

Senate

COMMERCE AND LABOR COMMITTEE

May 13, 1975

The meeting was called to order in Room #213 on Tuesday, May 13, 1975, at 4:50 p.m. with Senator Gene Echols in the chair.

PRESENT: Senator Gene Echols
 Senator Richard Blakemore
 Senator Gary Sheerin
 Senator Richard Bryan
 Senator Warren Monroe
 Senator Margie Foote*
 Senator William Raggio*

*These committee members were not present at the beginning of the meeting. They did come in later.

OTHERS PRESENT: See Exhibit A

A.B. 475: Changes farm labor advisory council name to rural manpower services advisory council.

Larry McCracken, Employment Security Division, testified. His written testimony is attached and will be labeled ATTACHMENT I.

Senator Monroe moved to do pass.
 Senator Blakemore seconded the motion.
 The vote was unanimous with Senator Raggio and Foote absent.

S.B. 201: Senator Monroe moved to amend and do pass.
 Senator Bryan seconded the motion.
 The vote was unanimous with Senators Raggio and Foote absent.

A.B. 265: After a brief discussion it was decided that Mr. Getto's amendments did not get to the problem. It was decided to try and get further amendments.

A.B. 539: Permits registered representatives to offer subdivision land for sale.

Assemblyman Dan Demers testified in favor of the bill. He is the sponsor of the bill. This bill was introduced on behalf of the Southern Nevada Home Builders Association and the Home Builders in the state of Nevada relevant to the sale of new tract houses. Mr. Demers said that up until 1973 it was the attitude of the State Division of Real Estate that anybody that sells a house must be a licensed real estate broker. In 1973 they passed an omnibus land sales bill. It came to the attention of the real estate division that people who sell new tract house shouldn't be real estate brokers.

The bill proposes to create a new category of people to be called management representatives who would be licensed by and allowed to do business by the Department of Real Estate. They wouldn't become licenses real estate brokers and salesmen. At the present time people are selling these homes and work directly for the contractor that builds the home. Usually they get a commission of one to three percent of the cost of the home. The contractor is in control of the sales. This bill would change that in that the Division of Real Estate would have control over advertising, etc. If this bill is not passed, by law real estate people can get up to seven percent. Mr. Demers discussed this briefly.

On Page 1, Lines 9, 11 and 12, this is only going to apply to houses that have been mortgaged or are insured by the FHA or the VA. Senator Bryan asked what the reason was for this. Mr. Demers said they excluded conventional financing. Mr. Demers answers questions from members of the committee and discussion followed.

Barry Becker, Southern Nevada Home Builders and Home Builders of Nevada, testified. Mr. Becker said these people would be working directly for the developer or contractor, as they have in the past. The developer or contractor would train them to sell their product and maintain good rapport with the public. Mr. Becker said it would be up to the contractor to make sure they represent the contractor correctly. Mr. Becker said he didn't feel the management representatives needed the educational requirements of the licensee because they are working directly for the contractor and they are selling a specialized product.

Mr. Becker said another problem of the Home Builders is that it does take away part of the control over what their salesmen are telling customers just exactly how they are representing the contractor as a builder. There are many other things that management representatives would be involved in in selling new homes. Mr. Becker said they are not

all on a commission basis. Mr. Becker said in many instances in his organization, the salesman is just an employee or a partner in the development. These people handle many other functions for them. Also when people come back to look at the house a second time he will be dealing with the same person.

Gene Greach, Northern Nevada Home Builders Association, testified. He was in favor of the bill. He stated that by the time they go through the building, financing etc, they certainly have the ability to sell these homes and educate people to sell their own product. He stated they would be more knowledgeable about it than a real estate broker would be. He said they are talking about a specific product, one which they built. They understand it and know it and they are certainly in a better position to sell it. Mr. Greach answered questions from the committee and discussion followed.

Angus McLeod, Division of Real Estate, testified. His written testimony is attached and will be labeled ATTACHMENT II. He also answered questions from the committee and discussion followed.

Gene Milligan, Nevada Association of Realtors, testified against the bill. Mr. Milligan said they were controlled by the Justice Department and there is no set commission. This was discussed by Senator Raggio and Mr. Milligan.

