

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close
Senator Hernstadt
Senator Sloan
Senator Dodge
Senator Raggio
Senator Don Ashworth
Senator Ford

ABSENT: None

SB 321 Authorizes judicial review of corporate takeover bids.

Prince A. Hawkins, representing Crown Zellerbach Corp.; Charles Lafolet, Senior Vice President of Finance, Crown Zellerbach Corp.; and Walter Olsen, San Francisco counsel for Crown Zellerbach Corp., testified in support of this measure. For Mr. Hawkins' testimony, see attached Exhibit A.

Senator Close stated that this bill would almost prevent a takeover in that it presently takes over a year to get a court date in Las Vegas.

Senator Ashworth concurred with Senator Close. He suggested that perhaps this could be handled as an administrative action with review by the Department of Commerce and final appeal through the courts. Either that, or have the courts appoint a master to hear this type of action.

Senator Hernstadt stated that what concerned him was the philosophical point of denying shareholders their right to get the money that they would get from a takeover bid. He felt that this type of legislation would help to keep an inept management that has not operated the company at a maximum profit.

Mr. Hawkins disagreed with Senator Hernstadt and stated that it is most often the small, well-managed companies that are the bargain buys.

Mr. Lafolet stated that it was their concern that the shareholder would not be properly compensated under the present law, if a surprise tender offer were made. If the proposed acquirer has convinced the shareholders, through advertising and other methods, that a 50% premium is pretty good, the present 10 day limit does not allow the company to make a counter-offer which could very well be a 100% premium.

Jim Wadhams, Director, Department of Commerce, testified that the precedent established in this measure applies to several of the presently regulated industries; banking and insurance for example. Senator Dodge stated that it was the consensus of the committee that it would be impractical to put these through the court system because of the crowded court calendars. He asked Mr. Wadhams to respond to the suggestion that this be made an administrative hearing assigned to the Commerce Department.

Mr. Wadhams responded that he would have to review the situation before making a final comment.

Senator Close stated that the problem with administrative hearing is that the parties still have the right to appeal to the district court. It was his opinion that this would just add another layer of government to go through.

Senator Hernstadt requested that the committee withhold action pending further testimony from stockholders.

Senator Dodge asked what the remedy would be if a tender company did not comply with the disclosure laws?

Mr. Olsen replied that under the federal statute, which this parallels, there would be a basis for filing for a restraining order.

Senator Dodge asked what other states did in regard to the 10 day time limit.

Mr. Hawkins responded that 20 days was the typical time period allowed and that they felt it was fair for all parties concerned.

Senator Close questioned the time changes made in other parts of the bill and what their purpose was.

Mr. Hawkins replied that this was an attempt to conform to the Williams Act, which is part of the Securities and Exchange Commission.

Senator Hernstadt asked if there was any remedy for the shareholders in a situation where a tender offer was made; then was delayed as a result of this legislation and subsequently withdrawn; and the price of the shares fell back to where they were originally.

Mr. Hawkins stated that, historically, once attention has been drawn to an undervalued company, the price of the shares will stay high.

Senator Dodge asked if the object of a takeover bid was to acquire a company at a lower price than would result from a merger offer.

Mr. Olsen responded that in every case where a tender offer has moved forward into a merger situation, the consideration on the merger has been substantially higher.

Senator Ashworth asked what happened during the 10 day period.

Mr. Olsen stated that that is the waiting period after the intention to make the tender offer has been announced and the required factual information has been filed with the company representative. During that period, the company has the opportunity to evaluate the proposal; to investigate the intentions of the rater; and to consider what alternatives there might be for the benefit of the shareholders.

AB 177 Makes certain employees at juvenile correctional institutions peace officers.

Bob Gagner, Executive Director, State of Nevada Employees Association; and David Kladin, legal counsel to the Assoc., testifies in support of this measure.

Mr. Gagner stated that this will add the group supervisors at the juvenile facilities in Elko and Caliente to the list of peace officers. He emphasized that they will not be eligible for early retirement.

Mr. Kladin testified that at the present time, these supervisors must make an arrest as a private citizen which opens them to a great deal of liability.

