ASSEMBLY COMMERCE COMMITTEE (Sub-Committee Meeting)

April 30, 1975

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MEMBERS PRESENT: Chairman Harmon
Assemblyman Hickey
Assemblyman Getto

MEMBERS ABSENT: None

Guest Speakers:

Corky Lingenfelter--Nevada Land Title Association.
Robert Weld--State Director, Home Builders Association.
V.E. Leverty--Chief Deputy Commissioner, Insurance Division of Commerce Department.
Michael P. Marfisi, Attorney-at-Law, Elko, NV.
Richard Campbell--Sierra Pacific Power Company.
Assemblyman Robert Weise

Chairman Harmon called the meeting to order at 4:45 P.M., for the purpose of discussing S.B. 202 and A.B.'s 698 and 704.

Corky Lingenfelter was the first speaker in favor of S.B. 202. He stated that the title companies were not formerly in favor of the bill, but since it had been amended, they considered it a good and desirable piece of legislation. He made the additional points, in explanation.

1--At the last session, an escrow law was passed, but companies that were not banks, saving and loan companies, or title companies, were exempted. These companies were placed under the jurisdiction of the Real Estate Division of the Commerce Department. S.B. 202 would place all the companies under the Insurance Division of the Department of Commerce, with their full agreement, and this was very desirable since they had more expertise in this area.

Assemblyman Harmon asked if this same bill had not been killed during the last session. Mr. Lingenfelter replied that it had not been killed, but passed, with title companies being exempted. The bill, as it is written now, includes title companies.

Assemblyman Hickey asked if the smaller escrow companies were in favor of this bill. Mr. Lingenfelter replied that he could not speak for them, but that the title companies were in favor of it.

Assemblymen Hickey and Harmon stated that they had received telephone calls from Las Vegas, from smaller title companies who had opposed the bill. Mr. Lingenfelter said that all the title companies had attended a meeting, and approved the bill.

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S.B. 202 (Cont.)

In further explanation, he stated that he, and many other real estate brokers never transferred money into escrow with a title company, especially the smaller ones. They left the money in their own trust accounts, until the escrow closed, and then transferred it. They felt that the companies were mostly geared to their title insurance, and had little obligation toward the escrow money. That the title companies themselves feel that there is not enough control in that area. That they have opposed this licensing in the past, but are now in favor of it.

Assemblyman Hickey asked how this bill would affect the smaller excrow companies? Mr. Lingenfelter replied that the smaller escrow companies were now under the licensing of the Real Estate Division, and that this bill would put them under the Insurance Division. Some type of bonding situation would be required by them, the amount to be set according to the amount of money involved, their past performance, etc.

Assemblman Getto asked who did the auditing now, and Mr. Lingenfelter replied that it was done by the Insurance Division, on the insurance portion, and that it was desirable for them to handle the whole operation, since they had more expertise.

Assemblyman Harmon wondered if the people who had called he and Assemblyman Hickey had seen the bill in its' last reprinted form, or were opposed to as it as it was a week or so ago, before the amendments had been added that made it satisfactory to the title companies, and they decided to check with their callers on this point.

Since no one else wished to speak on S.B. 202, Chairman Harmon called for testimony on A.B. 698, a bill introduced by Assemblyman Weise. As he was in another committee meeting, the opponents of the bill testified first.

A.B. 698

Richard Campbell, representing Sierra Pacific Power Company, was the first speaker in opposition to A.B. 698, and he made the following points:

1--They thought the bill was unclear, since it does not address itself to the size of the lines, and should be amended, at the very least, to exclude transmission lines, which are not economically feasible to place underground.

2--He felt that the size of the lot specified (5 acres) was too large, since there are many lots, even in Reno, of less than 5 acres, which do not have underground utilities.

A.B. 698 (Cont.)

3--Most of the cities and counties already have underground ordinances, which are more detailed than A.B. 698, and he did not feel that further legislation was necessary.

4--Sierra Pacific is now requiring that a drop be provided from the pole to the house in all new sub-divisions, so that at a later date, they could convert to underground installations, without tearing up people's lawns.