Mr. Milligan said the definition is sufficiently ambiguous that just about anyone could hire someone to sell their property. He said it opens up the law considerably. Mr. Milligan discussed other things that he felt were wrong with the bill. Committee discussion followed.

A.B. 700: Requires local governments to provide licensing and regulating of farmers' markets.

Assemblyman Robert Robinson testified. He was the sponsor of the bill. He indicated that many areas are addressing themselves to this situation. This bill would allow the producers to market their products.

Assemblyman Getto said he had no objections to the bill.

There was discussion about whether this should be mandatory as the bill suggests. The committee also discussed how the NIC would work into this and the licensing requirements were discussed.

Senator Blakemore moved to amend and do pass.
Senator Monroe seconded the motion.
The vote was unanimous with Senators Bryan and Foote absent.

It was decided to hold A.B. 539 for further study.

There being no further business, the meeting was adjourned at 8:30 p.m.

Respectfully submitted:

Kristine Zohner, Committee Secretary

APPROVED BY:

Gene Echols, Committee Chairman

ROOM # 213
 DAY Tuesday

DATE May 13, 1975

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NAME	ORGANIZATION	ADDRESS
Angus McLeod	Inv. of Real Estate	111 W. Telegraph
Jeanne Hanel	Div Real Est.	111 W. Telegraph
C.P. BRECHLER	REG ST. & HW COMM.	CAS VEGAS
W. A. Hooker	Builders Assn No Nevada	Reno
Lynn R. Cooper	" " " "	"
Bony W. Beck	So. Nev. Home Builders	L. V.
Jean M. Johnson	Builders Assn No Nev.	Reno
Paul Offenberg	" " " "	"
Engelstein	" " " "	"
Don Brode	So. Nev. Mtg Bankers	L. V.
Daniel J. Demers	State Assembly Dist # 1	Mt. Charleston
Jane Milligan	Nevada Association of Realtors	Carson City

MAY 8, 1975

SUPPLEMENTAL TESTIMONY FOR AB 475

AN ACT RELATING TO THE UNEMPLOYMENT COMPENSATION LAW; CHANGING COUNCIL NAME TO RURAL MANPOWER SERVICES ADVISORY COUNCIL; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

I AM LAWRENCE O. McCracken, EXECUTIVE DIRECTOR OF THE NEVADA EMPLOYMENT SECURITY DEPARTMENT.

THE CHANGES PROPOSED FOR YOUR CONSIDERATION AND SUBMITTED BY MY AGENCY ARE INTENDED TO UPDATE THE PURPOSE OF THE EXISTING FARM LABOR ADVISORY COUNCIL. I BELIEVE THAT THE CHANGES MORE ACCURATELY REFLECT THE CURRENT INTERESTS OF RURAL NEVADA AND WILL PROVIDE THIS COUNCIL WITH THE OPPORTUNITY TO MORE REALISTICALLY ADDRESS AND SUPPORT THE MANPOWER SERVICES NEEDS OF RURAL NEVADANS.

THE NEED FOR MEETINGS EMANATES FROM THE BASE OF POLICIES AND REGULATIONS PROMULGATED BY THE FEDERAL GOVERNMENT, SPECIFICALLY THE DEPARTMENT OF LABOR. THE PURPOSE OF THESE REGULATIONS IS TO ADEQUATELY MEET THE RESPONSIBILITIES OF THE DEPARTMENT OF LABOR AS MANDATED BY THE COURT ORDER ISSUED BY THE U. S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA REGARDING SERVICES TO MIGRANTS AND OTHER FARMWORKERS (NAACP VS BRENNAN, CIVIL ACTION #2010-72). THE ORDER OF THIS COURT FILED ON AUGUST 13, 1974, REQUIRES THAT PROPER AND SUFFICIENT SERVICE BE PROVIDED TO RURAL RESIDENTS, SPECIFICALLY FARMWORKERS AND MIGRANTS. THE PROVISION FOR MEETINGS ESTABLISHES AS A MATTER OF LEGAL RECORD THE INTENT OF MY DEPARTMENT TO BE IN FULL COMPLIANCE WITH THE COURT ORDER.

