

MEMBERS PRESENT: Chairman Price
Vice Chairman Polish
Mr. Beyer
Mr. DuBois
Mr. Glover
Mr. Mello
Mr. Prengaman
Mr. Schofield

MEMBERS ABSENT: Mrs. Westall

GUESTS PRESENT: Please see attached Guest List

Chairman Price called the meeting to order at 6:00 p.m. in Room 131, and opened the hearing on SB 398.

SB 398 ALLOWS HOLDER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO LEASE TAXICABS TO INDEPENDENT DRIVERS.

Mike Sloan, representing the Las Vegas Taxi Owners Association, said ten out of the twelve member companies are supporting this bill. He said this bill is permissive in nature. The first sentence on line 3 states "a certificate holder may lease his vehicles." If a company did not want to participate they would not have to.

Mr. Sloan said leasing is not a new idea and wherever he has discussed it recently across the states, the drivers have been for the idea in general. He said all concerned are getting a better deal with leasing, especially the public, when the driver has a stake in the operation of the cab which he is driving.

He said that the way this bill is drafted, there is no change in authority of the Taxicab Authority over the drivers or owners.

Mr. Sloan referred to and discussed a memo from Robert Erickson, Senior Research Analyst, Legislative Counsel Bureau, attached as EXHIBIT A.

In response to a question about the permissiveness of the bill but the fact that once one company begins this program the others seem to follow suit, Mr. Sloan replied that it appears the drivers ask for this program because it works so well for them and they begin to put pressure on the owners.

In response to questions about too many cabs waiting at the airport and not serving the outlying areas, Mr. Sloan said economics and supply and demand seem to take care of this situation. If too many are waiting there, there are not enough customers to make the day profitable. Also, there are certain requirements for serving a community and a company will monitor that these requirements are met.

Mr. Beyer asked if a customer was dissatisfied with service or condition of vehicle, how do they know to complain to the driver and not the company identified by the cab.

(Committee Minutes)

Mr. Sloan responded that the cabs and drivers both have identification numbers and the complaints will come to the company or the Taxicab Authority and will be noted. Ultimately it comes down to the company as the holder of the certificate. The company owner can impose any conditions necessary for proper conduct as conditions of the lease.

Mr. Mello asked what security a driver would have that a leased cab would be ready for him for his driving shift. Mr. Sloan replied that it should be no different than under the present system.

Mr. Prengaman and Mr. Sloan discussed at length EXHIBIT A.

Mr. Price discussed at length Mr. Sloan's opinion of what may or may not be allowed in lease negotiations. Mr. Sloan felt these questions could be better answered by those testifying after him.

Mr. Price asked Mr. Sloan what he thought the philosophy was behind regulating taxi cabs. Mr. Sloan replied that it was a modicum of control to benefit serving the public.

Mr. Price asked Mr. Sloan if he would mind a sunset provision on this bill. Mr. Sloan said he would not like to have one unless the Legislators saw definite problems that they did not want to be saddled with permanently after a trial period.

Mr. DuBois asked about page 2, line 18 and 19, where it states the "Taxicab Authority shall not restrict the operations of any certificate holder to a geographical area smaller than a county." He asked if they did not have that authority now.

Mr. Sloan responded that this language was added in the Senate and that they do have this authority now.

Milton Schwartz, President of Checker Cabs, and President of the Las Vegas Taxicab Owners Association, said that the Owners Association does not include all of the owners of all of the companies.

He said that the same controls monitor overcharging now as under any new rules. He said that if a driver took a passenger from the airport to the Dunes Hotel through Henderson, it would be obvious on the trip sheets. The questions about drivers cheating are not valid under the old rules any more than under the new rules.

Mr. Price asked if the companies normally have procedures for monitoring situations like this. Mr. Schwartz responded that they must do this at all times; the Taxicab Authority demands it. He said the drivers are aware of the monitoring for cheating; some still try things and are caught. Some get away with things but the percentage is low and there will always be some to try, you cannot have 100% honest people employed.

Mr. Prengaman asked if trip tickets were a requirement of the company or the Authority. Mr. Schwartz answered they were a requirement of both.

Mr. Schwartz stressed that the leases will go to the most reliable drivers who have proven themselves and to those who wish to make more money by working for themselves. The leases will be for a short enough period of time that the drivers will not want to jeopardize their position by cheating.

He said that their drivers are told to take a certain amount of telephone call trips a day. If they don't, they are told about it in several ways.

He made the statement, "There's going to be a pragmatic, economic control more than we the company or the Taxi Authority can possibly impose."

He said that it is proven that when a driver leases a cab, accidents and fuel consumption both go down. He said that 40% of the miles are now wasted. He said after leasing the profitable miles should go up over 60% and he will be glad to share that with the drivers. The incentive is there for both the driver and owner to have a good working system.

Mr. Prengaman asked how insurance will work under the leasing system. Mr. Schwartz responded that that has not been worked out yet and will be worked out after discussions with the insurance companies.

Mr. Schwartz said they have 315 drivers and a high percentage of turnover. 75-100 are very responsible, no accidents, no cheating; and they will be the ones to receive the leases. Insurance will not be a big problem with the responsible drivers. They've already proven themselves with the company long ago.

Mr. Price asked if the company would sell gas to the drivers, would charge more for it and would require they buy it from the company. Mr. Schwartz responded that they have the option to buy gas anywhere they want and that the company charges what the gas costs to the drivers, they do not even tack on the cost of the "lot boys" who pump the gas.

Bob Long, Unemployment Insurance Administrator for the Employment Security Department, said the question he thinks the Committee is interested in is whether or not the drivers who execute a lease would be subject to coverage by Employment Security Department law. Mr. Long read from and discussed a memo from Larry McCracken, Executive Director of the Employment Security Department, which is attached as EXHIBIT B.

