto and Mr. Demers to work on AB 615 to work out the problems presented in testimony today.

With no further business, the meeting was adjourned at 6:10 P.M.

Respectfully submitted,

Joan Anderson, Secretary



ASSEMBLY  
HEARING

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COMMITTEE ON.....COMMERCE.....

Date April 21, 1975 Time 3:00 P.M. Room 316

SUPERSEDES PREVIOUS AGENDA POSTED FOR THIS DATE.

Bill or Resolution  
to be considered

Subject

DO PASS

AB 592 ✓

Clarifies fact that National Electrical Code has general application.

DO PASS

AJR 314 <sup>12/23/74</sup>

Memorializes Congress to amend the Internal Revenue Code to allow the issuance of tax-free capital improvement bonds for public utilities.

~~DO PASS~~  
~~AS AMENDED~~

AB 656 ✓

Provides financial protection to certain persons involved in construction work.

DO PASS  
AS AMENDED

AB 615 ✓

Exempts real estate brokers and salesmen from certain licensure requirements to sell mobile homes.

KILLED

AB 645 ✓

Provides standards of conduct between distributors of petroleum products and service station franchise holders.

KILLED

AB 646 ✓

DO PASS  
AS AMENDED

AB 130

Enacts Fair Rental Housing Act.

COMMERCE COMMITTEE  
LEGISLATION ACTION

DATE April 21, 1975

SUBJECT AB 279 - Provides certain controls over employment security fund and transfers revenue source to unemployment compensation fund.

MOTION: i. Adopt amendments X 2. Do pass as amended X  
Do Pass        Amend        Indefinitely Postpone        Reconsider         
Moved By 1. Hickey 2. Hickey Seconded By 1. Benkovich 2. Benkovich

AMENDMENT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Moved By \_\_\_\_\_ Seconded By \_\_\_\_\_

AMENDMENT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Moved BY \_\_\_\_\_ Seconded By \_\_\_\_\_

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Robinson	<u>X</u>	_____	_____	_____	_____	_____
Harmon	Not present at vote		_____	_____	_____	_____
Demers	Not present at vote		_____	_____	_____	_____
Hickey	<u>X</u>	_____	_____	_____	_____	_____
Moody	<u>X</u>	_____	_____	_____	_____	_____
Schofield	<u>X</u>	_____	_____	_____	_____	_____
Wittenberg	Excused		_____	_____	_____	_____
Benkovich	<u>X</u>	_____	_____	_____	_____	_____
Getto	<u>X</u>	_____	_____	_____	_____	_____

ORIGINAL MOTION: Passed X Defeated        Withdrawn       

AMENDED & PASSED \_\_\_\_\_ AMENDED & DEFEATED \_\_\_\_\_

AMENDED & PASSED \_\_\_\_\_ AMENDED & DEFEATED \_\_\_\_\_

COMMERCE COMMITTEE

DATE: 4/21

PLEASE CHECK IF YOU WISH TO SPEAK

ADDRESS & NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
Ted D. Bendure	Ted's Texaco	
E. J. Silva	Dept of Mot Veh	
RAY TEEBEE	Consumer Affairs	AB 130
Al Chapman	Mobile Home Ass'n	AB 615
Lawrence <del>Yone</del> Yone	So. Nev. Sub. Contr. Ass.	A.B. 656 ✓
Bill Sutton	So. Nev. Sub Contractors Ass.	A.B. 656 ✓
Pearl M Lee	re: AB 130 - Self	
Jack Downey	F.B. 130 Washoe Taxpayer	
Gene Milligan	NEVADA ASSOC. OF REALTORS	AB 130 + AB 615
ROBERT W. FINK	REALTOR	AB 615
JOHN MADOLE	ASSOC. GEN. CONTRACTORS	
ROWLAND OAKES	ASSOC. GEN. CONTR.	AB 656
R.H. Baat	State FM Office	
D.J. Gunnar	State Fire Marshal	AB 592
Larry Dunphy	Franciscan Center	AB 130
H. D. Mc	Nevada Lumber Station	