THE SCOPE OF INVOLVEMENT NOW REQUIRED OF THIS COUNCIL REQUIRES THAT THEY WILL HAVE ACCESS TO INFORMATION NECESSARY FOR THE PROPER CONDUCT OF THEIR BUSINESS. SUCH INFORMATION, WHENEVER POSSIBLE, WILL BE MADE AVAILABLE TO THE COUNCIL FROM WITHIN EMPLOYMENT SECURITY DEPARTMENT EXISTING RESOURCES AS WELL AS THROUGH OTHER AGENCIES OF STATE AND FEDERAL GOVERNMENT.

THE NEED FOR CONSULTANT SERVICES, ALTHOUGH REMOTE, IS INCLUDED IN THE PROPOSED REVISION TO AB 475 TO PROVIDE FULL ACCESS OF INFORMATION TO THIS COUNCIL. FUNDS, IF EXPENDED TO SECURE CONSULTING SERVICES, WILL BE FEDERAL DOLLARS.



STATE OF NEVADA
DEPARTMENT OF COMMERCE
REAL ESTATE DIVISION

ADMINISTRATIVE OFFICE
CARSON CITY, NEVADA 89701
(702) 882-7509

Attachment 2

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MIKE O'CALLAGHAN
GOVERNOR
MICHAEL L. MELNER
DIRECTOR
DEPARTMENT OF COMMERCE

ADMINISTRATOR
REAL ESTATE DIVISION

MEMORANDUM

TO: Jeanne Hannafin

FROM: Angus McLeod *Angus*

DATE: May 12, 1975

RE: AB 539

If it turns out that you have to appear before the Senate Commerce Committee on AB 539 I think that you should make the following statement:

It is frequently stated that the Division of Real Estate misled the 1973 Legislature and thereby got it to pass legislation which required the salesmen for homebuilders to be licensed as real estate brokers and salesmen. Let's make it clear right now that it was unlawful for salesmen for homebuilders to sell without real estate licenses before the 1973 Legislature and thus there was no motive in misleading the Legislature. Nothing done by the 1973 Legislature placed a new requirement on salesmen for homebuilders. The Division of Real Estate has two Attorney Generals' opinions interpreting the language in the licensing act and both of the opinions conclude that salesmen for homebuilders need to be licensed. These opinions are number 225, issued on June 9, 1961 and number 616, issued on September 10, 1969. Opinion number 225 did point out that the language of the act should be clarified in this regard but the conclusion was still that such persons needed real estate licenses. Until July 1, 1971 it was unlawful for any person to act as a real estate sales agent without having a real estate license. The 1971 Legislature created a class of salesman known as Registered Representative, which class was only to sell vacant lots for large land subdividers. The 1973 Legislature passed an amendment to the land sales act requiring that Registered Representatives become licensed real estate brokers and salesmen by January 1, 1975. Skip Hansen explained at the time that the purpose for clarifying the licensing statute and adding the language that "management does not include sales activities" are (1) because Attorney General's opinion number 225 stated that the language needed clarification and (2) that he did not want land salesmen to attempt to claim a possible employee exemption from the licensing act in January, 1975. At that point in time there were approximately 2500 land salesmen. The number of homebuilder salesmen active at that time is unknown but it is doubtful if it exceeded more than 200. At no time was it ever Skip Hansen's purpose for clarifying this language to force the homebuilders' salesmen to be licensed; the requirement already existed.

The principle was established many years ago that the public needs the protection of dealing with trained persons when such persons are acting as agents in real estate. The Nevada Act in this regard was passed in the 1940s. AB 539 creates an exception to this proven principle. Presumably, Management Representatives will only sell previously unoccupied dwelling units for which the FHA or VA has agreed to insure mortgages. These are broad conditions. For instance, unoccupied dwelling units can mean new condominiums. The condominium concept is one of the most sophisticated in real estate. Moreover, although the FHA or VA may have agreed to insure the mortgages, the condition in the bill does not prevent the use of conventional financing. Understanding the intricacies of conventional financing requires a high standard of training and knowledge. Salesmen for homebuilders, like any other kind of real property salesman, should be expected to know, for instance, the meaning of various clauses in contracts, the economics of real estate, title insurance, etc.