Joe Nusbaum, Chairman of the Nevada Industrial Commission, read his statement into the record and is attached as EXHIBIT C.

Mr. Mello asked what basis he used for calling driving a cab a high hazard operation. Mr. Nusbaum responded that the high premium rate was the easiest determining factor. Mr. Mello said that he preferred to have statistics rather than NIC's rate structure, which he felt was too high anyway. Mr. Nusbaum said he would provide statistics.

Lengthy discussion followed with the committee and Mr. Nusbaum about insurance rates.

Mr. Beyer questioned why Mr. Nusbaum used the figure of \$300 in EXHIBIT C. Mr. Nusbaum responded that that figure was written into the law no matter what the driver made per month.

Jim Lovelace, a driver with Whittlesea, said so many points have been raised but he feels the public has been overlooked. He recited an example of a daily fare from an outlying area that paid \$1.75 per way. He said under the leasing plan, if the other drivers don't take this type of telephone call fare on a shared basis, the drivers may have a court case if their company makes them take this fare every day instead of waiting for an airport run.

He said he wished to respond to an earlier question of why more drivers did not come to the hearing in Las Vegas. He said they are working 12 hour days and have no union backing so could be fired either for not working or for speaking up.

Mr. Lovelace gave several examples of how drivers and the company 'play the game' of stalling, rearranging fares, raising the lease amounts during convention times; all examples of how the leasing system will change how drivers react to taking fares. He was adamant that the public/community will suffer under the leasing system.

He said a cab company was bought out recently and the first act of the new owners was to fire every driver. They rehired the next day but one man with twenty years seniority with that company ended up on the 'extra' board. He said that if this is the type of person you are dealing with as company owners, the public will be treated the same way as fares.

He disagreed that it is not easy to cheat. He said he can redo his trip sheet many ways to cheat. He said it would be easy for the Taxicab Authority to use a little 'muscle' to stop cheating, but he said they do not. He said no one is around at 3:00 a.m. to see if his flag is up or not.

Mr. Prengaman said he did not see how the drivers would make more money under leasing. He said there was an element of luck involved in what fares you receive. Mr. Lovelace agreed.

Harvey Whittemore, Attorney with the Lionel, Sawyer & Collins firm in Reno and Las Vegas, appearing today for Baker and Drake Company which is a cab company in the Reno area. They own the Delux and Yellow cabs in Reno, he said.

He said he wanted to respond to the report from NIC. He said the proposed premiums were in excess of the maximum benefits that you could receive if you were permanently totally disabled. He said no one in their right mind would purchase that kind of insurance. He explained another kind of insurance available and said that under pending legislation, these drivers can band together under a trade group and receive a lesser rate than an individual.

Mr. Whittemore said that the employee will negotiate with the owner as to leasing rates. He said if the employee does not like the rate offered, he will not go out on the job and the owner will be penalized for having his cabs parked. He said the leasing system will work for this reason.

He said as to overcharging, the drivers will not do this because they are going for repeat business and 60-70% of the business are locals.

Mr. Beyer said that Las Vegas has a bigger percentage of tourists than the Reno area, figures showing 91% tourists who would not know if they were overcharged.

Donald Drake, Owner, said "high flagging" is a problem all over the world. He said they have supervisors watching for the high flag 24 hours a day. He said there are two kinds of drivers, a cab driver and a professional. He said a cab driver may make \$100 per week but he has some professionals that make more than he does per week. The professional cannot risk a bad reputation. He said the lease will increase the productivity of marginal drivers, but the professionals will make even more money.

Mr. Whittemore said that the same incentive for cheating exists in Reno or Las Vegas and under leasing or not leasing. He said this problem does not have anything to do with the bill being discussed.

Mr. Prengaman said he saw no way a trade association could work. Mr. Whittemore responded that it would not be a traditional trade association with monthly meetings, just drivers banding together with a common occupation.

Mr. Whittemore then read into the record several cities that do have leasing: Chicago, Philadelphia, Detroit, Houston, Washington, D.C., St. Louis, San Francisco, Milwaukee, New Orleans, Pittsburg, San Antonio, Seattle, Buffalo, Memphis, Denver, Atlanta, Indianapolis, Kansas City, Columbus, Newark, Birmingham, Oklahoma City, Toledo, Honolulu, Rochester, Miami, Tulsa, Salt Lake City. He said he has never been in cleaner cabs and with more courteous drivers.

Mr. Whittemore said that Los Angeles' program failed due to sub-leasing which is not included in the proposed system here.

Mr. Polish asked if a second driver could be brought in so the cab could run a 16 hour shift. Mr. Whittemore said yes and this was a benefit to the public to do so.

Mr. Whittemore said the bill as presently worded just says as subject to the Taxicab Authority. He said he would like an amendment to allow leasing under regulations promulgated with the PSC.

He read from the Pennsylvania Public Utilities Commission report: "The PSC also permits taxi operators to lease vehicles to drivers under certain conditions. The certificate owner must own or lease

the vehicle, (which is what we would do except we would have to own since we don't lease) must acquire and pay for insurance and must maintain and repair the vehicle and must garage it when not in service." He said these are some of the types of things that will be in the leases.

He reiterated that the bill as presently written does not limit the PSC's jurisdiction or the regulatory control of the Taxicab Authority and they could develop very stringent requirements with respect to leasing. He said their company would provide insurance. He said their stringent hiring practices will keep their rates low.

Mr. Whittemore said that they are in total support of this bill and it was his understanding that the Reno-Sparks companies were as well.