Assemblyman Hickey asked if there was not a technical problem with heat, on the larger sized lines? Mr. Campbell replied that there was a tremendous loss of efficiency on the larger voltage lines, unless they encased them in oil or some other liquid. In response to further questioning by Assemblyman Hickey, he further stated that they did not go underground unless they were required to, but that most of the cities and counties in northern Nevada now had underground ordinances, and that they addressed themselves mostly to the rural areas, as opposed to typical city sub-divisions.

Assemblyman Getto asked if there were not problems connected with underground installations, as regards maintenance. Mr. Campbell replied that they sometimes had problems with soil conditions, water, etc, but that their biggest problem was the requirement of conduit, which increased their cost dramatically, as opposed to an ordinary underground installation, and he felt that the bill should contain more definitive restrictions.

Assemblyman Harmon asked him if he had any proposed amendments to the bill, or was just opposed to it, in its' entirety? Mr. Campbell replied that most of the areas Sierra Pacific did business in already had underground ordinances, which were much more specific, and he felt that further legislation was superfluous.

Bob Weld, State Director for the Home Builders Association was the next speaker in opposition to A.B. 698. He concurred with the statements made by Mr. Campbell, and made the additional statements:

1--The gas company has asked for a tariff change from the Public Service Commission, asking that the builders pay for all underground installations, instead of just the trenching and the back fills, as they have been doing. He noted that the cost of the back fills has raised considerably, because blow sand is required, even in places where the soil they take out is better than what they bring in. He stated that they are fighting this in the hearings before the Public Service Commission, which have been postponed until June 3.

A.B. 698 (Cont.)

2--That the builders are now required to go underground if it is in a new area, but that they are usually allowed to add on to overhead lines, that are already existing.

3--He objected to the fact that the bill req3ired the sub-divider to pay all the cost of placing power and telephone lines underground, where in many entities, they only pay a portion of the cost.

4--That the National Home Builder's Association is going to pursue this through the courts, on the premise that the utility companies are in violation of their franchise in requiring this of the builders, and that it was not right becaused it increased the builders costs so greatly.

Assemblyman Getto asked him if they were involved in a law-suit with Southwest Gas now, and he replied that they were only involved in hearings before the Public Service Commission, on the tariff change already mentioned. The gas company had asked that the builder be charged with all costs of underground installations, although the gas company had been paying for them in the past. He noted that the gas company had tried to withdraw the change, but the PSC refused to let them do so. That he did not believe that the gas company really wished to put this charge on the builders; it was just part of a play to allow them to increase their rates.

5--Mr. Campbell further stated that the Home Builder's Assoc. was going to pursue this matter (known as Rules 9 and 19) in the Public Service Commision's regulations, with not only the gas company, but the power, water and telephone companies, as well.

Assemblyman Getto asked him if the utilities companies had been providing these facilities in the past. Mr. Campbell replied that they had been, and were legally required to, under their franchises, but were attempting to withdraw them now, and put the full cost on the sub-divider.

Assemblyman Getto noted that there had been so much talk, and so much legislation regarding the utilities companies high rates, that this was probably a method they were using of trying to reduce their rates.

Assemblyman Weise arrived, and spoke in favor of A.B. 698, making the following statements:

1--Conceptually, the bill is to eliminate the problem of an overhead installation being made in a rural area, which is later annexed into an urban area, but the damage is already done, the poles are already up.

A.B. 698 (Cont.)

2--That the bill's intent is to cover new, and relatively high-density developments. He cited the following example: On his ranch, at his own expense, he had put all the utilities underground, removing the previous overhead lines. A builder came along, sold a few 5-acre lots, the people did not want to pay to extend the lines a few hundred feet, so they put the utilities overhead, placing poles and lines in the same place where they had just been taken down.

3--That he was a sub-divider, and knew what the costs were on underground installations, and could not agree more with what had been said about what the utilities companies were doing to the builders, in terms of the rules and regulations that they had to work under, such as the back-fill requirement that had been mentioned. That there had been times when he had been unnecessarily required to bring in blow sand, for no good reason, except that his project would have been stopped if he hadn't. With hundreds of thousands of dollars on the line, at as high as 12% interest, he just didn't feel that it would have been profitable to fight City Hall, so he brought in the sand.

