

SENATE
COMMERCE & LABOR
COMMITTEE

Minutes of Meeting
Monday, February 28, 1977

The meeting of the Commerce and Labor Committee was held on Monday, February 28, 1977, at 1:35 P.M.

Senator Thomas Wilson was in the chair.

PRESENT: Senator Wilson ALSO PRESENT: See Attached List
 Senator Blakemore
 Senator Young
 Senator Close
 Senator Ashworth
 Senator Bryan
 Senator Hernstadt

The committee considered the following:

S. B. 59 LIMITS POWER OF LOCAL GOVERNMENTS TO ISSUE CONTRAC-
TOR'S LICENSES (BDR 54-477)

The committee heard Mr. Bob Warren of the Nevada League of Cities report on the reaction of the cities to S.B. 59.

Mr. Warren stated he sent the bill out again with questions suggested by the committee: (1) If this were to apply to a city, should the city have the responsibility of validating credentials before issuing a business license and (2) if they are checking to see if this was done.

Approximately 80% of the cities responded in support of this legislation. They recognize that it is a State law now, and the Attorney General's opinion has been issued to the effect that the cities and counties must make an effort to determine if a party who applies for a business license is indeed a qualified contractor. Most of them ask to see the contractor's number. They do not follow through any further to determine whether it is fraudulent or purchased or stolen. They do not feel that they should have to follow through, and act as a police force for the Contractor's Board.

The City of Sparks responded that they are issuing business licenses if a person comes in. If they are not able to demonstrate that they hold a contractor's license, the business license is issued anyway, since the Attorney General's office pointed out this is for the purpose of getting revenue. They send a copy of the license, with a notation, to the Contractor's Board, stating that the person has a business license to contract in that city, does not have a contractor's license, and it is their responsibility to follow up.

Mr. Max Christiansen from Las Vegas, stated that if a general contractor or anyone does air conditioning, plumbing or electrical work without first qualifying at the State Contractor's Board Level, he feels this is a very dangerous position for the public. Explained to the committee the working ordinances in Clark County and asked that they reconsider this bill.

S. B. 123

AUTHORIZES DIRECTOR OF COMMERCE TO APPOINT HEARING OFFICERS (BDR 18-225)

The first witness was Mr. Mike Melner, who stated he felt the bill is necessary to legitimize a process that is already in use.

At this point in the hearing Mr. Melner was joined by Messrs. Daykin and Edmondson.

SENATOR WILSON asked what kind of cases, and within what divisions of the department, he was appointing hearing officers. Mr. Melner indicated that he himself was hearing some, as well as insurance, banking -collection agency matters, fire marshall - on mobile home matters. Stated he never had to be in real estate division because real estate has a separate hearing body. Would not want to do this unless requested by the agency involved.

Mr. Daykin stated if the authority of the director is limited in Section 1 of the bill, then it would be unnecessary to repeat that phrase at every point.

Mr. Melner told the committee he had appointed hearing officers about four or five times a year and wouldn't do it any more or any less. Further, if they had a division chief who is acting as hearing officer, and is disqualified, he tries to appoint someone from the department level, or on occasion, appoint other division chiefs.

SENATOR BRYAN asked if there is a disqualification mechanism in the law at this time. Mr. Bob Edmondson answered that 233B has one that is fairly effective.

SENATOR WILSON asked if under 233B the findings of the hearing officer would be binding to the division chief, or whoever has the jurisdiction to make the decision. Mr. Daykin stated that if the hearing officer's decision is treated as the final administrative decision, which he thinks it would be here, with the division chief disqualified, then it is subject to judicial review in the ordinary way.

The next witness was Mr. Bill Cozart, Nevada Assn. of Realtors, who offered an amendment to S.B. 123. (copy attached) The language, he said, makes it clear that the hearing officer is appointed by the director at the request of the commission by a majority vote, and also, that findings and recommendations of the hearing officer in cases where they are appointed are reported to the commission for its review and action.