Don Walls, an officer of the Whittlesea-Bell Company; introduced Jim Bell, President of the Southern Nevada Operations; and Larry Bell who has the similar position in Northern Nevada.

Mr. Walls said they are opposed to this bill as it is presently written. He said that they intended to have their attorney present, Mr. Hilbrecht, but he could not attend. He said they may be less eloquent, but they would like to make their feelings known. He said they have been involved in the cab business since the mid-60s.

He said that the PSC and TCA presently have the authority to permit or not permit leasing. He said they should be allowed to make these decisions and they would like to discourage the taxi legislation 'showing up here.'

He said the benefit of leasing to companies is that the driver is no longer classed as an employee and therefore does not have benefits under the National Labor Relations Act and the owner does not have to pay payroll taxes. He said that only by both sides avoiding paying the payroll taxes will there be more money to go around.

He said that part of determining that a driver is no longer an employee is the fact that the owner no longer exercises authority over him. Saying the lease will be canceled if the driver does not take telephone fares is false.

Mr. Walls continued that due to the 9-10% self employment tax in lieu of Social Security, there is a big incentive for "high flagging." He said there is no longer an incentive for the company to police high flagging because they receive their cut right off the top of each day without extra effort. In the same line, the TCA will receive less money through less trip fees at a time when they will be asked to do more policing for the companies.

He said they will not determine it is their responsibility to serve a certain territory, only that it is their responsibility to pay their lease fee each day. The public will suffer, therefore, he said.

Mr. Walls stated: "The ultimate result of the bill would be to relieve the certificate holders of responsibilities, increase the regulatory agencies' burden, diminish the economic position of the drivers and reduce the quality of the service at an increased cost." He said this is their position as far as leasing goes.

He said on page 2, lines 18 and 19, this goes back to public convenience necessity, where they are required to service a particular area. He said the two certificates are for the North Las Vegas area and the City of Henderson. He said these two certificates should not be expanded.

Mr. Walls made a final statement that his company is against the legislation because they feel it is bad for all concerned, the drivers, the public and the owners. He said it is bad for the industry in general and two years down the road they will find they are very unhappy because of the increase in regulations that will be necessary.

George Cabalis, a driver for Star Cab, said he was testifying because he wants to lease a cab. He said it will benefit the public immensely and will benefit the driver and the company.

He said he has been driving in Las Vegas for over eight years and he takes care of his cab. He said he cannot speak for others, but he feels under leasing you will find drivers generally more responsible for the vehicles and for their customers. He will have a personal interest in the business.

He said the willingness of the drivers he associates with to serve the public is very evident. He said they inform the dispatcher where they are at all times waiting for dispatched fares.

He said they would like to try the system themselves and make their own judgments. He said they do not want to be dictated to, telling them the system is unworkable and not beneficial to the public. He said to let the owners & drivers to decide.

He said his employer has assured him it will be a reciprocal agreement with owner and driver, to benefit the cab riding public first, to comply with all state and local rules and regulations second, and third, to benefit the owner and driver equally. If this does not happen, all concerned will be ready to 'scrub' this system.

Mr. Beyer said it has been mentioned that leases can be for one day or one week. He asked what would happen if you take care of your vehicle but it is returned to you in bad condition. Mr. Cabalis said this was a very good question but was something that had to be worked out between the company and the driver. The driver also does not have to accept a lease that does not work for him. Mr. Cabalis said his employer said he does not have to lease and therefore, if the situation were bad, he could be an employee that day instead of leasing.

Adrian Arakie, a driver with Whittlesea-Bell cabs for the last twelve years, said several proponents of leasing have testified but he feels their testimony was misleading. He said he has over 600 signatures of drivers who are against leasing.

Mr. Arakie stated his driving record and certificates received for that record. He said he is adamantly opposed to leasing and he will lose many things if it goes through such as seniority and bonuses, health insurance and vacation pay. He said he would have to add the cost of these items to his expenses if he leased a cab.

Mr. Schofield recited an example of company he hosted in Las Vegas, staying at the Stardust Hotel. He said they could not get one of six cabs to take them to Mr. Schofield's house and he had to drive in and pick them up. He said the cabs were waiting for longer fares such as to the airport.

Mr. Prengaman asked why they did not have a union and Mr. Arakie explained some past experiences with unions. He said the turnover rate has some to do with a union not succeeding.

Jim Joyce said he also represents the Taxicab Owners of Clark County. He said if the leasing was as bad as the testifiers had made it out to be so far today, why does 46 of the 50 largest cities in the United States have leasing. He said it should not fail in Nevada if it doesn't fail in the other states.

Mr. Joyce read from and discussed two exhibits: a page of the minutes of a Senate Committee on Transportation dated March 24, 1981, consisting of Mr. Avance's testimony (EXHIBIT D), and a Mailgram from Dr. James Jones (EXHIBIT E).

Murray Rosner, Whittlesea Taxi Company, said the other drivers from Whittlesea who have testified do "echo the sentiment of all the other drivers." He asked the committee to please look this bill over carefully; the repercussions will be enormous.

Pete Aelitis, owner of Star Cab, sole owner, and co-owner of Yellow Cab Company, Las Vegas; said the same drivers will be driving tomorrow that are driving today. The percentage of those who wish to cheat will not change. He said the owners can now dictate how much money per day they want, it will not change under leasing.

He said, "Let's try it. If we can both live with it and you think we can make more money and keep the cabs cleaner." He said there is no incentive today and incentive would help.

He said the lease must be working in the 46 large cities or else it would not still be in existence. He said the drivers must be supporting their families on the leasing program.

Mr. Aelitis said Las Vegas has the largest neon signs in the world. He said passengers should be able to see where they are headed and be aware of cheaters, new to the area or not.