4--That there was a real problem with the rapid growth in Washoe County, where he was the most familiar with it, and he thought underground utilities should be installed wherever practical, and that the cost should be borne by the developer, at least at the present time, as he thought their costs would be offset, eventually, the the esthetic value added to their development. He believed that the utilities companies would benefit a great deal, eventually, due to the lowered costs of maintenance on underground facilities, as opposed to that on overhead lines. That if the developer pays for all the trenching, back fill, conduit and wire, somewhere along the line, they were going to have to start recapturing part of their costs, even though they are reimbursed, presently, on a pro-rata basis. He thought the utilities companies, or whoever benefitted from the underground installations, should bear a part of the cost, eventually.

Assemblyman Getto asked if he was correct in assuming that there are very few maintenance problems with underground installations? Assemblyman Weise replied that there are a few, but they were minimal, compared to those on the overhead installations.

5--He explained that his reasoning behind introducing the bill was to terminate the extension of all the overhead lines in high density areas. That he did not expect someone who bought 5 acres in a rural area to run 5 miles of lines, in order to put the utilities underground.

A.B. 698 (Cont.)

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He did think, however, that in an area where the development takes place first, and then the developemnt is annexed into an uran area that has an underground ordinance, it is not practical to go underground at the time of the annexation, and that the situation shoud be anticipated when the utilites are first installed.

6--He thought that pre-existing conditions should be taken into account, and if a developer moved into an area where his land was surrounded by overhead lines, he should not be required to go undergound, but in new areas, it is definitely preferable that the utilites be underground, whenever possible.

7--That there are communities in the country who are presently removing their overhead lines, at considerable expense, and that the time was not far away when most of the states would have laws mandating underground installations.

Mr. Weld said that one thing in the bill bothered him, the inclusion of the phrase "4 lots or less", and wondered how Assemblyman Weise had arrived at that figure. Assemblyman Weise replied that it was because anything over 4 lots was considered a sub-dividion, and a map had to be filed with the County Commission, etc., which was quite a hassle. However if A.B. 375 was enacted, anything over 4 lots would not be considered a sub-division, which would mean that A.B. 698 could be amended to a different size, if that proved to be desirable.

Mr. Weld asked Assemblyman Weise why he, as a sub-divider thought that the costs of underground installations should be borne by the sub-divider, and Assemblyman Weise said that he would be happy to amend the bill in any way that would provide for the utilities companies to pay the costs, if Mr. Weld could find a way to make them do so. He cited the following example, regarding his experience with the power comapny: He had started a development, and was given a bid price that he considered astronomical, but he went ahead; did all the trenching, back-filling, furnished all the labor and materials for the underground installation, but never got around to paying the power company. By the time they sat down to sign the contract, the power company was then operating under a rule of $3.00 a front foot, which he thought was great, and was happy to pay. He thought the power company should reimburse him at the $3.00 figure for the work he had already done, but instead they wanted to charge him an additional $8,000, in line with the rule they had been working under, when he started the development.

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A.B. 698 (Cont.)

Assemblyman Getto noted that there had been so much pressure on the utilities companies recently to reduce their rates, and so many hearings on utilities legislation this session, that they were probably trying to all they could to cut their rates down. Assemblyman Weise said he thought the issue was whether or not the utilities companies were operating as fairly and reasonably as they could, or could they make savings, perhaps by reorganization, which would mean savings to the consumer. That if the utilities companies could afford to put in the underground installations, he would be happy to see them do so. However, if they could prove that they could not afford to do so, he thought it was the builder's obligation, since he was the one who was creating the extra demand.

Mr. Weld reiterated that he felt it was not fair for the bill to state that the sub-divider had to bear the entire cost, but that he would not object to the bill if that provision was amended, by replacing the word "shall" with the word "may" on Line 6, and deleting the words "the sub-divider shall provide." Assemblyman Weise repeated that he, too, thought it would be fine for the utilities companies to pay all or any part of the cost, that he was not representing the power company, and mentioned a recent experience he had with them. They asked him for an easement, to install a "clear-span" from peak-to-peak, which is a somewhat invisible installation. He granted the easement, and the next time he looked, they had put up 27 poles for overhead lines. He had been forced to contact attorneys and threaten a law suit, before they finally removed the poles and installed the "clear span", which they had told him was a physical impossibility, before he forced them to find a way to do it.

Assemblyman Getto asked Mr. Campbell to compare the costs of the two types of installations. Mr. Campbell said that the "clear span" would cost about $50,000 a mile, while an overhead installation could be made for about $200 a foot.