Mr. Cozart advised the findings of the hearing officer or hearing officer panel is not to be binding on the advisory commission. Basically, they would like it to be that the hearing officer would report his findings of the fact, and his recommendations for action to the advisory commission, but the final action would be the advisory commission's.

Mr. Daykin explained the thrust of the bill is to permit the director to appoint a hearing officer where the division chief would himself be disqualified from hearing the matter. In that case, the decision of the hearing office would have to be final, because there would be no higher authority within the division which could just take a recommendation and make a decision. He would be appointing the hearing officer in place of the division chief. In the real estate division situation, if the real estate advisory commission itself appointed a hearing officer, then that hearing officer would be only to gather facts for their convenience and report to them. Where in the basic situation, that the hearing officer was appointed because of disqualification of the agency head, the hearing officer's decision would have to be the administrative decision. He further stated that was the reason for his suggestion that if the committee wanted the other procedure here,

just take out section 2 and let the bill apply to the other divisions who do not have an advisory commission sitting to one side with the expertise and disinvolvement.

Mr. Melner stated all were not disinvolved. Some are being sued in their individual capacity in the real estate commission.

Mr. Edmondson stated that assuming there are more and more of these lawsuits against them individually, if they were all five sued individually, and then that person were to come in front of the committee afterward, they would have to disqualify themselves under the constitutional interpretations that have been coming down. Mr. Melner, he said, is saying that they would like to have the ability for the commission to appoint someone to make that decision in the event they too were disqualified. Under further questioning, he stated he did not know how they would handle the situation if the entire commission were being sued and the attorneys questioned the fundamental authority of the commission to sit as they are representatives of the industry.

SENATOR YOUNG was told there are no rules for disqualification at this time.

S. B. 109

REQUIRES DESIGNATION OF BENEFICIARY OF MOTOR VEHICLE INSURANCE SURVIVOR'S BENEFITS (BDR 57-293)

Mr. Frank Daykin was the first witness. He stated this relies upon the insured designating his beneficiary and if he failed to do so, you would have something equivalent to an intestate - what you are then saying is that in the event of that situation, you want what are now the survivors designated under 12090 to be the beneficiaries.

Under present law, he said, survivor means a person identified in 12090 as one entitled to receive benefits by reason of the death of another person. That is, it is that person or class of persons who now has an action for wrongful death.

He believes it would be better to fall back on the intestate succession rather than 12090.

Mr. Daykin was instructed by the committee to prepare an amendment with the following succession:

Designated beneficiary
Community property
Will of deceased
Intestate succession

All the passengers in the vehicle would come under the same situation as the insured if they failed to designate a beneficiary. If there were no relatives surviving, you still have taken care of it by virtue of the common law that if there are no heirs, the estate escheats to the State of Nevada.

Senator Close indicated that on lines 4 and 5, it should be each NAMED insured.

The next witness was Mr. Stan Warren of Nevada Bell, accompanied by Mr. Virgil Anderson of AAA. They submitted an amendment worked out with SENATOR SHEERIN. A copy of this amendment is attached for your information. Section 3 would be stricken.

SENATOR YOUNG asked Mr. Anderson when the search period for a survivor would end. Mr. Anderson indicated the statute of limitations on a contract is six years; he thought that would apply here.

Next was Mr. Daryl Cappuro, Nevada Motor Transport Assn. and Nevada Franchised Auto Dealers Association. He stated the company is the insured in his case. Asked that if the committee intended to leave the designated beneficiary language that it exclude the commercial or fleet operations, otherwise he supported the language worked out with SENATOR SHEERIN.

SENATOR CLOSE indicated that he believed the NAMED INSURED would solve the problem for Mr. Capurro.

Mr. Daykin stated the Capurro matter was a matter of policy - that in fixing the succession you wipe out the option.

Virgil Anderson reminded the committee that besides the commercial transport groups there were also the passenger fleets to be considered - again the company is the named insured.

SENATOR SHEERIN appeared before the committee also with his amendment.

