

Assembly

1121

MEETING OF
COMMITTEE ON GOVERNMENT AFFAIRS
APRIL 22, 1975

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Chairman Dini called the meeting to order at 7:40 A.M.

MEMBERS PRESENT: Assemblyman Joseph E. Dini, Jr., Chairman
Assemblyman Don A. Moody
Assemblyman Roy Young
Assemblyman Jean E. Ford
Assemblyman Paul W. May
Assemblyman Robert G. Craddock
Assemblyman James W. Schofield

MEMBERS ABSENT: Assemblyman Patrick M. Murphy, Vice Chairman
Assemblyman Harley L. Harmon

OTHERS PRESENT: Ryall A. Bowker
Bob Stoker, State Contractors Board
Charles E. Lawson
Walt Hull, DMV, Motor Carrier Div.
W. W. Richards, DMV, Motor Carrier Div.
Freddie L. Little, DMV, Motor Carrier Div.
Norma Checketts
Nicholia Bowker
I. R. Ashleman
Julius Conigliaro
David Goldwater
Stewart Mason, Taylor Construction Co.
Robbins Cahill, Nevada Resort Association

(The following bills were discussed: A.B. 543, A.B. 482, A.B. 617,
A.B. 464, S.B. 365.)

A.B. 543 - Mr. Bob Warren, Nevada League of Cities, said he felt this legislation was not necessary, and his reading of the NRS indicates that the employees can presently negotiate with the employers for extended insurance benefits of whatever kind the employee group and the employer can agree upon. He further stated that it could have an injurious impact on the scope of negotiability that is presently available to the employer under NRS 288 because, if this bill were enacted, although it is permissive, it would have the effect of mandating a negotiated agreement on disability benefits.

A.B. 482 - Mr. Freddie Little, Department of Motor Vehicles, Mr. W. W. Richards, Chief of the Motor Carrier Division and Mr. Walt Hull, Head of the Law Enforcement Section of the Motor Carrier Division appeared to testify in favor of A.B. 482. Mr. Richards said he felt the Motor Carrier Division was inadvertently left out of the original bill since this division was at one time under the Highway Patrol. He felt it was necessary now that they have been put back into the Motor Carrier Division, where they have the same police power and same responsibilities, that they should be covered by this particular bill. He said their budget has been

closed and the monies for the fiscal note have been incorporated and included in their present budget for the next two years.

A.B. 617 - Mr. David Goldwater stated he was appearing with Stewart Mason on A.B. 617 which, when it was received omitted a Section 10 which he was here to discuss. He stated it was his understanding from Mr. Petti that section would now read that there is an exemption for licensing of an owner of property who builds or improves structures on his property and contracts with a contractor licensed for such building or improvement. The purpose of this addition is to take care of a unique situation which has arisen from time to time, particularly in Clark County and throughout the country. There is a concept between contractors and owners called the management-contractor relationship. On large projects which require substantial sums of money, many contractors are unable to provide what is normally a bond for performance and payment of subcontractors and others who do the work and provide materials and labor on the project. The management-contractor relationship developed because the owner is financially able to pay, but does not have the expertise to provide the services a contractor would provide. California ran into a situation where the owner was unable to bring suit because he was not licensed although he had done business by and through a contractor. That situation has existed in Clark County for some time. All this does is exempt an owner from the requirement for license as long as he has entered into an agreement with a contractor who is authorized to be licensed in the State of Nevada, but it does allow him to build on his own property for purposes other than his own uses, in which event he is responsible financially for the payment. He said this situation arose in the course of the construction of the MGM Hotel in Las Vegas and created a problem. Taylor Construction Company had a contract with the MGM Hotel for the construction of the hotel. It was rather an elaborate contract and the Taylor Construction Company was responsible for obtaining the subcontracts for construction work and services and materials. The financial responsibility for the payment was laid on the MGM upon approval of invoices or statements submitted by and through the Taylor Construction Company, a licensed general contractor. When defaults occurred with reference to some of the subcontractors, the owner attempted to bring suit on his own against the defaults, failures and neglects of certain subcontractors, and one of the claims was the owner was not a licensed contractor, and under the present Nevada statute, that owner had to be licensed. MGM didn't get licensed mainly because it felt it was unnecessary because it was doing business with a managing contractor under the described management-contractor concept. He said it was desired to put this into the form of legislation to clarify the situation and to make it possible for the owners to contract with a managing contractor and be exempt from the licensing requirement.

Following discussion with the Committee, Mr. Goldwater said as far as he was concerned the present Section 9 was not intended to be part of this bill because it would let some contractor not licensed in the State of Nevada come into the State and he objected to this section. He said he would not recommend it, but would recommend the following language be added to NRS 624.330, which lists certain exemptions to licensing requirements: "An owner of property who builds or improves structures upon his property and contracts with a contractor or contractors licensed pursuant to this provision of this chapter for such building or improvement."

Mr. Stewart Mason, Taylor Construction Company, gave a further explanation of the management-contractor relationship and said he felt it serves the contractor and subcontractor, as well as the owner. He said as time goes on these projects will become larger and more costly through size and inflation. With this in mind his firm asked Mr. Goldwater to draft a bill in order that the law might be changed to fit the circumstances and needs.

Mr. Robbins Cahill, Managing Director of Nevada Resort Association, said he supported the concept of this bill.