A.A. (Bud) Campos, Parole and Probation, testified that this is to reach the situation where visitors attempt to smuggle in drugs or other contraband or when there is an escape attempt.

Ron Jack, Deputy City Manager, Las Vegas, requested an amendment to this measure. See attached Exhibit B. He testified that there is a growing problem of security in recreation areas in Clark County and they are having to rely more and more on their own security people. This would allow their security guards to issue misdemeanor citations rather than calling in the Metropolitan Police Department on minor issues. He stated that he has discussed this with Sheriff John McCarthy in Clark County and that Sheriff McCarthy had had no objections.

Senator Raggio expressed concern over the broadness of the term "local governmental entity." He felt that this would include water districts, townships, etc. He suggested using "city or county."

Senator Ashworth asked if this would increase the insurance liability for the county.

Mr. Jack replied that he had checked with their insurance carrier and that they had indicated that there would be no increase.

Senator Hernstadt requested a letter from their insurance company attesting to that fact.

Senator Sloan questioned whether or not these security people would be given training.

Mr. Jack stated that they would be given the same training that is presently given to bailiffs.

Sam Mamet, Clark County, informed the committee that the county was embarking on a park ranger program for security in their recreational areas. He requested that these also be included as peace officers.

Senator Sloan, in an outstanding flash of brilliance, suggested adding to Mr. Jack's proposed amendment, "when carrying out duties prescribed by ordinance." He felt that this would enable the county to specifically address these individuals and refer to the statute in so doing.

Senator Dodge concurred with that and further stated that that would require the city or county to specifically spell out what these people would be doing.

Senator Close informed the committee that deputy constables also wished to be included in this.

Senator Raggio stated that he would be opposed to that. A constable has no budgetary controls over the amount of deputies he can appoint. It is conceivable that there could be 100 deputies appointed by a single constable and he did not believe that they should be empowered as peace officer.

It was the decision of the committee to amend AB 177 with Mr. Jack's proposal and to amend it further by adding "city or county" and include "as prescribed by ordinance."

Senator Ashworth moved to report AB 177 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Hernstadt.

Motion carried unanimously.

AB 458 Provides for oaths and subpoenas in connection with parole and probation.

A. A. (Bud) Campos, Parole and Probation, testified in support of this measure. He stated that in 1972, the U.S. Supreme Court mandated certain types of hearings take place before probation or parole could be revoked. Since that time, additional court decisions have expanded and interpreted precisely the due process required. In both parole and probation violation revocations, a preliminary inquiry is required. At the present time, not having any powers of subpoena, the officer is at the mercy of witnesses.

Mr. Campos stated that there have been several instances where the parole violator had to be released because of uncooperative witnesses.

Senator Sloan asked if there would be a specific individual in the department who would designate as having the authority to issue these subpoenas.

Mr. Campos replied that they would proceduralize the process in the departmental rules.

Senator Sloan asked if this would have any fiscal impact as far as calling in witnesses.

Mr. Campos stated that this money has already been budgeted for.

Senator Hernstadt moved that AB 458 be reported out of committee with a "do pass" recommendation.

Seconded by Senator Ashworth.

Motion carried unanimously.

AB 460 Excludes time spent as escaped prisoner as time served on term of imprisonment.

A. A. (Bud) Campos, Parole and Probation, testified that this bill would apply only to those individuals who are on parole. When a person leaves parole supervision, that person's credit for serving time stops and does not start again until he is again back in custody.

Senator Hernstadt moved that AB 460 be reported out of committee with a "do pass" recommendation.

Seconded by Senator Sloan.

Motion carried unanimously.

The following items were approved for committee introduction:

- BDR 7-1162 Provides for service of process on corporation after dissolution, expiration or forfeiture of charter. (SB 362)
- BDR 12-1540 Removes requirement of supporting affidavit for certain small claims against estates. (SB 364)
- BDR 13-1159 Extends uniform gifts to minors act to permit certain additional kinds of gifts to be made and to permit testamentary gifts. (SB 367)
- BDR 13-1530 Permits regulated corporate trustees to make certain sales and automatically includes certain powers in wills and trusts. (SB 365)
- BDR 1-1119 Transfers to state responsibility for payment of salaries or justices of peace and police judges. (SB 366)
- BDR 4-1161 Extends allowance for mileage of witnesses. (SB 363)
- BDR 3-1163 Requires payment of fee when filing claim with medical-legal screening panel. (SB 373)

Senator Hernstadt opposed committee introduction.