S. B. 170 REVISES PROVISIONS ON OCCUPATIONAL SAFETY AND
HEALTH (BDR 53-221)

Mr. Ralph Langley indicated there were three major sections of the bill that had not been resolved.

Section 6 - all that is done is add "has authority over working conditions regarding safety and health standards". Just a clarification of that jurisdiction - line 36.

On page 1, line 2 SENATOR CLOSE inquired as to the length of time for notification of an opening. He was advised that it is already in the rules and regulations that have been adopted.

Section 7 - Mr. Langley indicated he had rewritten this whole section. Page 4 - line 4 through 8 - NRS618.367 "Each employer is entitled to access to any records in the possession of the department which concern such employer. If any such records contain the names of employees who have submitted complaint notices or made statements to the department concerning such employer, the department shall protect the identify of such employees".

Mr. Langley stated the Federal point of view was that if names were not held confidential they would lose their sources - employees would not come forward.

Sections 8, 9, 10 and 11 are being rewritten to direct a variance at either a permanent variance or request of an employer or in the case of section 11, to grant a temporary order on a standard which has not become effective. The committee had some difficulty with the temporary and permanent variance.

Stan Warren stated he opposes the bill as it relates to Section 11. Submitted an amendment earlier to the committee - line 10 would remove "but has not become effective" and on line 14 - "by its effective date" and on line 17 would strike "that date" and put in "a future date".

SENATOR CLOSE suggested for section 8, line 13 - " a permanent or temporary variance". Stan Warren agreed with Senator Close's suggestion for section 8, line 13 and would leave section 11 as is.

Bob Alkins, Kennecott Copper, discussed shutdowns. Stated if you have a temporary shutdown, but by law have to call it permanent, you could be required to pay terminal benefits.

S. B. 124 AMENDS PROVISIONS REGULATING MORTGAGE COMPANIES
(BDR 54-268)

First witnesses were Messrs. Les Goddard and Bob Edmondson. SENATOR WILSON asked what alternatives if any these men had on the bill.

Mr. Edmondson referred to the exemption section and asked if there were some way to change subsection 6 in 645B190 or flat exemption as recommended in 1973.

Mr. Goddard stated he had checked the California law and found that anyone who proposes to take a fee involving a mortgage is a real estate broker and must take real estate broker license exams and qualify as same. - Anyone who comes in with an advance fee has to be a broker and then he is subject to penalties, criminal and civil, for violations of those things.

Further, he asked California how they handled the mortgage aspect and they indicated they have a separate division for this.

Mr. Edmondson stated that in some other states they have what is called the "single transaction" exemption for real estate brokers. He had researched it from Nevada's standpoint and did not find it acceptable, but perhaps there was something the committee would be interested in - you do one transaction in a given year and are exempted.

SENATOR BRYAN asked if some type of bunko statute would solve the problem of people ripping off advance fees. Mr. Goddard replied that it would help in that area, but he was not solely involved with that.

At various times through the meeting SENATORS CLOSE, BRYAN AND YOUNG asked what the other problems were that the division was experiencing. Nothing firm was ever offered in response to this direct question.

SENATOR CLOSE questioned Mr. Edmondson about advertising by word of mouth. Mr. Edmondson indicated that his interpretation was that there is nothing that excluded oral statements. The thrust of his opinion, he said, was directed toward TV and radio. On word of mouth he meant going door to door - a question of degree. Later in testimony Mr. Edmondson agreed that line 44 was a Catch 22 and agreed with the committee on the advertising definition.

Mr. Goddard told SENATOR BLAKEMORE they have licensed 62 under this bill. He did not think the passage of the new bill would expand that figure.

Mr. Bill Cozart of Nevada Real Estate Association, reaffirmed Mr. Bowers testimony before the committee previously on S. B. 124.

CHAIRMAN WILSON told Mr. Capurro that S. B. 137 would not be discussed in committee today, as amendments were being prepared for consideration and were not ready.