Mr. Robert Stoker, Secretary of State Contractors Board, said he was unaware of this proposed addition to this bill until a short time ago. He said it goes beyond just a matter of the MGM Hotel and the problems they had. He said it seemed to him the manager-contractor is a workable situation, but in this instance he thought Taylor Construction wishes to divest itself of any responsibility whatsoever with regard to the terms of the contract or the payment of the bills. They then act only as the owner's agent. The owner let the bids directly to the subs, and the subs in the State of Nevada are entirely at the mercy of whoever comes to the state to build. He said the same could apply on a smaller job where an owner is not required to be licensed, therefore the Contractors Board has no background on him and no hold on him. Anyone owning property could then come in and build. If he says it is not intended for sale, but sells it after one year, it is all right. The building has then been built and the sale is made, and the State Contractors Board certainly doesn't have the funds to take everyone to court who sells property one year after they have built it.

Mr. Goldwater said he agreed with Mr. Stoker's reference to what is now Section 9, but that he was interested in the proposed Section 10.

Mr. Stoker said it was all right if Section 9 was to be dropped, but once again, it comes to the fact that anybody who owns a piece of property can come into the state, hire all the subs and, whether he has a management-contractor or not, he can do it.

A.B. 464 - Mr. Stoker said he had the same comments as before, but that he would add that it is going to make it necessary for an owner to require bonding on every single job to keep out the ineligible and incompetents. This refers to a job only when it is bonded. On an unbonded job, it will create problems in the bidding process. If an owner has a job but does not wish to require bonding, which is done in many instances. Say, it is a million dollar job, and when you get into that bracket only those who have unlimited licenses

and are competent can bid the job. But if the license limit is entirely removed, as this bill provides, anybody can bid that job, and owners would be forced to make every job a bonded job to keep out the ineligible, which would raise the cost.

Mr. Miller said he would like to add to the testimony he gave before. The purpose of licensing is to protect the public, not the contractors. He said he was amazed that the Contractors Board takes the position they do, and felt it was time that the whole Contractors Board be reorganized. He said, as an owner, he should be able to hire a subcontractor and be able to determine if he can perform, and was not going to have the Contractors Board tell him how to run his business. He said it appeared to him that the Contractors Board was looking after the contractors and not after the general public.

Mr. Ralph Bowker said he had originated this because he wanted to get a bill going that wouldn't be prejudiced. He said it took about thirty days for the investigation after application to the Board, and any bidding during that time period would be precluded. Then a determination is made as to one's financial ability, which should not be done because that is up to the bonding company. Therefore, when a limitation is placed upon anyone's license, it removes the public's right to determine a contractor's ability to do a job. He said this takes away your freedom and your civil rights. He said the monetary limitation in contracts should be removed. The bonding company is the one to decide what a contractor is worth and they will carry the bond, which is a protection to the public on each contract. He presented signatures obtained to request this bill, copy of which is attached hereto. He said we are the only state which has this kind of monetary control over its contractors.

Mr. Miller said that out of the 50 states, only 22 of them have any kind of a license law at all.

Mr. Dini passed the gavel to Mr. May in order to give testimony on A.B. 464. He said he discussed this with Mr. Bowker several months ago and through his efforts this bill was drafted to present to this committee. He said he found there is a trend in the United States to resist licensing boards which are self-serving, such as our State Contractors Board. He said he felt it was time for Nevada to realize that all of the boards that have been created by the Legislature do not serve the general public, but only serve the group that is controlling itself. In certain areas, such as gaming, it is necessary that the Gaming Control Board establish a limitation on the licensees, but in the area of general contracting the case as stated by Mr. Bowker is a sincere statement and one that has a lot of merit. If a man has the courage to bid a job and can get a bonding company to support him, he should be able to bid the job. Just because he can't get a license from the State Contracting Board doesn't mean he isn't a good contractor. He submitted to the Committee a memorandum from Andrew P. Grose, Chief Deputy Research Director, Legislative Counsel Bureau, copy of which is attached hereto, concerning the history of the State Contractors Board, and an article from the "Wall Street Journal" concerning reform of licensing boards. He said the petition presented to him by Mr. Bowker and signed by many responsible people in the State of Nevada requesting the committee take a good, hard look at this thing, and that contractors be licensed based on their ability to get a bond.

3- 1125

A.B. 617 was again discussed and Mr. Stoker indicated he was leaving at noon and would arrange a meeting with Mr. Mason, his attorneys, and the Board and work out something that will safeguard management-contractors or provide for such.

S.B. 414 - It was requested that a change be made in the bill to indicate that the deputy city attorneys in Reno shall not engage in private practice after July 1, 1977, and Chairman Dini requested written clarification from that city of the amendment.

Meeting recessed at 8:55 A.M.
Meeting reconvened at 9:05 A.M.

The City of Reno had been contacted and the amendment requested is on Page 2, Line 21, eliminate the period and add the words "after July 1, 1977."

A.B. 543 - Mr. Julius Conigilaro, Legislative Representative, Nevada Joint Fire and Police Committee, read a prepared statement, copy of which is attached hereto.

Mr. Ashelman spoke in favor of the bill which would allow policemen and firemen to negotiate for a disability program prior to the ten years service now required under the Public Employees Retirement System rules which would be supplemental to NIC benefits, and comparable to the benefits available to private employees under the combination of NIC and Social Security benefits.

Chairman Dini indicated he felt this should be contained in one of the bargaining bills, and Mr. Ashelman said there was no objection to this.

Mrs. Ford indicated this could be done under NRS 288.

Mr. Ashelman said the concern was that the cities are prevented from self-insuring at present and this bill would provide that power.

Mr. Robert Broadbent, Nevada Association of County Commissioners, opposed this bill as presently written because there are negotiation bills presently pending, and because it only applies to police and fire personnel of the cities and counties, and it is felt it should apply to state employees, and all employees, as well.