Mr. Aelitis said that the direct route to a hotel was not necessarily the cheapest route to take during busy times of the day. The driver must be able to determine this. He said the TCA was established to police these matters that they should be allowed to do this.

Dee Floyd, a driver for Yellow Cab, said the point about the 46 cities might not be valid as Las Vegas is so different. He said the other cities do not have gambling and 24 hour activities. He said he is aware of cab drivers in Seattle and Portland and leasing is not a successful deal.

Mr. Floyd said his son in Las Vegas is an Insurance Broker, not a salesman, a broker. He said his son spent \$220 of his own money on long distance calls trying to locate a group insurance plan for cab drivers. He said he only found one company in the United States who would take this group.

He said he has heard three prominent words: authority, maybe and should. He said, "Authority has been number one. It seems we have a stigma on us that we are a bunch of snakes, a cab driver is an automatic thief and he should have all of the authority placed on his shoulders that he can possibly stand. The other is should, we "should" make more money under this plan. He didn't say we would, just that we should. I agree that we should. I disagree with him that we won't."

Mr. Price asked about meters and was told that the meter runs on a timer if the car is going under 10 miles an hour.

Jim Avance, Administrator of the Taxicab Authority, was next to testify.

Mr. Beyer asked him if he had a way of assuring the older lady would be picked up at the market and driven just a few blocks home.

Mr. Avance said he did not have a way of doing this. He said under current rules, he can make sure they serve a certain area. Under the leasing, he would not be able to "force the companies to force their drivers to answer the calls." He said this has been proven in court cases.

The committee discussed with Mr. Avance and several persons in the audience several court cases.

Mr. Avance said his notes have him saying at the Senate Committee meeting quoted in EXHIBIT D : "Under leasing, where a driver pays so much to start and then keeps anything he brings in, that the driver makes more and so does the company."

He said he spent over \$200 riding taxi cabs in San Francisco and talking to drivers. He said he talked to over twenty drivers. He said he surmised three out of every five were in favor of leasing.

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Mr. Avance said that the last time anyone approached the Authority to permit leasing was in 1973. He said if these people really think this is such a good idea, "they should have come to us and asked us for permission to lease prior to coming to you." He said now this is a legislative matter, and if the bill passes, it is two years before any change could be made if the plan does not work.

He said he was opposed to the bill for the mere fact that it is circumventing the regulatory agency. If leasing is as good as it is made out to be, they have a very qualified board to give it full consideration.

Mr. Avance asked that "the segment on page 2" be completely amended out.

Zel Lowman said he represents the North Las Vegas Cab Company as one of four companies that he owns. He said: "If the taxicab company is so fair in setting service areas, then why haven't they done something about this unfair situation with the North Las Vegas Cab Company when we already heard in response to your question that the Henderson Company owned by the Whittlesea firm is now allowed to go to the airport."

He said he is a realtor and he pays NIC quarterly as an independent contractor and he said he saw no difference with the leasing drivers.

He said his four companies have no intention of going to leasing if the bill passes.

He said his third point was that a single person cab company could not get a certificate under present regulations if he did not agree to have a phone answering service and a radio.

Chairman Price closed the hearing on SB 398. Two other documents are attached as exhibits that were briefly mentioned: a memo from the City of Los Angeles from the Board of Transportation Commissioners, (EXHIBIT F), and the Taxicab Industry Study from the City of Los Angeles (EXHIBIT G).

AB 621 LIMITS ACCESS OF MANUFACTURERS AND IMPORTERS OF MOTOR VEHICLES TO RECORDS OF VEHICLE REGISTRATIONS.

First to testify was Archie Pozzi, a Ford Dealer in the Carson City area and representative for the automobile dealers in the state.

"In recent years waves of legislation have been passed both by the Federal Government and state legislatures to protect consumers. But here tonight, I'm going to try to protect another group of consumers, the only group of consumers for the automobile manufacturers -- the automobile dealer. The manufacturers have no other source of delivery other than the franchised dealer, and he does not deliver any units in the United States except through an authorized dealer."

Mr. Pozzi explained a performance report prepared by the manufacturers with DMV registration figures. He said he is judged on the amount of registrations, his performance against Chevrolet, and the percentage of industry they think he should obtain.

He explained the way he works with the manufacturers and said that this year 22 states have introduced this same bill to protect the dealers.

He said the argument that the DMV does not have backup systems is not accurate. He said the 15 small counties send their information in and it is kept two years. In Reno and Las Vegas, it is kept only one week. He said there is a nationwide computer system for traffic warrants where they can pick up your registration information to find you. He said R. L. Polk Company pays from \$60,000 to \$150,000 per state to obtain this information from DMV.

Mr. Pozzi said that AB 621 as drafted and as introduced will not do the job. He quoted line 8, "a compiled list of vehicle registrations may be available only to manufacturers and importers of motor vehicles." He said not one manufacturer or importer comes in to pick these lists up. He said they want it to read as the Oklahoma law reads, available once a year, to private persons.

He said the dealers need and want this bill. If they didn't need it, 22 other states would not have introduced it as well.

Mr. Schofield asked if he understood that the manufacturers pay R. L. Polk Company to compile new vehicle registration figures into a report so that the manufacturers can monitor dealer's activities and try to stimulate more business with these figures. Mr. Pozzi said that was correct.

Joe Midmore, from DeHart Associates out of Washington, D.C., which represents the direct mail industry, said his interest in this bill has nothing to do with Mr. Pozzi's interest in the same bill. He said in addition to the director charging reasonable fees for these lists, it now reads that they are available to private persons. He said he would like subsection 3 to be bracketed out in total.