The remaining members introduced it and individually put their names on it.

There being no other business for the day the meeting was adjourned.


Cheri Kinsley, Committee Secretary

Senator Melvin D. Close, Jr., Chairman

HAWKINS, RHODES, SHARP & BARBAGELATA

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March 22, 1979.

Senate Judicial Committee,
Carson City, Nevada 89710

Re: SB 321 - Corporate Takeover Bids.

Gentlemen:

Thirty-six states have anti-takeover statutes. See Exhibit A attached.

Twelve permit review for fairness, and may prohibit a tender offer unless after a public hearing, it is found that the bid is not unfair nor inequitable to the offerees or other security holders. These states are as follows, and copies of their statutes are attached as Exhibit B.

Hawaii	Effective May 24, 1974
Illinois	" September 8, 1978
Indiana	" May 1, 1975
Louisiana	" June 28, 1976
Maine	" March 24, 1978
Minnesota	" August 1, 1973
Mississippi	" July 1, 1977
New Jersey	" April 27, 1977
South Carolina	" June 12, 1978
South Dakota	" July 1, 1975
Tennessee	" March 17, 1976
Wisconsin	" July 1, 1972

The vice of the tender offer is that unlike a merger, the security holders of the corporation being swallowed, have no opportunity to meet, consider and vote on the offer as a group. The need for protection is detailed in Exhibit C attached.

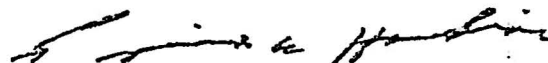
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Senate Judicial Committee.
3/22/79.

A case pending before the United States Supreme Court challenges the constitutionality of Idaho's statute, which is applicable to non-Idaho corporations as well as Idaho corporations, and may have infringed the commerce clause and doctrine of federal preemption. The suit was started in Texas and involved a Washington corporation. The Nevada statute would be an integral part of Nevada's corporation law, and would apply only to Nevada corporations.

I believe the enactment of this bill is an important benefit that this session of the Legislature could confer upon Nevada corporations.

Sincerely,



Prince A. Hawkins.

PAH:GHF

STATEMENT IN SUPPORT OF SENATE BILL NO. 321

In the recent past, and at present, a key concern of corporations and their security holders, is the prospect of being suddenly absorbed and taken over by another entity. Section 1.1 of the new Illinois Act states:

"In recent years, numerous companies have been subjected to takeover offers in which equity securities were acquired suddenly by means of tender offers. Many of these tender offers have been made without advance notice and without giving security holders of the acquired company adequate time to consider the offer, and without giving the management of the acquired company adequate time to evaluate alternatives so that they might recommend a course of action that would be in the best interests of all security holders."

Typically, the acquiring company studies its victim and then suddenly publishes a cash offer for the common stock above the traded price but below the real value if a sell-out were to occur. Speculators, known as arbitrageurs, tend to step in and acquire enough stock to assure the success of the tender offer. Shareholders who may not want to sell are left with a dilemma of either accepting the offer or facing the prospect of having their stock de-listed or cashed out in a cash merger. In the absence of statute, there is very little the corporation or its security holders can do to prevent a quick cash takeover.

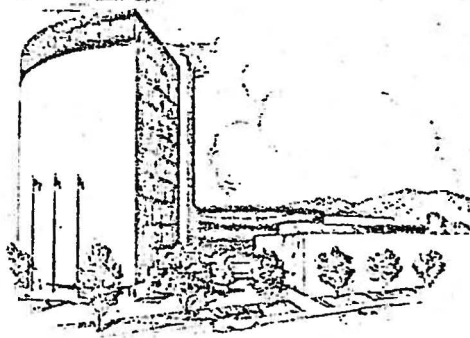
The federal statute, the Williams Act, is a disclosure statute. The proposed Nevada amendment would follow the statutes of twelve other states, and give the corporation and its security holders an opportunity to test the fairness of the takeover proposal before a court. The fact that a forum for the test is available is likely to assure a fairer offer. Unfairness may be the price. The history of tender offers has shown marked increases when the offer was tested either by opposition or counter-offers. Price, however, is not the only consideration. A corporation near

insolvency has been denied the right to acquire the common stock of a solvent corporation because of the risk involved to the existing bondholders of the solvent corporation. Other aspects of unfairness may exist in particular situations.