A.B. 464 - Mr. Moody moved "Do Pass" on A.B. 464. Mr. Craddock seconded the motion. Mr. May did not vote. Motion carried.

A.B. 543 - Mr. May moved "Do Pass" on A.B. 543. Mrs. Ford seconded the motion. Motion carried by majority with Mr. Young opposing.

S.B. 414 - Mr. Craddock moved "Amend and Do Pass" on S.B. 414. Mr. Moody seconded the motion. Motion carried unanimously.

A.B. 617 - Mr. May suggested, and the Committee members concurred, that this bill be held pending receipt of additional information.

A.B. 482 - Mr. May moved "Do Pass" on A.B. 482. Mr. Schofield seconded the motion. Motion carried by majority, with Mr. Young opposing.

S.B. 365 - Mr. Schofield presented a legal opinion from the Legislative Counsel Bureau which is attached hereto. Mr. Schofield moved "Do Pass" on S.B. 365. Mrs. Ford seconded the motion. Discussion was held. Motion carried unanimously.

Meeting adjourned at 9:35 A.M.

Respectfully submitted,

Mildred Cave

Mildred Cave, Secretary

ASSEMBLY

AGENDA FOR COMMITTEE ON GOVERNMENT AFFAIRS
 TUESDAY,
 Date APRIL 22, 1975 Time 7:30 A.M. Room 214

3 1119

Bills or Resolutions to be considered	Subject	Counsel requested*
A.B. 464	Changes certain limitations on contractors' licenses. NOTIFY: Mr. Bowker, Mr. Lawson	
A.B. 543	Permits local governments to provide additional disability benefits for law enforcement officers and firemen. NOTIFY: Cities and counties, Mr. Bob Kerns	
S.B. 414	Amends charters of City of Las Vegas and City of Reno with respect to salary of city attorney of Las Vegas and private practice of law by city attorneys of both cities and their deputies and assistants. Notify: City Attorneys - Las Vegas and Reno Cities of Las Vegas and Reno State Bar Association	
A.B. 617	Exempts owners of property building or improvement structures from requirements of chapter relating to contractors. NOTIFY: Eileen Brookman.	
A.B. 482	Adds to list of peach officers for whom heart diseases may be covered as occupational diseases. NOTIFY: Mr. Glover, Department of Motor Vehicles	

*Please do not ask for counsel unless necessary.

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BILL DRAFT REQUEST

FROM: _____

TO: _____

I. Intent of Proposed Bill: (Brief summary of intended effect)

- a. To alleviate monetary control of the State Contractors Board in the licensing of contractors.
- b. To prevent monetary limitations on present and future licenses.
- c. To house the State Contractors Board in an office building owned by the State of Nevada, completely disconnected from any Association, Incorporation, Company, or person that may have Conflict of Interest in the licensing of any new contractor.
- d. That no officer of any Association, Company, Incorporation shall ever become a member of this Board, or any person or persons with Conflict of Interest for the purpose of licensing.

II. JUSTIFICATION OR PURPOSE: (Brief narrative of requirement)

- Encouragement through competition in the construction industry.
- a. To prevent prejudices in the licensing of contractors.
 - b. To return Civil Rights and Equal Rights to presently licensed contractors.
 - c. To give Civil Rights and Equal Rights to persons applying for contractors license.

III. NRS TITLE affected:

NRS 624.

IV. REPEAL OF EXISTING LAW:

NRS 624. as in items I. and II. above.
Delete language that would run in opposition to language in the above items I. and II.

V. NEW LEGISLATION:

See above items.

VI. Name of Individual to be contacted if more information needed.

Ryall A. Bowker
P.O.Box 6507
Reno, Nevada 89503

Telephone: 359 - 3411

Richard Bowker	2300 Prater Way - Sparks	
Norma E. Cheeketts	2071 W. 4 th Sp. 22 Reno Nev.	323-4985
Jud Piers	1221 West 2nd Reno Nev	323-1086
Wene Castle	1221 1/2 N. 2nd Reno	

Petitioner's Name	Address	Telephone
Aldred D. [unclear]	220 East Welham St. Carson	
Bebe S. Johnson	670 Jamaica #4 Reno Nev.	
Jim Smith	220 E Wm Carson City	882 2141
Lester [unclear]	4069 Sauer Rd. US 94	866 2288
Bruce Dent	Box 777, Carson City, NV	888-1600
Pete Salicy	71 Washington Reno?	322-1846
Debi Brooks	2215 Flagg Dr Reno	826-2986
Al Selms [unclear]	Rout. Box 453 FERNELY NEV	
Fran Monte	1510 Yukon St	3277141
Mike McCrea	2300 Prater Sparks, Nev.	358-9506
Walter Wierker	1560 DAYTON RENO	322 8514
Joseph M. Cuello	1701 E. 4th St. Reno	786-4044
Bill Castle	1221 1/2 W 20th St. Reno	786-4044
Robert Adams	7360 W 4th St Reno	747-2647
Bruce Denton	1675 E. 4th Reno	329-6988
Mary H. Kuykendall	1001 Shoshone Dr Reno	329-3187
Don McCowan	2300 Prater wy 134	358 2591
William K. Morrison	900 I St # 211, Sparks, Nev	359-5982
Janice L. Morrison	900 I Street #211, Sparks, NV.	359-5982
[unclear]	311 Denslow Dr. Reno Nev.	329-9983
Alex White	1060 GOLD FIELD ST RENO	323-5928
Genevieve White	1060 Goldfield St Reno	
Virginia McKinny	311 Denslow Reno	
Mary Jackson	1523 "G" St Sparks	
Mary [unclear]	1180 Cox Lane Reno	747-842

BILL DRAFT REQUEST

1130

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FROM: _____

TO: _____

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Ryall A. Bowker
P.O.Box 6507
Reno, Nevada 89503

Telephone: 359 - 3411

Petitioner's Signature	Address	Telephone
<i>Roy A. Hatcher</i>	315 W. 9TH. ST. E. C.	883:0330
<i>Nancy Hatcher</i>	315 W. 9TH. ST. E. C.	883:0330

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3'

Petitioner's Name

Address

Telephone

D. J. Vasey

Genoa Nev.