He said it is not up to the Nevada Legislature to prohibit a legitimate business, direct mail advertising, from operating. He said it is also not their business to decide who or who does not receive 'junk mail.' Some people like to receive it, he said, such as retired people. They sometimes must resort to shopping by mail. He said another point is that bulk mail subsidizes the first class rate and keeps it lower. He said leaving the phrase "once a year in" is fine with him.

Mr. Schofield brought up the point that someone could hire twelve different people to go in once a month and obtain the "twelve previous months" and be able to obtain current information. He said this was a loophole in the bill. He also said that public records should remain public so he was not sure he was in favor of this bill.

Hale Bennett, Chief of Registration for the Department of Motor Vehicles, said he also does not like the way the bill is written. He said one testifier wants to restrict the information giving and one wants to remove the restrictions.

He said they charge R. L. Polk \$50/1000 for their records, 5¢ a record, and they end up with an exact duplicate of every transaction DMV records every week. He said this is a complete, back-up system for DMV. If the computer should fail, they can have a complete new system within 48 hours. He said they do have a microfilm back-up system, but it is not compatible with the computer system. It would take many more man hours to reconstruct the system after a failure. He said R. L. Polk provides copies to the Federal Government for safety recall instead of the DMV. He said manufacturers only have original sale information, R. L. Polk has used sale information as well. He said they also provide information for law enforcement and test and research.

He said he has a booklet that has 55,000 different lists that are available for purchase, such as magazine subscription lists and credit card holder lists. He said Nevada DMV records are not available from Polk due to contract specifications.

Chairman Price appointed a subcommittee of Mr. Glover, Mr. Pozzi and Mr. Bennett to work out amendments to the bill. The hearing on AB 621 was closed and opened on SB 161.

SB 161 AUTHORIZES BORROWING BY DEPARTMENT OF TRANSPORTATION FROM FINANCIAL INSTITUTIONS.

Al Stone, Director of the Department of Transportation, said the last several years the department has had cash flow problems. He said even with budgets, revenues fluctuate tremendously. He said in the summer they spend \$18-\$20 million biweekly; in the winter months it drops off to \$1-\$2 million biweekly.

After brief discussion with the committee about alternatives that have been used and have been considered, Mr. Glover made the motion DO PASS, seconded by Mr. Schofield. Motion carried with Mr. DuBois, Mr. Prengaman, Mr. Mello and Mrs. Westall absent. The bill will be re-referred to Ways and Means.

SB 477 REVISES PROVISIONS FOR LICENSING OF MOTOR CARRIERS AND CERTAIN OTHER MOTOR VEHICLES.

Wink Richards, Chief of the Motor Carrier Division, DMV, presented a written summary of this bill, attached as EXHIBIT H. He said on page 12, line 8, should be changed to read "not to exceed a rate of 75¢." He said they pay the vendor stations 75¢ per "moonlight truck" which cost \$283,609. They now want to go to Western Union which will be cheaper. He said all savings from this bill go into the Department of Transportation account, so far anticipated as \$2.2 million plus the \$283,609.

Daryl Capurro, Nevada Motor Transport Association, said this represents 18-20 months between his department and DMV. He said they support the bill even though it will add to their cost.

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~~Heber Hardy, Director of PSC, said on page 5, line 47, he has no objection to reducing the \$3 to \$2.~~

~~Motion by Mr. Glover to DO PASS SB 477, seconded by Mr. Beyer. Motion carried with Mrs. Westall, Mr. Mello, Mr. Prengaman and Mr. DuBois absent.~~

SB 397 LIMITS USE OF TAXICABS BY STANDARDS OF SAFETY INSTEAD OF BY AGE.

Jim Avance, Administrator of the Taxicab Authority, said that basically they were dropping out the unlimited life, adding the four years back in and adding the words "except diesel" right after vehicle (on line 3). Also where it says register not more than 10,000, change to 20,000. Also it becomes effective September 1st.

Chairman Price adjourned the meeting.

Respectfully submitted,

Sandee Gagnier
Sandee Gagnier
Assembly Attache

ASSEMBLY

AGENDA FOR COMMITTEE ON TRANSPORTATION.....

WEDNESDAY

Date MAY 20, 1981 Time 7:00 P.M. Room 214.....

Bills or Resolutions
to be considered

Subject

Counsel
requested*

THIS AGENDA CANCELS AND SUPERSEDES THE PREVIOUS AGENDA FOR THIS DATE

- | | | |
|--------|--|--|
| SB 398 | Allows holder of certificate of public convenience and necessity to lease taxicabs to independent drivers. | |
| SB 397 | Limits use of taxicabs by standards of safety instead of by age. | |
| AB 621 | Limits access of manufacturers and importers of motor vehicles to records of vehicle registrations. | |
| SB 161 | Authorizes borrowing by department of transportation from financial institutions. | |
| SB 477 | Revises provisions for licensing of motor carriers and certain other motor vehicles. | |

WORK SESSION

ASSEMBLY

AGENDA FOR COMMITTEE ON...TRANSPORTATION.....

WEDNESDAY.

Date...MAY 20, 1981..... Time 7:00 P.M. Room 214.....

Bills or Resolutions
to be considered

Subject

Counsel
requested*

SB 477

Revises provisions for licensing of motor carriers
and certain other motor vehicles.

Work Session

*Please do not ask for counsel unless necessary.