The present and proposed Act is not applicable to corporations with fewer than 500 shareholders or \$1,000,000 in assets. A corporation under the Nevada law must be given ten (proposed to be amended to twenty) days' notice of the making of the takeover bid. If the corporation or its security holders oppose the takeover, they may, under the amendment, within those twenty days, petition the District Court for review, and seek a determination of whether or not the takeover bid is among other things, unfair and inequitable to the offerees or other existing security holders. The amendment provides that such a hearing shall be given priority, and a determination should be possible within a very short period of time. If the takeover bid is in fact not unfair, and has not been made in violation of other provisions of the Act, then the offer may be made and the takeover effected.

City of Las Vegas

DONALD C. JACK, PH.D.
DEPUTY CITY MANAGER



SUPPORTIVE SERVICES
CITY CLERK'S OFFICE
FINANCIAL MANAGEMENT
FUNDS COORDINATION
MUNICIPAL SERVICES
PERSONNEL & EMPLOYEE
RELATIONS

March 23, 1979

The Honorable Senator Close, Chairman
Senate Judiciary Committee
Legislative Building, Rm. 213
Carson City, Nevada 89710

Dear Senator Close:

The City of Las Vegas respectfully requests that you consider amending AB 177 which makes certain employees at juvenile correctional institutions peace officers, as shown on the following attachment.

cc: Senator Hernstadt
Senator Ashworth
Senator Ford
Senator Sloan
Senator Dodge
Senator Raggio

EXHIBIT B

- 1 13. The brand inspectors of the state department of agriculture when
- 2 exercising the enforcement powers conferred in chapter 565 of NRS;
- 3 14. Arson investigators for the state forester firewarden specially
- 4 designated by the appointing authority;
- 5 15. The deputy director, superintendents, correctional officers and
- 6 other employees of the department of prisons when carrying out any
- 7 duties prescribed by the director of the department of prisons;
- 8 16. Division of state parks employees designated by the administrator
- 9 of the division of state parks in the state department of conservation and
- 10 natural resources when exercising police powers specified in NRS 407-
- 11 065;
- 12 17. Security officers employed by the board of trustees of any
- 13 school district;
- 14 18. The executive, supervisory and investigative personnel of the
- 15 Nevada gaming commission and the state gaming control board when
- 16 exercising the enforcement powers specified in NRS 463.140 or when
- 17 investigating a violation of a provision of chapter 205 of NRS in the
- 18 form of a crime against the property of a gaming licensee;
- 19 19. The director, division chiefs, investigators, agents and other
- 20 sworn personnel of the department of law enforcement assistance;
- 21 20. Field dealer inspectors of the vehicle compliance and enforce-
- 22 ment section of the registration division of the department of motor
- 23 vehicles when exercising the police powers specified in NRS 481.048;
- 24 21. Vehicle emission control officers of the vehicle emission control
- 25 section of the registration division of the department of motor vehicles
- 26 when exercising the police powers specified in NRS 481.0481;
- 27 22. The personnel of the Nevada department of fish and game when
- 28 exercising those enforcement powers conferred by Title 45 and chapter
- 29 488 of NRS; [and]
- 30 23. Security officers of the legislature of the State of Nevada when
- 31 protecting the persons and property of the members of the legisla-
- 32 ture, staff of the legislature and personnel of the legislative counsel
- 33 bureau []; and
- 34 24. *Group supervisors of the Nevada girls training center and the*
- 35 *Nevada youth training center when carrying out any duties prescribed by*
- 36 *the superintendent of their respective institutions.*

Line 12 . . .