782: 2382

Marilyn Vasey

Genoa Nev.

782: 2382

BILL DRAFT REQUEST

FROM: _____

1132

3-

TO: _____

I. Intent of Proposed Bill: (Brief summary of intended effect)

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See above items.

VI. Name of Individual to be contacted if more information needed.

Ryall A. Bowker
P.O.Box 6507
Reno, Nevada 89503

Telephone: 359 - 3411

Petitioner's Signature	Address	Telephone
<i>Key H. Smith</i>	4844 N. Davis ⁷⁵⁷⁰⁵ Tucson, Ar.	624-8646
<i>Robert Bailey</i>	Box 3393 State Line NEV.	
<i>Wendy H. Mason</i>	4825 STATELINE, NEV 89449	588-3663
<i>John N. McBerkey</i>	280 Hillcrest DRIVE Reno 89502	896 8357

Petitioner's Name	Address	Telephone
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Ernest Helliott	2539 Carriole Dr. Reno	358-7640
Uerna Campbell	450 Vine Dr. Reno	825-0487
Ronald G. Fenau	1710 Probasco Way, Sparks, Nev.	358-3219
Helen M. Maedel	438 E. Highland Ave Reno	323-4651
Mr. Wm. Larson	1635 McKinley Reno	323-6687
Vivie H. Rasmussen	900 - 6th St. Sparks	358-0928
Wilma H. Dodge	475 Linden Reno	826-4143
Ernest M. Carey	280 Hillcrest Dr Reno	826-0357

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CARSON CITY, NEVADA 89701



LEGISLATIVE COMMISSION AB464
LAWRENCE E. JACOBSEN, Assemblyman, Chairman

INTERIM FINANCE COMMITTEE
FLOYD R. LAMB, Senator, Chairman

3-1134

ARTHUR J. PALMER, Director

PERRY P. BURNETT, Legislative Counsel
EARL T. OLIVER, Legislative Auditor
ARTHUR J. PALMER, Research Director

March 26, 1975

M E M O R A N D U M

TO: Assemblyman Joseph E. Dini, Jr.
FROM: Andrew P. Grose, ^{Co} Chief Deputy Research Director
SUBJECT: Contractor's Board, Chapter 624 NRS

Your question concerning the contractor's board was a general one concerning why it was created and what the continuing justification is.

Our present statute was first passed in 1941 and is little changed since then. A recent book, Occupational Licensing, shows that licensing in the construction trades has two sources. One is the apprentice-journeyman-master system in numerous skilled trades that developed in the guild system of the middle ages. The other is the movement by local governments in the 1920's and 1930's to plan, zone and control the quality of building in their jurisdictions. Along with building codes came licensing of those doing the building.

The composition and methods of licensing used by the Nevada Contractor's Board are fairly common nationwide. There has been a great deal of criticism in recent months on many aspects of licensing. The enclosed article from the Wall Street Journal outlines much of the criticism which centers on the charge that licensing is a device to limit competition instead of protecting the public which is always the ostensible purpose.

I have made no attempt to look into the performance of our contractor's board. There are no records of legislative intent at the time of original passage so there is little we can say about that. The purpose is obvious from a reading of the chapter. That is to insure that those engaged in various types of contracting are competent in terms of skill and knowledge and financially able

Contractor's Board
March 26, 1975
Page 2

to complete work they undertake. The powers to require proof of skill and financial responsibility can be used to restrict those who are licensed in a way limiting competition. This has been done in many states. As long as the members of a profession or occupation are given the power to control entry into their fields, this will always be a problem.

If you would like some particular aspect of our board examined, please let me know.

APG/jd
Encl.

Closed Societies? Far-Reaching Reform Licensing Boards Urged in Many States

The Groups, Critics Assert, Fail to Police Members, Often Limit Competition

Cuban Doctors Go to Jail

By JIM MONTGOMERY

Staff Reporter of THE WALL STREET JOURNAL
TALLAHASSEE, Fla.—When 2,149 aspiring general contractors took the Florida Construction Industry Licensing Board's exam in 1972 to test their competence, they all failed.

Quite obviously, the disastrous results made a strong statement about either the general caliber of potential contractors or the board's ability to assess their qualifications. Some state legislators, taking the latter view, suggested that the total failure had been a calculated effort by the board to limit competition by barring new entrants to the field.

Outraged by indignant protests from those who had flunked, the board abruptly reversed itself. It curved the grades so that 88%, or the 1,887 who scored least poorly, were given passing marks and an official blessing to go forth and build.

Incensed by the exam fiasco, the Florida legislature kicked off an investigation of all 27 of the powerful state bodies that decide, largely on their own, who can engage in such pursuits as practicing medicine, burying the dead, selling houses and cutting hair.

A Help or a Hindrance?

Every state in the union has similar boards—some as few as 10, some as many as 40—all with the avowed purpose of establishing and enforcing standards of professional competence and ethics. Most are created by legislative bodies, and because they are responsible for protecting the public health and welfare, are armed with the police powers of the state.