ASSEMBLY TRANSPORTATION COMMITTEE

~~LIST~~

GUEST LIST

Date: _____

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
JAMES A. LOVEHRIE	CAB DRIVERS		X	S.B. 398
JIM BURNS	TAXI DRIVERS		X	S.B. 398
EDNA BROTHERTON	Cab Driver		X	S.B. 398
MURRAY ROSNER	Cab Driver		X	SB 398
ARCHIE POZZI JR	Automobile Dir	X		AB 621
W. J. FLOYD	Cab Driver		X	SB 398
DONALD L. BUCK	Yellow Cab Co - Rockoe County	X		398
MILTON I. SCHWARTZ	CHECKER CAB	X		398
DAVE WILLSON	YELLOW CAB 2-V.	X		398
ADRIAN ARAKIE	DRIVER		X	398
WIKK RICHARDS	DMV MOTOR CARRIER	V		SB 477
DANIEL E. CAPANO	NEW MOTOR TRUCKS - BROWN	X		SB 477
JOE MIDMORE	Dehart Associates	X		AB 621
DON WALLS - JIM BELL - LARRY BELL	WHITNESEA - BELL		X	SB 398

LEGISLATIVE COUNSEL BUREAU

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ANDREW P. GROSE, Research Director (702) 485-5627

May 5, 1981

LEASING

M E M O R A N D U M

TO:

FROM:

Robert Erickson, Senior Research Analyst

SUBJECT:

Taxicab Leasing in Other Areas

In response to your request for information on taxicab leasing, I have accumulated quite a bit of material that should be of assistance to you.

TAXICAB REGULATION IN GENERAL

Most regulation of taxicabs is done at the local level of government and not at the state level. Exceptions include Nevada, Delaware, Pennsylvania and a portion of Maryland.

Some cities have established commissions or authorities to regulate taxicabs, while others operate out of the city council or city transportation department. New York City and the City of Los Angeles are but two examples of major cities that handle the regulation of taxicabs. Rules from New York City are enclosed for your information.

LEASING OF TAXICABS TO INDEPENDENT OPERATORS

Within the last 5 years, the leasing of taxicabs by franchised taxicab companies to independent operators has become quite common. In fact, of the 50 largest cities in America, only four specifically prohibit this type of leasing. Minneapolis and Los Angeles are two of the four cities which prohibit leasing. Minneapolis has apparently never allowed leasing while Los Angeles recently prohibited leasing after permitting it for a while.

Apparently many taxicab companies support taxicab leasing as a way to lower overhead costs, reduce paperwork and accounting, and allow for a reduction in office personnel. Alfred Laçasse of the International Taxicab Association [(301) 881-1338] was most helpful in providing some of this general background information.

Delaware enacted a comprehensive transportation authority act in 1979 which deals heavily with taxicabs and limousines. Leasing was allowed in this law because of the strong support for leasing by the largest taxicab company in Wilmington, Delaware. To date, however, leasing has not been put into effect by any taxicab company in Delaware. Enclosed for your information is a copy of the Delaware law.

CITY OF LOS ANGELES

Mr. Reynolds with the Los Angeles City Transportation Department [(213) 485-2758] provided me with a wealth of information on the problems that Los Angeles has had with taxicab leasing. Because of these problems, Los Angeles recently revoked the authority previously given to franchised taxicab companies to lease vehicles to independent operators.

Before going through these problem areas, it may be helpful for you to have a little background information on taxicab regulation in the City of Los Angeles.

1. Thirteen franchised taxicab companies operate in Los Angeles. Yellow Cab Company, the largest with 360 cabs, is currently shut down because of a strike. The remaining companies run approximately 600 taxis in the city.

- ~~2. Two independent taxicab associations operate in Los Angeles, made up of approximately 400 owner-operated and insured independent taxicabs.~~
3. Los Angeles previously levied a franchise fee of 2 percent of gross receipts plus \$20 per year for each licensed taxicab. These fees were inadequate to cover the involved costs of city regulation, so Los Angeles recently changed to an annual \$500 per cab fee for franchised companies, and a \$500 annual vehicle permit for independent owners operating within the two independent associations. These fees can, however, be raised based on a cost of living increase or if companies or individual operators provide poor service to the public as determined in future "service tests" to be conducted by the city.
4. In order to get a better handle on taxicabs actually needed by the public in Los Angeles, the city recently installed a "temporary freeze" on numbers of taxicabs permitted in Los Angeles beyond the existing 1,000 cabs plus the 360 Yellow cabs on strike.

PROBLEMS WITH LEASING IN LOS ANGELES

The problems with the leasing provision were so great that Los Angeles, as previously mentioned, recently prohibited taxicab leasing. These problems include the following:

1. There was no real control over the activities of independent operators who were leasing taxicabs from franchised companies.
2. Many of the independent lessees would not respond to dispatch calls by the leasing company, and would instead wait in 2-hour lines at Los Angeles International Airport in hope of getting a \$50 crosstown fare rather than respond to dispatch calls for routine short-haul fares.

3. Many lessees of taxicabs sub-leased these cabs to other drivers for various shifts or even full-time, usually without proper notification of either the city or the leasing company. Some of these drivers did not even have a permit to operate a cab.
4. Insurance coverage expired on some taxicabs before the city could address this situation. The presence of uninsured taxicabs operating in the city was another "sore spot" with the City of Los Angeles.
5. Overcharging of the public, while a problem in general, was aggravated by the leasing program and the lack of control over drivers.
6. Many of the lessees did not maintain proper way-bills to account for daily fares. The leasing companies were primarily concerned with the collection of the fee charged these operators, and then were apparently happy to turn these drivers loose to "do their thing."

Within the next day or so, I will also be forwarding to you several documents from the City of Los Angeles regarding their new franchise program, including the study which helped bring about the termination of the leasing provisions in that city.

Please give me a call if you should have any questions.

