

MINUTES

ASSEMBLY COMMERCE COMMITTEE

APRIL 29, 1977

MEMBERS PRESENT

Chairman Harmon
Vice Chairman Mello
Mr. Barengo
Mr. Demers
Mrs. Hayes
Mr. Price
Mr. Sena
Mr. Weise

MEMBERS ABSENT

Mr. Moody

GUESTS PRESENT

Ken Sharigian, Nev. Psychological Assn.
Louis Beermann, Nev. Psychological Assn.
David R. Hoy, Nev. State Board of Professional Engrs.
Mike Melner, Department of Commerce
Assemblyman Darrell Dreyer

The meeting was called to order at 3:30 p.m. by Vice Chairman Mello.

Senate Bill 448

Dr. Ken Sharigian, Nevada Psychological Association, stated that S.B. 448 was essentially an amendment to the insurance code and provides that an insured under a health policy may be reimbursed for treatment by a psychologist under certain circumstances. Dr. Sharigian said the Association calls this "freedom of choice legislation" since it allows a person to choose between a psychologist or a licensed physician for services covered in an insurance policy.

Louis Beermann, also representing the Nevada Psychological Association, stated that he also supports S.B. 448.

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Milos Terzich, representing the Health Insurance Association of America, said that in the Senate he proposed some amendments which were agreed to by the Health Insurance Association and the American Psychological Association. There are industrial psychologists and other types of psychologists who just do testing and it is not related to health care. Mr. Terzich submitted amendments (Exhibit 1) and stated if they were not accepted the Health Insurance Association would recommend that the bill be killed and perhaps something could be worked out next session.

COMMITTEE ACTION

Senate Bill 448: Mr. Mello moved to Indefinitely Postpone, Mr. Sena seconded. Motion carried. Mr. Demers and Mr. Moody not present.

Assembly Bill 739

Assemblyman Dreyer said he introduced this bill by request of a merchant in Las Vegas who feels that in many ways he has been harassed by the Commerce Department. A complaint was filed by the Consumer Affairs Division after the merchant and the consumer had reached a settlement. This is contrary to what was brought up in A.B. 301 two years ago. Mr. Dreyer described the new sections added in A.B. 739. This bill is designed to protect the businessmen from being harassed by the Consumer Affairs Division.

Mike Melner, State Commerce Director, appeared in opposition to A.B. 739. A verbatim statement of Mr. Melner is attached as Exhibit 2.

Rusty Nash, Washoe County District Attorney's office, said he would echo Mr. Melner's sentiments. They are opposed to A.B. 739.

Senate Bill 450

Dr. Ken Sharigian, Nevada Psychological Association, stated that this bill proposes amendments to the present psychology certification law and described those changes. Dr. Sharigian said if the Committee is interested in passing S.B. 450, the Nevada Psychological Association would propose an amendment (Exhibit 3), which is basically a grandfather clause.

Mr. Weise stated that the definitions seemed broad, such as the definition of the practice of psychology. Dr. Sharigian also explained the intent of Section 10 to Mr. Price. He also told Mr. Price that there are about 50 psychologists licensed in the State of Nevada, 10 or 15 of which are in private practice with the balance in public practice. Mr. Barengo asked how many would be grandfathered in under the amendment. Dr. Sharigian answered it would be about 20.

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Mr. Mello asked what would happen if S.B. 450 were not passed. Dr. Sharigian answered that things would continue as they do presently and there would be a dual standard of psychologists between public and private practice.

Senate Bill 465

Tom Beatty, Assistant District Attorney for Clark County, stated that this bill is patterned upon a Kentucky statute which has been upheld. Senator Wilson had asked for an opinion as to the constitutionality of this bill from Mr. Daykin, Legislative Counsel, and a copy of Mr. Daykin's opinion is attached as Exhibit 4. Mr. Beatty said the bill would preclude a bondsman from giving a political contribution to those two persons who regulate him and declare his forfeitures, prosecutors and judges. Judges may not now accept such contributions, but the enforcement procedure is not the best at this time. This bill would give considerable support to the public in feeling that matters in their criminal justice system are on the up and up. Bondsmen should not be subjected to pressure from candidates seeking office when those candidates, prosecutors and judges, regulate the bondsmen.

Larry Hicks, Washoe County District Attorney, also appeared in support of S.B. 465. Mr. Hicks said that the District Attorney's Association felt that this legislation was needed.

Mr. Price said he felt there were very few campaign contributions that the public does not question and asked why bail bondsmen were being singled out in this bill. Mr. Beatty said it was a critical area that was increasingly under public observation and criticism. There have also been recent events in Clark County that do not help the public attitude. Mr. Beatty also said the key distinction is the financial impact that the court has upon bail bondsmen.