Michael Marfisi, Attorney-at-Law, Elko, Nevada, representing two small developers in Elko, was the next speaker in opposition to A.B. 698, and made the following statements:

1--One of his clients was developing an area for seasonal, recreational use, camping, etc., where homes could be built if desired, and that it was absolutely impossible, financially, for him to put in underground utilities, which would be mandatory, if A.B. 698 became law.

2--That this was the first time in Nevada law, he had ever seen telephones or power required, in any kind of subdivision. That water, drainage, sewage, roads, etc., were always required, but never communications or power.

A.B. 698 (Cont.)

3--He did not believe that deleting the words "the sub-divider shall provide), and changing the word "shall" to "may", would improve the bill enough, since it would leave it up to the counties' discretion, and they could refuse permission for any sub-dividing at all, unless the sub-divisions were gold plated.

Assemblyman Getto said that the counties could use this law as a "no growth" weapon.

Assemblyman Hickey asked if there was to be any provision for power in the recreational site he had referred to, and Mr. Marfisi said that it was mostly for camping and recreation, but that if someone built a home they would probably put in a generator.

4--That agreements on utilities installations were made between the Public Service Commission, the County Commissioners and the utilities companies, and the builder had very little to say about them. That, in the rural areas, for the developer to be bound by the whim of the Counties was unfair, and was a good excuse for the Counties to halt any kind of growth.

Assemblyman Weise said that he did not feel that in a recreational type of sub-division, any utilities should be required, and made the closing statement regarding A.B. 698:

He was not naive enough to believe that it was early enough in the session for this, or any other, legislation, to be studied further, modified, and then acted upon, before adjournment. However, it was imperative that the problem be addressed, as it had already waited too long, and that he would be happy to sit down with Mr. Weld and Mr. Campbell, plus any other interested parties with expertise, and work something out. Assemblyman Harmon asked the gentlemen if that was agreeable to them, and they both promised their full cooperation. Mr. Campbell stated that he would send Assemblyman Weise copies of the underground ordinances that Sierra Pacific worked under, within a few days. It was agreed that they would make themselves available to meetings.

Since no one else wished to testify on A.B. 698, the discussion moved on to A.B. 704.

A.B. 704

Mr. Corky Lingenfelter furnished the following background to the Committee, regarding A.B. 704.

1--The bill does one thing. It is strictly designed to allow Washoe County the same privileges as all the other counties in the State. Washoe County is the only county with over 100,000, and less than 200,000 population, which was exempted in Section 1, sub-section 3.

A.B. 704 (Cont.)

2--The bill says that the County Commissioners can exempt any parcel of land, with certain restrictions, from subdivision requirements. NRS 288-320 allows the other counties to do this, and A.B. 704 just allows Washoe County to do it also.

3--The reason for the bill is so that the County Commissioners can exempt the land along the railroad tracks from subdivision requirements, allowing it to be used for warehousing. Since the "free port" law was enacted, Nevada has more and more warehousing facilities being built, and the industry is becoming larger and more profitable all the time. That many of the counties, such as Clark, had already built extensive warehousing facilities, and many of the other counties were planning to do so. He noted that there was talk of an enormous warehousing complex to be built in Wells, Nevada, to be used as a produce redistribution center, since Wells is one of only a few cities in the Western states that is situated on 4 major railroads, and 2 major highways.

Assemblyman Hickey stated that the land along the railroads in Clark County was already pretty well leased out for warehousing, but that A.B. 704 would benefit the "cow counties." Mr. Lingenfelter noted that the other counties already had this privilege, but that A.B. 704 would give it to Washoe County.

Mr. V. E. Leverty, Chief Deputy Commissioner of the Insurance Division, arrived late as he had been testifying at another Committee meeting. Upon being bried on Mr. Lingenfelter's testimony on S.B. 202, he concurred with his statements, and sta ted that his office was in favor of the bill, as they felt it could be better administered under the Insurance Division than under the Real Estate Division, as the latter did not have the time, the staff, or the expertise in this field. He further stated that the Insurance Division has held the costs of the proposed additional department down to a bare minimum, which seemed reasonable to the Committee. He recommended that the bill be given a "do pass".

Chairman Harmon adjourned the meeting at 5:57 P.M., since there was no further business before the sub-committee.

Respectfully submitted,

Betty Clugston
Acting Secretary