Few would quarrel with the need for some such supervision to guard the public against unscrupulous charlatans posing as certified professionals. Increasingly, however, boards themselves are coming under fire for circumventing the public interest. Critics point out the conflict of interest inherent in allowing professional and trade associations to recommend for appointment the board members who will oversee them. As a result, critics assert, the boards are often self-serving, hypocritical and politically motivated. Such charges have led to mounting pressure for reform among legislative groups, consumer advocates and the federal government.

A recent study financed by the U.S. Labor Department of boards throughout the nation concluded that in general they are "riddled with faults . . . fraught with chaotic and inequitable rules, regulations and requirements and prone to restrictive and exclusionary practices as a result of pressures exerted by special-interest groups. . . ."

According to Lewis Engman, chairman of the Federal Trade Commission, occupational licensing hasn't prevented fraud, incompetence or price gouging. A new FTC study shows that Louisiana, which licenses television repairmen, has about the same incidence of fraud as and 20% higher prices on TV repairs than does the District of Columbia, where the repairmen aren't licensed. "Too often," Mr. Engman said in a speech last month, "the results of anticompetitive regulations have been to gouge the consumer, lock the doors to future employment by stifling the growth that comes with competition and distort our national economy."

Ear Piercing and Haircuts

Closer public scrutiny of state board activities is likely to benefit the consumer. The U.S. Supreme Court recently upheld a ruling by a three-judge panel in Georgia that the state optometry board couldn't revoke the licenses of optometrists who practiced in department stores and chain optical stores. The board had charged the optometrists with "unprofessional commercialism," even though customers often pay less for eye tests and glasses in these stores. The lower court held that the board, in citing the optometrists with violations, had denied their right of due process "because the members of the board are economically interested in the results of the cases they hear, and are biased."

It isn't uncommon for boards to try to limit access to a given occupation in apparent disregard of the public interest. In Arkansas, discount drugstore operators say the pharmacy board's regulations subtly discriminate against discount drugstores, making it difficult for them to operate competitively. In Iowa, the barbering board recently went to court to prevent beauticians from cutting men's hair. And medical boards in several states have gone on record as favoring laws that would prevent anyone except doctors from performing cosmetic ear piercing. (Retailers of earrings often provide the service free. Some legislators worry that if this practice is prohibited, customers will risk infections by attempting to do it themselves rather than pay a doctor \$10 or \$20.)

In Florida, a group of 50 physicians and dentists have organized to fight what they regard as the state's restrictive licensing regulations. Although all are licensed to practice in other states, they have been unable to get licenses in Florida. Unlike many states, Florida doesn't grant automatic reciprocity to licensed doctors and dentists from other states. Before getting a license, new residents must pass a comprehensive examination in general medicine or dentistry, as well as their specialties.

Some members of the group have failed the general test, other have refused to take it. Dr. Norris C. Elvin, an ophthalmologist who moved to Hallendale, Fla., from New York, claims the policy represents "a deliberate, conscious plan of exclusion" by what he calls Florida's "arrogant, overworked, overpaid" physicians. "It's ridiculous," he

Please Turn to Page 14, Column 2

3- 1136 54, 1, AB464
Wall Street Journal
(2-28-75)

Closed Societies? Many States Press For Reform of Licensing Boards

Continued From First Page

ys. "Measles are measles, and an appendix is the same in Oregon as in Florida." The group says it plans to test the rule soon in federal court.

Hardship for Cubans

Florida's strict licensing rules have worked a hardship on doctors and dentists among the state's 500,000 Cuban refugees. Some of these are currently serving prison terms because, despairing of ever passing an English-language test, they practiced their professions anyway and got caught. A recent state law makes it possible to take exams in a foreign language and provides refresher courses to help prepare for them.

A 1973 task force for the Department of Health, Education & Welfare concluded that boards "all too often become the means for limiting entry to careers." It added that the U.S. should adopt a more vigilant antitrust posture to remove such "unjust and artificial barriers." One agency advocating a strong stance is the Equal Employment Opportunity Commission. It has proposed that licensing boards comply with the same rules employers use on personnel testing and selection procedures.

If boards are criticized for excluding qualified practitioners from a given field, they are also charged with laxity in policing those who do obtain licenses. Although it had received repeated complaints about his activities since 1970, the Florida Board of Osteopathic Medical examiners failed to discipline a Fort Myers osteopath until two of his patients died last year as a result of his "rejuvenation" therapy. Dr. Robert A. Peterson had injected the patients with cells from unborn sheep. Autopsy reports linked their deaths to gas gangrene associated with the injections.

Attributing its slow response to the advice of counsel, the board finally revoked the osteopath's license in June, after hearing a "psychic" testify that she diagnosed the patients' illnesses for Dr. Peterson by holding blood samples in her hand while rubbing the tabletop. Dr. Peterson is appealing the board's decision.

As a result of the incident, the state legislature imposed a new uniform complaint procedure on all the state's licensing boards. Under the new rules, a copy of every complaint filed with a board is reviewed periodically by the state agency that oversees them.

Until recently, boards have conducted their business with a minimum of outside interference. But now, at least one has run foul of lawmakers for misuse of public funds. In Florida, the state auditor recently complained that the state's real estate commission had wasted the taxpayers' money in connection with the preparation of a textbook that applicants for a real-estate license are required to buy.