COMMITTEE ACTION

Senate Bill 465: Mr. Price moved to Indefinitely Postpone, seconded by Mr. Sena. Motion passed. Voting yes: Price, Sena, Barengo, Mello, Harmon. Voting no: Hayes and Weise. Mrs. Hayes stated that she had a conflict of interest and was voting anyway.

Senate Bill 429

David Hoy, representing the State Board of Registered Professional Engineers, said this is primarily a house cleaning bill in the engineers act and explained the various provisions contained in S.B. 429. Mr. Hoy knows of no opposition and said that it had the blessing of the Nevada State Society of Professional Engineers. Mr. Weise asked if there was any reason why the individual had to

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be 21 years old. Mr. Hoy said he thought it was because 4 years of college was required or 4 years experience in the field. It is a kind of arbitrary cutoff and most people aren't going to be through college before they are 21.

COMMITTEE ACTION

Senate Bill 429: Mr. Sena moved Do Pass, seconded by Mr. Price. Motion carried unanimously. Mr. Moody and Mr. Demers not present.

Assembly Bill 739: Mr. Weise moved Indefinitely Postpone, seconded by Mr. Barengo. Motion carried unanimously. Messrs. Moody and Demers not present.

Senate Bill 450: Mr. Weise moved Indefinitely Postpone, seconded by Mr. Mello. Mr. Weise explained he was making this motion because he felt that anyone who has a degree in psychology, while they may not be holding themselves out as a professional psychologist, should be entitled to say that they are. He further felt the bill seemed sweeping and broad. Motion to indefinitely postpone carried. Moody and Demers not present.

Assembly Bill 708: Mr. Weise stated that one of the problems in this bill was the deletion of some language on page 3 and he would like for the committee to ask for this amendment. Chairman Harmon told Mr. Weise to obtain the amendment for the committee's consideration.

Assembly Bill 601: Mr. Weise moved Do Pass without recommendation, seconded by Mr. Mello. Motion carried. Moody and Demers not present.

The meeting was adjourned at 4:30 p.m.

Jane Dunne
Assembly Attache

AMENDMENTS TO S.B. 448

Submitted by Milos Terzich representing Health Insurance Association of America.

Delete Lines 3 through 6 and insert in their place and stead as follows:

1. If any policy provides coverage for treatment of illness which is within the permitted scope of the practice of a qualified psychologist, the insured is entitled to ~~reimbursement~~ reimbursement.

2. As used in Subsection 1, a qualified psychologist means:

(a) A person who has been certified by this state as a psychologist;

(b) Has received a doctorate in psychology approved by the Board of Pshychological Examiners; and

(c) Has at least two years of clinical experience in an organized health setting.

COMMERCE COMMITTEE - April 29, 1977

MIKE MELNER: I'm Mike Melner, State Commerce Director. This is, I think, a very anti-consumer piece of legislation. I don't think that the Consumer Affairs Division has in fact harrassed anybody; sometimes merchants get unhappy when you attempt to investigate a claim, when you attempt to prosecute a case. I think one of the things the Department has tried to do is to be very, very careful regarding that kind of conduct. This bill would cause all sorts of problems in the effective use of the deceptive trade practices act, as it now exists. The first thing we can point out is that we have never jointly prosecuted or caused any deliberate manipulation with the D.A.'s office and the Attorney General's office to go after in tandem an individual with separate cases. I think one of the things we find in section 2 would be that fixing of attorney's fees generally exists in a court anyway. If you fix them against the state, it's going to cost the taxpayers money. In that case, you have to act reasonably, you have to presume that the division is going to act reasonably and responsibly. I think the division has in this case. In section 6, part 2, the division has never had the authority to give legal advice and in fact does not give legal advice. The commissioner, when he turns a case down, always advises someone of the reasons for turning a case down. To have him stop at that point would be destructive of the rights of individuals. Generally the kind of advice he's giving is, you have to seek private counsel, you have to see a private attorney, you have to do something with someone else. As far as section 7, this is merely re-enacting the Nevada Rules of Civil Procedure as they now exist in a somewhat muddled fashion, and I don't think that this committee wants to change the Nevada Rules of Civil Procedure for a single statute. One of the things that I would also like to point out is that this would cost twice as much in time and money because there is a duplication of proceedings; I think this forces a hearing before the commissioner of consumer affairs, which is an additional hearing that doesn't exist in the statutes now. I don't think we need to duplicate the work we are doing. The thing that would concern us most is that both the District Attorney and the Attorney General, on behalf of the consumer affairs division are told they cannot bring an action is there has been a settlement. What happens in this kind

Exhibit 2, page 1

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2.

of case is that a settlement is made with the one guy who complains and the practice goes on, and it goes on and on with all sorts of other people and maybe we don't catch all the complainants. And what we have got to do is even if they settle the one case, there are times in which you have to stop the practice. You have got to trust the division. The division has been responsible in that regard. Generally, when we have a complaint and somebody settles, we don't prosecute. If we have a complaint and someone settles, and they do it again and they settle and they do it again and they settle, and they do it again a whole bunch of times and they settle with a few people, then you make a case. And I think the language here is unclear, if they settle once could we make a case on any other violations. We are obviously very much opposed to this kind of legislation. I think the consumer affairs division is one of the divisions of the department that is acting responsibly and we would ask that this legislation not be passed. It's very anti-consumer; I think it would make the enforcement of consumer legislation--the good consumer legislation that we have--very, very difficult, if not impossible in certain instances.