AB 539 proposes the concept of special limited licenses for persons with special limited qualifications to deal with special limited property. If this concept is valid there will be no end to the number of special limited licenses which the Legislature will be asked to create. There will be no valid reason for the Legislature to deny such requests. For example, a limited license for persons who only rent property; a limited license for persons who only sell ranches; a limited license for persons who only sell motels; a limited license for persons who only list property for sale, etc. If the Management Representative concept is adopted, then persons in such a class can hold themselves out to the public as being licensed by the Division of Real Estate and the general public would be unaware that there is any real difference between a fully trained licensee and a Management Representative. This would create a risk to the public of which they would be unaware. To put this proposed concept into perspective, let's assume that the legal profession decided to create a limited lawyer's license for practitioners whose only function would be to draw contracts. No experience or training would be required. No knowledge of the law of torts, real property or agency would be expected. The only requirements would be that the person be of high moral character and know something about contracts. However, the practitioner would be permitted to write contracts. I'm sure you would agree that such a concept would not work. As you can see, it is impractical to isolate one function of a profession and grant licenses for its performance.

As was stated previously, the 1971 Legislature unwisely created a special limited license for salesmen of major land subdividers. Many of the problems which we have experienced since that date could have been avoided had real estate licensing been required at the beginning. The 1973 Legislature passed a law abolishing the Registered Representative as a salesman effective January 1, 1975; however, the constitutionality of this attempt by the Legislature to abolish this special limited class of salesmen is presently being reviewed by the Nevada Supreme Court. At the present time the Supreme Court has enjoined the Division of Real Estate from forcing Registered Representatives to be real estate licensees as the Legislature intended. The issue is whether the Legislature may, at a later time, abolish a class

Memo to Jeanne Hannafin
 May 12, 1975
 Page Three

of salesmen when persons have already taken advantage of such a class and earn their livelihood therein. The point is, that if the Management Representative class is adopted it may be impossible to ever abolish.

The Division of Real Estate believes that AB 539 is bad legislation and unwise. It should not be passed. *No other state has done anything like this.* However, if it is the Legislature's intent to pass this Act we ask that the following provisions be added:

1. That since NRS 645, which is the Act that would be amended, gives only the Real Estate Advisory Commission power to adopt regulations under the Act, that AB 539 clearly state that the Division has the authority for rule making and not the Real Estate Advisory Commission.
2. We want it clearly stated that only the Division and not the Real Estate Advisory Commission has the power to deny, issue, suspend, revoke and condition Management Representative permits.
3. We want it clearly spelled out that the Division can, in addition to the general requirements to be a Management Representative, require completion of certain education and successful passing of an examination.
4. We want the grounds for denial, suspension and revocation spelled out in the Statute and suggest those grounds in NRS 645.630 as a guideline.
5. We want some form of protection to the public for the misdeeds of Management Representatives. Specifically, we want the authority to require them to pay an extra fee into a recovery fund or to post a bond.

- Agree with James as to their admin need here - but agree that law can't be enforced
- As far as to commissioner - strictly negotiable.
- competency not enough

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 475

ASSEMBLY BILL NO. 475—COMMITTEE ON COMMERCE

MARCH 25, 1975

Referred to Committee on Commerce

SUMMARY—Changes farm labor advisory council name to rural manpower services advisory council. Fiscal Note: No. (BDR 53-1457)

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the Unemployment Compensation Law; changing council name to rural manpower services advisory council; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 612.315 is hereby amended to read as follows:
 2 612.315 1. **[To]** *To advise and to assist the employment security*
 3 *department in accomplishing the objective of providing an effective*
 4 **[farm]** *job placement service and other manpower services to agricultural*
 5 *workers, other rural residents and employers and [the continuing needs of*
 6 *industry,] meet the community needs for manpower services the employ-*
 7 *ment security department is committed to maintaining a [state farm labor*
 8 *advisory council.] rural manpower services advisory council.*
 9 2. The **[state farm labor]** *rural manpower services advisory council*
 10 *shall consist of five members [who shall include representatives of sub-*
 11 *stantial], four of whom shall represent different commodity interests [so*
 12 *that the problems peculiar to each commodity group will be considered in*
 13 *state planning and administration.] and different geographical areas, at*
 14 *least one of whom shall represent the ranch and farm workers. The mem-*
 15 *bers shall be appointed by the governor for terms of 4 years each.*
 16 3. **[The members of the state farm labor advisory council shall be**
 17 *paid at the rate of \$25 per day of actual service, and shall receive travel-*
 18 *ing expenses and subsistence allowances in the amounts specified in NRS*
 19 *281.160.] The rural manpower services advisory council may request the*
 20 *services of consultants to appear at meetings or conduct research, pro-*
 21 *vided the funds to pay such consultants are made available by the employ-*
 22 *ment security department on approval of the director. Members of the*
 23 *rural manpower services council shall be paid at the rate of \$40 per day*