The board, rather than writing and publishing the book itself, at a saving the auditor estimates at 40% or more, chose to farm the job out to its paid educational consultant at the time, Clayton C. Curtis, a University of Florida professor of real estate and urban planning. Mr. Curtis received \$102,133 in royalties from the book between mid-1970 and mid-1973. The publishing company, headed by Mr. Curtis's wife, earned an estimated net profit of \$134,000 on \$559,765 in book sales during the same period.

The real estate commission defends its action by saying that it would have taken too long to produce the book through regular channels and that Mr. Curtis was "assuming all the risk." However, the only risk Mr. Curtis can point to is his lack of a contract. The commission "could change textbooks at any time," he says.

A committee of the legislature wants the state attorney general to seek recovery of Mr. Curtis' royalties. The legislators argue that because Mr. Curtis was serving as a paid consultant to the real estate commission when he wrote the text, the copyright belongs to the state.

Outsiders Unwelcome?

In order to make state boards more responsive to the public, several states have passed laws requiring them to seat members from outside their professions. But opposition has been strong among trade and professional associations, who argue that the general public can't adequately evaluate the activities and qualifications of their members.

Florida is one state where such opposition successfully defeated a bill requiring lay membership on boards. "We'll fight it to the death," says Scotty Fraser, a lobbyist for the Florida Medical Association. Arguing that consumer members can neither hurt nor help licensing boards, he says they would be "just a big waste of energy . . . an insult." Kenneth Ballinger, a lobbyist for the Florida Realtor Association, objects to "putting on a technical board an individual without knowledge of or experience in what he's supposed to regulate."

Backers of consumer representation on boards plan to reintroduce the measure this year. One of them, State Rep. Dick Clark of Miami charges that opponents of consumer representation on boards "don't want anyone else in there to see what's going on."

Without waiting for resolution of this larger issue, the Florida legislature took specific action to forestall a repetition of the construction-exam case. It passed a law that expands the construction board's membership to 13 from seven, and requires that one member be an outsider. (The current lay member, an attorney, serves as chairman of the board.) The new rule also requires the board to use a professional testing service to prepare and administer its exams.

TESTIMONY ON AB 543 SUBMITTED TO
ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE ON APRIL 22, 1975

1137

By

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Julius Conigliaro
Legislative Rep Nevada Joint Fire and Police Committee

There exists a fragmentation of disability plans available for Fire and Police and other governmental employees within the structure of State Government in Nevada, none of the plans are adequate to cover their needs. The Nevada Industrial Commission provides a plan whereby an employee who sustains a permanent and total injury arising out of and in the course of his or her employment may receive a benefit equal to $\frac{2}{3}$ of the average salary paid to Nevada workers which is \$727.00 per month. The actual benefit would amount to \$485.00 per month. Under the present Public Employees Retirement Act, an employee must complete 10 years of service with a State or Local Government Agency to become eligible for disability benefits. An employee may then receive 25% of his average salary for that permanent and total disability.

In private employment the same Nevada Industrial Commission benefits are available for workers in conjunction with Social Security Disability Benefits which pay over \$400.00 monthly (for the average family of four (4)) for permanent and total disabilities sustained on or off the job.

Some governmental employees who have worked for 10 years or 40 quarters in private employment could qualify for minimum Social Security Disability Benefits.

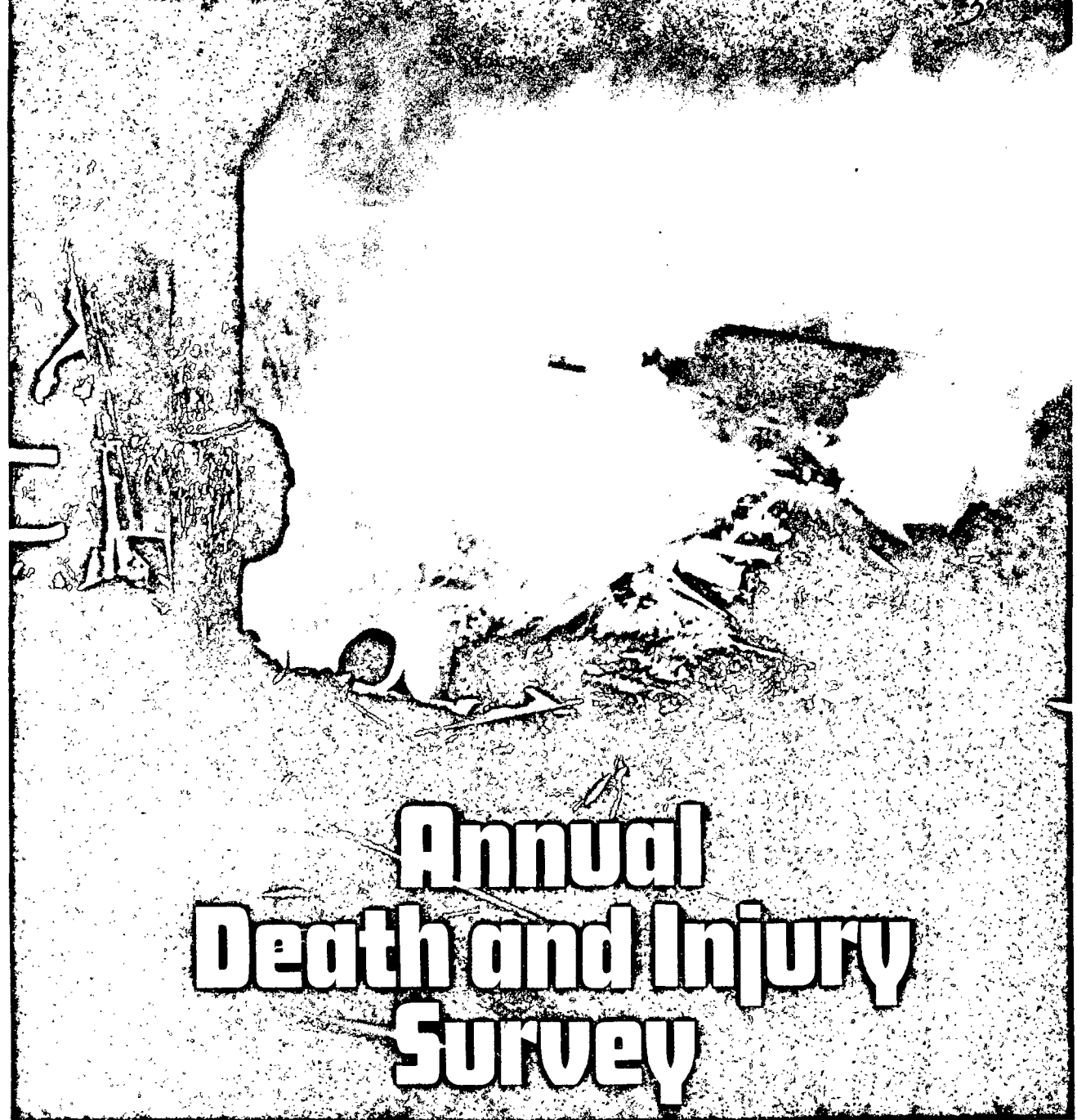
Obviously many governmental employees and especially Fire and Police Personnel who enter public employment at a very young age may never qualify for Social Security Benefits at the time when they may need those benefits most.