ADMINISTRATIVE MEETING

S. B. 124 AMENDS PROVISIONS REGULATING MORTGAGE COMPANIES
(BDR 54-268)

Motion was made to indefinitely postpone S. B. 124 by Senator Ashworth.

Seconded by Senator Blakemore.

Vote was unanimous.

Senators Close and Hernstadt were appointed as a subcommittee to draw a new bill.

S. B. 109 REQUIRES DESIGNATION OF BENEFICIARY OF MOTOR VEHICLE
INSURANCE SURVIVOR'S BENEFITS (BDR 57-293)

Section 1 stricken.

Section 3 to be amended according to guidelines set by committee with Mr. Frank Daykin. Escheat to Insurance Commissioner for regulating insurance companies.

Motion made to amend and pass by Senator Close.

Seconded by Senator Bryan.

Vote was to pass 6 to 1; Senator Blakemore voting kill.

S. B. 170 REVISES PROVISIONS ON OCCUPATIONAL SAFETY AND
HEALTH (BDR 53-221)

Section 1 satisfactory.

Section 7 to amend at top of page 4 to take out "or made statements".

Section 8 to amend per amendment offered by Stan Warren. Section 8, paragraph 2, page 4, should read "Any affected employer may apply to the director for a rule or order for a temporary variance from a standard adopted under this chapter. The application shall pertain to requirements of subsection 2, section 11".

Section 9 satisfactory.

Section 11 satisfactory - leave in "but has not become effective".

Senator Ashworth moved to amend and do pass.

Senator Blakemore seconded.

Vote unanimous.

S. B. 123 AUTHORIZES DIRECTOR OF COMMERCE TO APPOINT HEARING OFFICERS (BDR 18-225)

Senator Bryan moved to indefinitely postpone.

Senator Ashworth seconded the motion.

Vote unanimous.

Senator Bryan will make a bill request on behalf of the committee.

S. B. 137 LIMITS INSURER'S RIGHTS OF SUBROGATION UNDER MOTOR VEHICLE INSURANCE ACT (BDR 57-321)

Amendments are not ready - hold up on this until they are.

S. B. 5, 11,
59, 127,
129

Senator Wilson stated that the first five bills on the agenda (S.B. 5, 11, 59, 127, and 129) were put on to review amendments. Asked committee to allow him to review them and the committee would not have to go through them at this time.

S. B. 59 LIMITS POWER OF LOCAL GOVERNMENTS TO ISSUE CONTRACTOR'S LICENSES (BDR 54-477)

Mr. Richard Bunker of the City of Las Vegas told the committee that it had been the position of the City all along, particularly the manager, that this remain the same - that is, where they have the ability to require a Master electrician or plumber rating. He was unable to furnish any rationale for this.

S. B. 11 EXTENDS DEFINITION OF CASUAL EMPLOYMENT (BDR 53-288)

Chairman Wilson indicated that Mr. Reiser had some amendments to bill. Committee agreed to hold until he submits them.

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BDR 1064 SENATE CONCURRENT RESOLUTION - REQUESTING THE LEGISLATIVE ADVISORY BOARDS TO THE EMPLOYMENT SECURITY DEPARTMENT AND THE NEVADA INDUSTRIAL SECURITY DEPARTMENT AND THE NEVADA INDUSTRIAL COMMISSION TO UNDERTAKE A STUDY OF LABOR-MANAGEMENT RELATIONS IN PRIVATE ENTERPRISE AND DEVELOP A PLAN TO AVERT OR RESOLVE SERIOUS LABOR DISPUTES.

Senator Ashworth objected to introduction.

Introduction refused.

BDR 54-917 AN ACT RELATING TO PROFESSIONS, OCCUPATIONS AND BUSINESS; PROVIDING FOR CONTRACTS FOR PROFESSIONAL SERVICES ON A PREPAID BASIS; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

Senator Ashworth objected to introduction.

Introduction refused.