SENATE BILL 450 AMENDMENTS

RECOMMENDED BY THE NEVADA PSYCHOLOGICAL ASSOCIATION

Page 4, section 3, lines 28-31, delete the section and replace with:

"Waiver of examination, granting licenses as psychologists to certain applicants.

1. The board shall waive examination and grant a license as a psychologist to any applicant who:

(a) has applied in writing to the board no later than July 1, 1978;

(b) is a resident of the state and who has been principally employed by a public agency in this state as a psychologist or in a psychological position for at least one year prior to July 1, 1978;

(c) is at least 21 years of age;

(d) is of good moral character;

(e) has received a doctorate in psychology from an educational institution approved by the board;

(f) has at least one year post-doctoral experience satisfactory to the board;

(g) provides evidence that he has performed at a satisfactory level in his position as deemed by his employing agency; and

(h) pays to the board the licensure fee required in this chapter.

2. All professional experience considered qualifying by the board shall have accumulated no later than July 1, 1978.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



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Arthur J. Palmer, *Director, Secretary*

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April 17, 1977

Senator Thomas R. C. Wilson
Chairman of the Committee on
Commerce and Labor
Legislative Building
Carson City, Nevada 89710

Dear Senator Wilson:

You have requested an opinion upon the constitutionality of Senate Bill No. 465, now before your committee. This bill would prohibit persons engaged in the business of furnishing bail bonds from contributing to support or oppose a candidate for:

- (1) Justice of the supreme court;
- (2) District judge;
- (3) Justice of the peace;
- (4) Municipal or police judge;
- (5) Attorney general;
- (6) District attorney; or
- (7) City attorney.

The argument which would presumably be urged against the bill is that it would interfere with the bail bondsman's right of political expression or association. See Buckley v. Valeo, 96 S.Ct. 612 (1976).

As to the offices numbered (1) to (4), inclusive, the question may be moot. Supreme Court Rule 237 restrains any judge from accepting "presents or favors from * * * [persons] whose interests are likely to be submitted to him for judgment." Bail bonds are approved, and their forfeiture in appropriate cases is declared, by judges. It is difficult to believe that the supreme court would hold it unconstitutional for the legislature to forbid a donor to give what the court has forbidden the donee to receive.

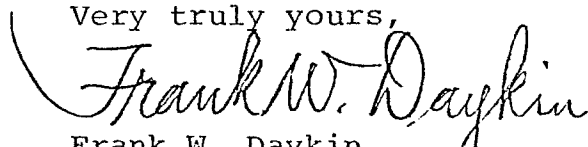
Exhibit 4, Page 1

Senator Thomas R. C. Wilson
April 17, 1977
Page 2

As to the offices numbered (5), (6) and (7), the case is less clear but similar reasoning should apply. A bail bondsman deals primarily with persons accused of crime; the named officers prosecute, or perhaps dismiss charges against, those same persons. It is unnecessary to labor the point that a bail bondsman who was, or was believed to be, able to influence the prosecution would not lack customers. The Supreme Court of the United States has generally permitted even what it deems fundamental freedoms to be narrowly curtailed to serve a compelling state interest. There is probably no state interest more compelling than the administration of criminal justice without taint (or appearance) of corruption.

In the Buckley case, the limitations upon campaign contributions, some of which were sustained and some rejected, all applied equally to all potential contributors. This statute applies only to a narrow class of potential contributors, and to them only as to those offices with respect to which their exercise of a right to contribute could reasonably be expected to affect adversely the administration of criminal justice. This seems to distinguish Buckley, and to leave S.B. 465 presumably constitutional.