17. Security officers employed by [the board of trustees of any school district] local governmental entities;

ASSEMBLY BILL NO. 177—COMMITTEE ON JUDICIARY

JANUARY 23, 1979

Referred to Committee on Judiciary

SUMMARY—Makes certain employees at juvenile correctional institutions peace officers. (BDR 14-166)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



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

AN ACT relating to juvenile correctional institutions; making group supervisors peace officers; 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 169.125 is hereby amended to read as follows:
2 169.125 "Peace officer" includes:
3 1. The bailiff of the supreme court and bailiffs of the district courts,
4 justices' courts and municipal courts;
5 2. Sheriffs of counties and of metropolitan police departments and
6 their deputies;
7 3. Constables;
8 4. Personnel of the Nevada highway patrol when exercising the
9 police powers specified in NRS 481.150 and 481.180;
10 5. The inspector or field agents of the motor carrier division of the
11 department of motor vehicles when exercising the police powers specified
12 in NRS 481.049;
13 6. Members of and all inspectors employed by the public service
14 commission of Nevada when exercising those enforcement powers con-
15 ferred by chapters 704 to 706, inclusive, of NRS;
16 7. Marshals and policemen of cities and towns;
17 8. Parole and probation officers;
18 9. Special investigators employed by the office of any district attorney
19 or the attorney general;
20 10. Arson investigators for fire departments specially designated
21 by the appointing authority;
22 11. Members of the University of Nevada System police department;
23 12. The state fire marshal and his deputies;
24 13. The brand inspectors of the state department of agriculture when
25 exercising the enforcement powers conferred in chapter 565 of NRS;

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.

ASSEMBLY BILL NO. 458—ASSEMBLYMEN
BARENGO AND HAYES

FEBRUARY 23, 1979

Referred to Committee on Judiciary

SUMMARY—Provides for oaths and subpoenas in connection with
parole and probation. (BDR 14-276)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to parole and probation; conferring power to administer oaths
and issue subpoenas on certain officers; providing for judicial enforcement of
the subpoena power; 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 176.216 is hereby amended to read as follows:
2 176.216 1. Before a probationer may be returned to the court for
3 violation of a condition of his probation, an inquiry shall be conducted
4 to determine whether there is probable cause to believe that he has com-
5 mitted any act that would constitute such a violation.
6 2. The inquiry shall be conducted before an inquiring officer who:
7 (a) Is not directly involved in the case;
8 (b) Has not made the report of violation of the probation; and
9 (c) Has not recommended revocation of the probation,
10 but he need not be a judicial officer.
11 3. Except in a case where the probationer is a fugitive, the inquiry
12 shall be held promptly at or reasonably near the place of the alleged
13 violation or the arrest, and not later than 15 days after the arrest if the
14 arrested person is on probation from a Nevada court or 30 days after
15 the arrest if he is on probation from another state and under supervision
16 in this state.
17 4. *For the purposes of this section, the inquiring officer may admin-*
18 *ister oaths and issue subpoenas to compel the attendance of witnesses and*
19 *the production of books and papers.*
20 SEC. 2. Chapter 176 of NRS is hereby amended by adding thereto a
21 new section which shall read as follows:
22 1. *If any witness refuses to attend or testify or produce any books*

ASSEMBLY BILL NO. 460—ASSEMBLYMEN BARENGO
AND HAYES

FEBRUARY 23, 1979

Referred to Committee on Judiciary

SUMMARY—Excludes time spent as escaped prisoner as time served on term of imprisonment. (BDR 16-127)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



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

AN ACT relating to pardons and paroles; defining status of escaped prisoner; excluding certain time as time served on a term of imprisonment; 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 213.160 is hereby amended to read as follows:
2 213.160 1. **[If any]** A prisoner *who* is paroled and leaves the state
3 without permission from the board **[, he]** *or who does not keep the board*
4 *informed as to his location as required by the conditions of his parole*
5 *shall be deemed an escaped prisoner and arrested as such.*
6 2. If his parole is lawfully revoked and he is thereafter returned to
7 the Nevada state prison, he forfeits all previously earned credits for good
8 behavior and shall serve such part of the unexpired term of his original
9 sentence as may be determined by the board.
10 3. The board may restore any good behavior credits forfeited under
11 **[this section.] subsection 2.**
12 4. *The time a person is an escaped prisoner is not time served on his*
13 *term of imprisonment.*