BDR 53-955 AN ACT RELATING TO LABOR AND INDUSTRIAL RELATIONS; PROVIDING LICENSING OF ENTERTAINMENT AGENCIES; PROVIDING FOR PROCEDURES FOR OBTAINING LICENSES AND PENALTIES FOR VIOLATIONS AND FOR OPERATING WITHOUT A LICENSE; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

Objection to introduction by Senator Ashworth.

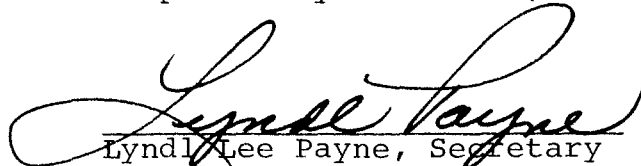
Introduction refused.

The meeting was adjourned by the following quotation from Senator Ashworth:

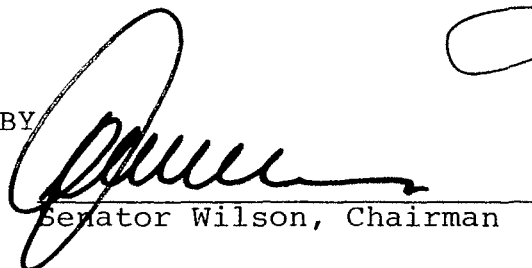
The kindest feelings may vanish and the best resolve may be forgotten, but the influence of a good deed honestly and promptly performed will continue forever.

Meeting adjourned 5:30 P.M.

Respectfully submitted,


Lyndle Lee Payne, Secretary

APPROVED BY


Senator Wilson, Chairman

SENATE

AGENDA FOR COMMITTEE ON.....
 Monday.....
 Date Feb. 28, 1977 Time 1:30 P.M. Room 213

COMMERCE & LABOR

Bills or Resolutions
to be considered

Subject

Counsel
requested*

- | Bills or Resolutions
to be considered | Subject | Counsel
requested* |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| S. B. 5 | Requires acceptance of time deposit certificates from employers as substitute for cash payment of industrial insurance premiums (BDR 53-219) | |
| S. B. 11 | Extends definition of casual employment (BDR 53-288) | |
| S. B. 59 | Limits power of local governments to issue contractor's licenses (BDR 54-477) | |
| S. B. 127 | Changes provisions concerning Nevada insurance guaranty association (BDR 57-483) | |
| S. B. 129 | Increases minimum limits of mandatory motor vehicle liability insurance and requires insurers to offer new type of liability coverage (BDR 43-287) | |
| S. B. 137 | Limits insurer's rights of subrogation under Motor Vehicle Insurance Act (BDR 57-321) | |
| S. B. 123 | Authorizes director of commerce to appoint hearing officers (BDR 18-225) | |
| S. B. 170 | Revises provisions on occupational safety and health (BDR 53-221) | |
| S. B. 109 | Requires designation of beneficiary of motor vehicle insurance survivor's benefits (BDR 57-293) | |
| S. B. 124 | Amends provisions regulating mortgage companies (BDR 54-268) | |

_____ add
[] delete

SB 123
Coyart

PROPOSED AMENDMENT TO NRS 645.690

645.690 1. The hearing on the charges shall be at such time and place as the commission shall prescribe. The hearing may be held by the commission or a majority thereof [,] or by a hearing officer appointed by the director at the request of the commission by a majority vote thereof, and the hearing shall be held, if the licensee so requests in writing, within the county where the licensee's principal place of business is situated. In such cases where a hearing officer is requested and appointed, the hearing officer shall report his findings and recommendations to the commission for its review and action.

Sherrin

Amend SB109 by amending NRS698.180 by striking the present language and replacing it with the following:

"Survivor" means one eligible to receive benefits in the following manner:

- (A) First, to the surviving spouse.
- (B) Second, if the decedent shall leave no surviving spouse, then to his or her lawful issue, share and share alike.
- (C) Third, if the decedent shall leave no surviving spouse or issue, or if an unmarried minor then to her or his heirs pursuant to the order of succession as defined in NRS Chapter 134, provided however, that in no case shall the survivors benefit escheat to the state.