I am sure the members of this committee are aware of the high risks involved in Fire and Police employment. The necessity of immediate and adequate disability pay coverage in this field is paramount. The results of a survey made by the International Association of Firefighters of 500 governmental disability plans in the United States and Canada demonstrates that Nevada's plan for firefighters is among the poorest.

AB 543, if passed, would allow firefighters and law enforcement officers the right to negotiate under Chapter 288 of Nevada Revised Statutes a disability plan or program supplemental or in addition to and not in conflict with the coverage, compensation benefits or procedure established by or adopted pursuant to Chapter 616 of Nevada Revised Statutes.

SPECIAL REPORT

November 1973



Annual Death and Injury Survey

THE vast majority of the reported injuries—45,566—were sustained at the scene of a fire. The rest came while responding to or returning from an alarm during training, at the fire station, and from other work-related causes. A total of 711 fire fighters suffered on-the-job

injuries serious enough to force them to seek other work or retirement.

Of those injuries suffered at the scene of a fire, 30 percent were sprains and strains; 21 percent, cuts; 10 percent, burns; 10 percent, inhalation of toxic gases; 4 percent over-exertion; 3 percent, heat ex-

haustion; 2 percent, broken bones; and 20 percent, other causes.

Among the causes of occupational injuries was "individual violence" (harassment), which resulted in 334 reported injuries last year.

While the 133 deaths from occupational diseases represented a 15

(continued on page 12)

Deaths and Injuries — Still Far Too Many

Our newest IAFF death and injury survey shows that the fire fighters now can count on only a 50-50 chance of getting through a year's work without being injured.

In addition, fire fighters face the rising possibility that they will suffer an occupational disease or injury in the heart, lung, or other areas of the body that will cut short their working lives.

This is still a hazardous profession—and it's more hazardous than it needs to be.

We know enough now about the hazards and complexity of fire fighting to insist that immediate action be taken to reduce the totally unnecessary high rates of on-the-job injury, death, and disease. We know that better training methods, better gear and clothing, and more research into occupational diseases can cut those rates.

The question is: how much longer must the fire fighter wait for assistance?

I, for one, feel we have waited long enough—indeed, too long. Most fire fighters surely agree. That is why the IAFF is leading an all-out effort for passage of federal legislation that will set up a new Fire Academy and increase the research and development efforts of the U.S. government.

We are asking not for pity but for a reasonable remedy. We want an application of national resources to a national problem. The hazards and complexities of our vitally important job must be recognized and steps taken to reduce this terrible toll of life and limb.

Every member of the IAFF can do something to get us the remedies we need.