Very truly yours,


Frank W. Daykin
Legislative Counsel

FWD:jll

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 29, 1977

SUBJECT S.B. 448

MOTION: _____

Do Pass _____ Amend _____ Indefinitely Postpone Reconsider _____

Moved by Mr. Mello Seconded by Mr. Sena

AMENDMENT _____

Moved by _____ Seconded by _____

AMENDMENT _____

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	x	---	---	---	---	---
Mello	x	---	---	---	---	---
Barengo	x	---	---	---	---	---
Demers	Not present		---	---	---	---
Hayes	x	---	---	---	---	---
Moody	Not present		---	---	---	---
Price	x	---	---	---	---	---
Sena	x	---	---	---	---	---
Weise	x	---	---	---	---	---

TALLY:

Original Motion: Passed Defeated _____ Withdrawn _____

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 29, 1977
Date

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 29, 1977

SUBJECT S.B. 465

MOTION: _____

Do Pass Amend Indefinitely Postpone Reconsider

Moved by Mr. Price Seconded by Mr. Sena

AMENDMENT _____

Moved by _____ Seconded by _____

AMENDMENT _____

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	x	_____	_____	_____	_____	_____
Mello	x	_____	_____	_____	_____	_____
Barengo	x	_____	_____	_____	_____	_____
Demers	Not present		_____	_____	_____	_____
Hayes	_____	x	_____	_____	_____	_____
Moody	Not present		_____	_____	_____	_____
Price	x	_____	_____	_____	_____	_____
Sena	x	_____	_____	_____	_____	_____
Weise	_____	x	_____	_____	_____	_____

TALLY: 5 2

Original Motion: Passed Defeated Withdrawn

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 29, 1977
Date

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 29, 1977

SUBJECT S.B. 429

MOTION: _____

Do Pass Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved by Mr. Sena Seconded by Mr. Price

AMENDMENT _____

Moved by _____ Seconded by _____

AMENDMENT _____

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	<u>x</u>	_____	_____	_____	_____	_____
Mello	<u>x</u>	_____	_____	_____	_____	_____
Barengo	<u>x</u>	_____	_____	_____	_____	_____
Demers	<u>Not present</u>	_____	_____	_____	_____	_____
Hayes	<u>x</u>	_____	_____	_____	_____	_____
Moody	<u>Not present</u>	_____	_____	_____	_____	_____
Price	<u>x</u>	_____	_____	_____	_____	_____
Sena	<u>x</u>	_____	_____	_____	_____	_____
Weise	<u>x</u>	_____	_____	_____	_____	_____

TALLY:

Original Motion: Passed Defeated _____ Withdrawn _____

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 29, 1977
Date

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 29, 1977

SUBJECT A.B. 739

MOTION: _____

Do Pass Amend Indefinitely Postpone Reconsider

Moved by Mr. Weise Seconded by Mr. Barengo

AMENDMENT _____

Moved by _____ Seconded by _____

AMENDMENT _____

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	<u>x</u>	_____	_____	_____	_____	_____
Mello	<u>x</u>	_____	_____	_____	_____	_____
Barengo	<u>x</u>	_____	_____	_____	_____	_____
Demers	<u>Not present</u>		_____	_____	_____	_____
Hayes	<u>x</u>	_____	_____	_____	_____	_____
Moody	<u>Not present</u>		_____	_____	_____	_____
Price	<u>x</u>	_____	_____	_____	_____	_____
Sena	<u>x</u>	_____	_____	_____	_____	_____
Weise	<u>x</u>	_____	_____	_____	_____	_____

TALLY:

Original Motion: Passed Defeated Withdrawn

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 30, 1977
Date

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 29, 1977

SUBJECT S.B. 450

MOTION: _____

Do Pass Amend Indefinitely Postpone Reconsider

Moved by Mr. Weise Seconded by Mr. Mello

AMENDMENT _____

Moved by _____ Seconded by _____

AMENDMENT _____

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	x	---	---	---	---	---
Mello	x	---	---	---	---	---
Barengo	x	---	---	---	---	---
Demers	Not present		---	---	---	---
Hayes	x	---	---	---	---	---
Moody	Not present		---	---	---	---
Price	x	---	---	---	---	---
Sena	x	---	---	---	---	---
Weise	x	---	---	---	---	---

TALLY:

Original Motion: Passed Defeated Withdrawn

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 29, 1977
Date

59TH NEVADA LEGISLATURE

COMMERCE COMMITTEE
LEGISLATIVE ACTION

DATE April 29, 1977

SUBJECT A.B. 601

MOTION: Do Pass Without Recommendation

Do Pass Amend Indefinitely Postpone Reconsider

Moved by Mr. Weise Seconded by Mello

AMENDMENT _____

Moved by _____ Seconded by _____

AMENDMENT _____

Moved by _____ Seconded by _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Harmon	x	---	---	---	---	---
Mello	x	---	---	---	---	---
Barengo	x	---	---	---	---	---
Demers	Not present		---	---	---	---
Hayes	x	---	---	---	---	---
Moody	Not present		---	---	---	---
Price	x	---	---	---	---	---
Sena	x	---	---	---	---	---
Weise	x	---	---	---	---	---

TALLY:

Original Motion: Passed x Defeated Withdrawn

Amended & Passed Amended & Defeated

Amended & Passed Amended & Defeated

Attach to Minutes April 29, 1977
Date