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 201

SENATE BILL NO. 201—SENATORS NEAL, BLAKEMORE,
BRYAN, ECHOLS, FOOTE, SHEERIN AND WALKER

FEBRUARY 14, 1975

Referred to Committee on Commerce and Labor

SUMMARY—Provides for creation of industrial development corporations.
Fiscal Note: No. (BDR 55-764)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is
material to be omitted.

AN ACT providing for the organization of industrial development corporations; providing the powers of such corporations; providing for regulation of such corporations; providing that such corporations shall be state development companies as defined in the Small Business Investment Act of 1958; authorizing banks to invest in such corporations; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Title 55 of NRS is hereby amended by adding thereto
2 a new chapter to consist of the provisions set forth as sections 2 to 31,
3 inclusive, of this act.
- 4 SEC. 2. As used in this chapter, unless the context otherwise requires,
5 the words and terms defined in sections 3 to 7, inclusive, of this act
6 have the meanings ascribed to them in such sections.
- 7 SEC. 3. "Board of directors" means the board of directors of a corpo-
8 ration created under this chapter.
- 9 SEC. 4. "Corporation" means a Nevada industrial development cor-
10 poration created under this chapter.
- 11 SEC. 5. "Financial institution" means any banking corporation or
12 trust company, savings and loan association, insurance company or
13 related corporation, partnership, foundation or other institution engaged
14 primarily in lending or investing funds.
- 15 SEC. 6. "Loan limit" means the maximum amount permitted to be
16 outstanding for any member at one time on loans by such member to a
17 corporation as determined under the provisions of this chapter.
- 18 SEC. 7. "Member" means any financial institution authorized to do
19 business within this state which undertakes to lend money to a corpora-
20 tion created under this chapter, upon its call and in accordance with the
21 provisions of this chapter.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 700

 ASSEMBLY BILL NO. 700—ASSEMBLYMEN ROBINSON,
 WITTENBERG AND DREYER

APRIL 21, 1975

Referred to Committee on Commerce

 SUMMARY—Requires local governments to provide licensing and regulating of
 farmers' markets. Fiscal Note: No. (BDR 50-1048)

 EXPLANATION.—Matter in *italics* is new; matter in brackets [] is
 material to be omitted.

 AN ACT relating to farmers' markets; authorizing local governments to provide by
 ordinance for the licensing and regulating of such markets; establishing certain
 duties for the licensee; and providing other matters properly relating thereto.

1 WHEREAS, Farmers' markets serve in many parts of the United States
 2 as a means for consumers to purchase the freshest farm products directly
 3 from producers, thus saving handling and processing costs and enabling
 4 producers to market many items that cannot profitably be disposed of
 5 through wholesale and commodity operations; and

6 WHEREAS, The battle against inflation and recession would both be
 7 aided by lower food prices to consumers and higher profits for farmers;
 8 and

9 WHEREAS, Traditional business licensing of individual vendors is unrea-
 10 sonably burdensome upon occasional or irregular vendors; now, therefore,

11 *The People of the State of Nevada, represented in Senate and Assembly,*
 12 *do enact as follows:*

13
 14
 15 SECTION 1. Chapter 244 of NRS is hereby amended by adding
 16 thereto the provisions set forth as sections 2 to 4, inclusive, of this act.

17 SEC. 2. 1. *As used in sections 2 to 4, inclusive, of this act, unless*
 18 *the context otherwise requires:*

19 (a) "Farmers' market" means a place of business where the actual pro-
 20 ducer of farm products can bring the products for direct sale to consumers.

21 (b) "Farm products" has the meaning ascribed to it in subsection 9 of
 22 NRS 576.010.

23 2. *A farmers' market may be organized by a person, firm, association*
 24 *or corporation for the purpose of renting space to the producers of farm*
 25 *products.*