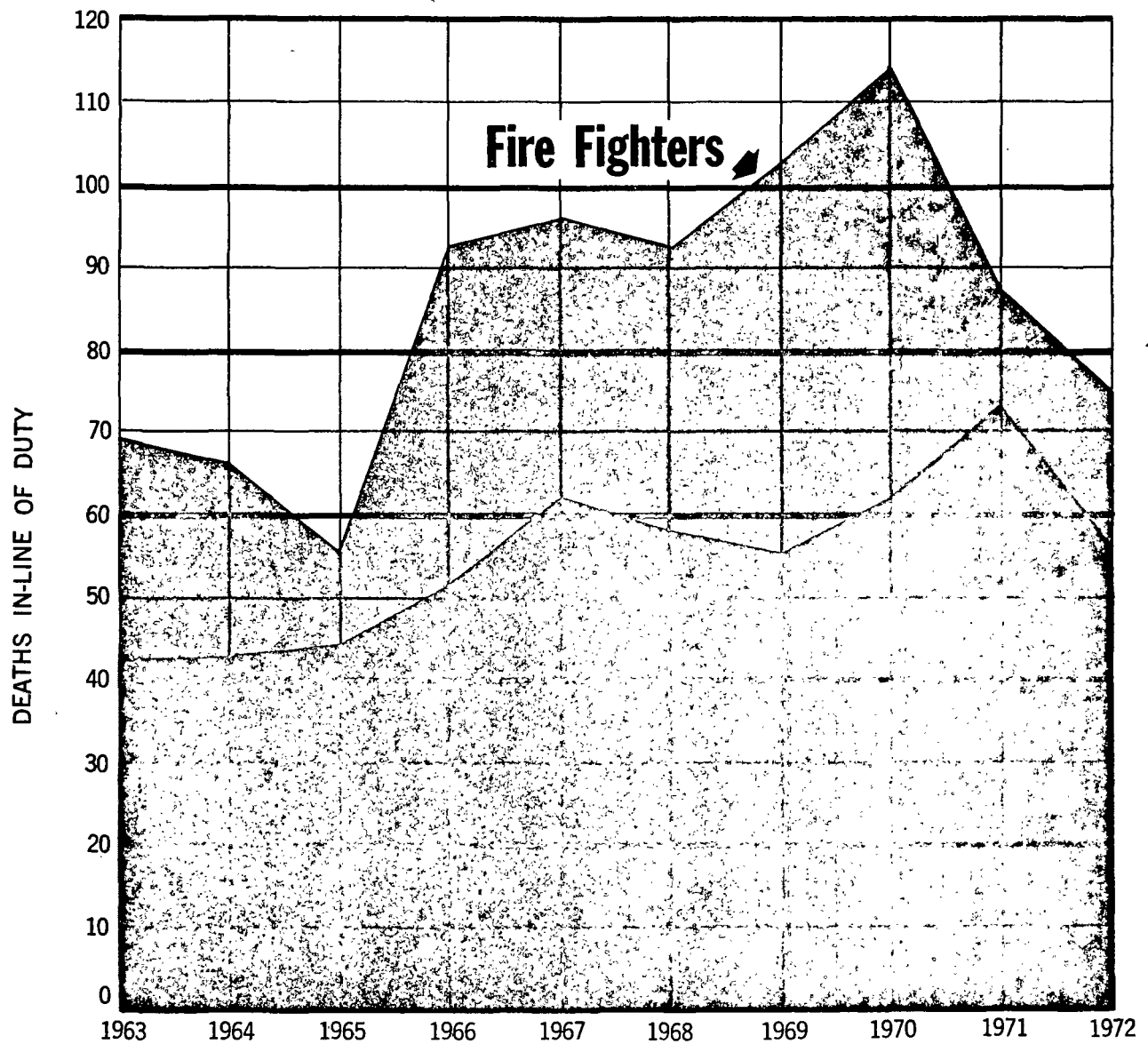
Write to your Congressman and your Senators *today* in support of H.R. 7681 and S. 1769, the Fire Prevention and Control Act of 1973. Tell the legislators that the time for action is now.

You'll be helping yourself to more safety on the job, and you'll be helping your community toward a better fire service.



Wm. Howard McClema

Fire Fighter and Police Deaths in Line of Duty Per 100,000 Employees — 1963-1972



In this graph, illustrating Fire Fighter and Police deaths per 100,000 workers, it is worth noting that the lines representing the two groups never cross. Here it can be clearly seen that, contrary to a large proportion of public opinion, the life hazard attached to fire fighting is much greater than that attached to police work. On the average, from 1963 thru 1972, there were 85 deaths for every 100,000 Fire Fighters, compared with 55 deaths for every 100,000 Police Officers.

Sources: Police figures from "Crime in the United States, Uniform Crime Reports" by the FBI; Fire Fighter figures from Fire administration records as reported to the IAFF.



ARTHUR J. PALMER, *Director*

PERRY P. BURNETT, *Legislative Counsel*
EARL T. OLIVER, *Legislative Auditor*
ARTHUR J. PALMER, *Research Director*

April 21, 1975

LCO 12

Constitutionality of
S.B. 365

Assemblyman James W. Schofield
Assembly Chamber
Legislative Building
Carson City, Nevada 89701

Dear Mr. Schofield:

You have requested the opinion of the Legislative Counsel upon the constitutionality and relationship of the sections of S.B. 365 and upon related questions of the legality of connection or similar charges by privately owned public utilities. The interval between the request (noon) and the requested delivery (7 p.m. of the same day) prevents extensive examination or citation of cases, but fortunately we believe your questions can be fairly answered without this.

Section 1 of the bill merely adds "services" to the items for which delinquent charges may be collected through the county tax collection machinery. This presents no problem if the services are properly chargeable. Section 2 deals only with the criminal offense of stealing the district's water or interfering with its employees. There is no section 4 since amendment by the senate on second reading. Section 3 is therefore the heart of the problem.

This section would amend section 16d of the Las Vegas Valley Water District act (added by chapter 307, Statutes of Nevada 1951) which now empowers the district to "establish reasonable rates and charges" by specifying that these may include "connection charges or frontage charges if [these] represent an equitable allocation and recovery of costs of providing facilities and delivery of water service." This specification probably confers no authority not already existing, and if it does confer any new authority, the new authority

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Assemblyman James W. Schofield
April 21, 1975
Page 2

is limited by a proper standard. The "brief" submitted for our examination sets up a straw man by supposing that the added language goes beyond "reasonable rates and charges" and then knocks him down, but we submit that the words "equitable allocation and recovery of costs" preclude this result. We therefore believe that S.B. 365 is constitutional.

We are not aware of any legal obstacle to the making of connection charges, in general, by a public utility furnishing gas or electricity. Every such charge would have to be part of the utility's rate schedule, reviewable by the Public Service Commission in each instance for reasonableness as applied to the particular territory.

Very truly yours,

PERRY P. BURNETT
Legislative Counsel

By Frank W. Daykin
Frank W. Daykin