REE/llp5.1.Taxicabs

MEMORANDUM

STATE OF NEVADA

EMPLOYMENT SECURITY DEPARTMENT

Assemblyman Robert E. Price,
Chairman Committee on Transportation

DATE May 20, 1980

FROM Larry McCracken, Executive Director

SUBJECT SB 398

The following is in response to your inquiry concerning the effects of SB 398 on unemployment insurance coverage. Department staff have reviewed the bill and have concluded that the language in the bill would have no effect on determinations regarding covered employment made by this Department. The Department would continue to apply Nevada Revised Statute 612.085 and policies developed pursuant thereto in determining whether or not a person's services are in covered employment and therefore subject to Nevada Unemployment Compensation Law.

The impact of the bill as it relates to operational changes by the taxicab companies may or may not affect the results of those determinations depending on the circumstances in each individual case. If the bill permits or mandates taxicab companies to substantially change the nature in which services are performed so that the three conditions in NRS 612.085 are met, then the results of determinations made under that section would be that services performed by taxi cab drivers are not in covered employment. This would mean that employers would not pay contributions on wages paid to people performing those services and those people would not be eligible for unemployment insurance benefits. It is the Department's opinion that, although SB 398 may affect some of the factors involved in making a determination under NRS 612.085, it does not encompass that statute to the extent that it would by itself change the results of those determinations.

For your convenience I have attached a copy of NRS 612.085 which governs whether or not services are in covered employment. I have also attached a copy of the Department's policy which details the factors used in determining if the conditions of the statute have been met.

Nevada Revised Statute 612.570 permits an employing unit to elect coverage for services that are otherwise excluded from employment. As a practical matter this does not happen in private industry. There is no provision for people performing services to elect coverage.

ib

Attachment

612.085 "Employment": Services deemed employment unless specific facts shown. ~~Services performed by an individual for wages shall be~~ deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the executive director that:

1. Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

2. Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

3. Such service is performed in the course of an independently established trade, occupation, profession or business in which the individual is customarily engaged, of the same nature as that involved in the contract of service.

[Part 2:129:1937; renumbered in error 2.19:129:1937, 1945, 299; A 1949, 257; 1951, 253; 1951, 474; renumbered 2.9:129:1937 and A 1955, 698]

RECEIVED JAN 10 1955

Department Policy - EMPLOYER-EMPLOYEE RELATIONSHIP
(612.085)

The term "employee" is not defined in the Nevada unemployment insurance law. Coverage depends upon whether or not a worker's services constitute "employment" as defined by the law.

Nevada law maintains that, except for specified exclusions, employment means any service performed for wages or under a contract of hire, written or oral, expressed or implied.

Nevada Revised Statute 612.085 provides that services performed for wages are employment unless:

1. The individual is free from control or direction over the performance of his work under his contract of service and in fact, and
2. The service is either outside the usual course of the business for which such service is performed or it is performed outside of all the places of business of the enterprise for which such service is performed, and
3. The worker is customarily engaged in an independently established trade, occupation, profession or business.

These conditions are in the conjunctive and consequently all three conditions must be present before a worker's services may be deemed excluded. It is not sufficient that one or two of them are present.

I. DIRECTION AND CONTROL

Satisfaction of the first condition is the most difficult to determine since there usually are many factors which must be considered in any given case. An individual is an employee if the person for whom he works has the right to direct and control him in the way he works both as to the final result and as to the details of when, where, and how the work is to be done.

There are numerous factors that show direction and control over the services being performed. These factors are to be weighed against or compared to those which point to an independent contractor status. Any single fact or small group of facts is not conclusive evidence of the presence or absence of control. All factors must be weighed and the conclusion must be based on a careful evaluation of all the facts and the presence or absence of factors which point to an employer-employee relationship as well as those which point to an independent contractor status.

~~The weight to be given to the factors involved is not always constant. The degree of importance may vary somewhat depending on the occupation being considered and the reasons for their existence.~~

The following are factors which must be considered in determining whether or not a person's services constitute "employment":

A. INSTRUCTIONS

A person who is required to comply with instructions about when, where, and how he is to work is ordinarily an employee. Even if an employee does not actually receive instructions, the control factor exists if the employer has the right to instruct.

B. TRAINING

Training of a person is a factor of control because it is an indication that the employer wants the services performed in a particular method or manner. An independent contractor ordinarily uses his own methods and receives no training from the purchaser of his services.

C. INTEGRATION

Integration of the person's services into the business operations generally shows that he is subject to direction and control. When the continuation of a business depends to an appreciable degree upon the performance of certain kinds of services, the people who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

D. SERVICES RENDERED PERSONALLY

If the services must be rendered personally, it indicates that the employer is interested in the methods as well as the results. He is interested not only in getting a desired result but also in who does the job.

E. CONTINUING RELATIONSHIP

The existence of a continuing relationship between an individual and the person for whom he performs services is a factor tending to indicate the existence of an employer-employee relationship.

F. SET HOURS OF WORK

The establishment of set hours of work by the employer is a factor indicative of control. Set hours prevent the worker from being master of his own time which is the right of an independent contractor.

G. FULL TIME WORK

If the worker must spend full time attending to the business of the employer, he is restricted from doing other gainful work. An independent contractor is free to work when and for whom he chooses. The meaning of full time may vary with the nature of the occupation, customs in the locality, etc. A person may be required to produce a minimum volume of business which compels him to devote all of his working time to that business.

H. WORK DONE ON PREMISES

Performing services on the employer's premises is not control in itself. It does imply that the employer has control, especially where the work is of such a nature that it could be done elsewhere. The fact that the work is done off the premises does indicate some freedom from control. It does not, however, mean that the worker is not an employee.

I. ORDER OF SEQUENCE

If a person must perform services in the order or sequence set for him by the employer, it shows that the worker is not free to follow his own pattern of work, but must follow the established routines and schedule of the employer.

J. REPORTS REQUIRED

If regular oral or written reports must be submitted to the employer, it indicates control in that the worker is compelled to account for his actions.

K. MANNER OF PAYMENT

Payment for work by the hour, week, or month is usually the manner for paying employees. Payment on a job basis is customary where the worker is an independent contractor.

L. GUARANTEED PAYMENT

The guarantee of a minimum salary or the granting of a drawing account at stated intervals with no requirement for repayment of the excess over earnings indicates the existence of an employer-employee relationship.

M. PAYMENT OF EXPENSES

Payment by the employer of the worker's business and or travel expenses is a factor indicating control over the worker. To the contrary, a lack of control is indicated where the worker is paid on a job basis and has to take care of all incidental expenses.

N. FURNISHING OF TOOLS AND MATERIALS

The furnishing of tools, materials, etc., by the employer is indicative of control over the worker. Where the worker furnishes the tools, materials, etc., it indicates a lack of control but consideration must be given to the fact that in some occupational fields it is customary for employees to use their own hand tools.

O. INVESTMENT

A significant investment by a person in facilities used by him in performing services for another tends to show an independent status. The furnishing of all necessary facilities by the employer indicates an employer-employee relationship.

P. REALIZATION OF PROFIT OR LOSS

A person who is in a position to realize a profit or loss as the result of his services is generally an independent contractor.

Opportunity for profit or loss may be established by one or more of the following:

1. The individual hires, directs, and pays assistants.
2. He has his own office, equipment, materials, or other facilities for doing the work.
3. He has continuing and recurring liabilities or obligations and his success or failure depends on the relation of his receipts to his expenditures.
4. He agrees to perform specific jobs for prices agreed upon in advance and pays expenses incurred in connection with the work.

Q. MULTIPLE EMPLOYERS

If a person works for a number of persons or firms at the same time, it usually indicates an independent status because the worker is usually free from control by any of the firms. It is possible however that a person may work for a number of people or firms and still be an employee of one or all of them.

R. AVAILABILITY TO PUBLIC

The fact that a person makes his services available to the general public is usually indicative of an independent contractor status.

S. RIGHT TO DISCHARGE

The right to discharge is an important factor in indicating that the person possessing the right is an employer. The employer exercises control through the threat of dismissal which causes the worker to obey his instructions. An independent contractor cannot be fired as long as he produces a result that measures up to the contract specifications.

An employee has the right to end his relationship with his employer at any time he wishes without incurring liability. An independent contractor usually agrees to complete a specific job and he is responsible for its satisfactory completion or is legally obligated to make good for failure to complete the job.

II. OUTSIDE PLACES OF BUSINESS, NATURE OF BUSINESS

In addition to being free from direction and control, the services performed by the worker must be outside the usual course or outside of all the places of business of the enterprise for which services are performed. Places of business are not only the offices or physical locations of the business. They may also include such things as sales territories, districts, delivery routes, etc.

III. INDEPENDENTLY ESTABLISHED TRADE, OCCUPATION, PROFESSION OR BUSINESS

Under this condition the worker must be engaged in a business established independently of the one for whom his services are performed. A person engaged in an independently established trade, occupation, profession or business is one that has an interest to such an extent that he can operate it without hindrance from any individual whatsoever. This condition must exist as well as the freedom from direction and control and the performance of services outside the usual course of business or all the places of business of the enterprise.

NEVADA INDUSTRIAL COMMISSION STATEMENT

ON SB 398

This bill in its Chapter-616 provisions would make a mockery of workers' compensation.

Because the lessee cab driver is deemed to have a wage of \$300 per month, a driver who suffered a permanent disability so serious that he was unable to work at all would have a lifetime pension of only \$200 per month (two-thirds of \$300). If he sustained a serious permanent disability of, for example, 30%, he would have compensation of \$45 per month (30% times \$300 times one-half). Even with these totally inadequate benefits, the bill also would shift the premium payments to the drivers. Obviously, this bill not only would place the burden on the injured driver but, no doubt, also on the welfare system due to its grossly inadequate benefits.

Workers' compensation is a trade-off. The employer is relieved of damage suits by injured employees in exchange for guaranteeing to pay the statutory benefits. This bill destroys that trade-off by substantially relieving the employer of any obligation.

The Nebraska Supreme Court in reviewing a similar lease arrangement in Nebraska awarded full compensation to an employee. The court found that the lease agreement did not, in fact, eliminate the employer-employee relationship because the materials and equipment used were provided by the taxi company and it maintained control over the methods and

means of providing taxi service. We see nothing in SB 398 that alters, in workers' compensation terms, the essential employer-employee relationship between drivers and company.

The bill allows drivers to elect coverage as a sole proprietor. Currently the premium for a self-employed, owner-operator of a taxi ranges from \$126 per month for a person under 40 years of age to \$219 per month for those over 65. The rates are high because of high loss experience (mainly medical expense) and because the covered employee and the employer are one and the same person so that the employer control over claims is lost. With these rates, we can expect that few, if any, drivers will agree to pay for workers' compensation. The result will be many workers in a relatively high hazard occupation with no workers' compensation insurance.

The premium rate for taxi companies where there is the employer-employee relationship is \$6.57 per \$100 of wages, a substantially lower rate.

Finally, to the extent that drivers do opt for coverage, NIC will be in an administrative mess. Under SB 398 we must open an account, collect two months advance premium (\$252 to \$438), and issue a policy, though the coverage may be for as little time as 12 hours. With the turnover that we understand occurs in drivers, this bill could impose a tremendous administrative burden and cost on NIC.

In summary, we believe the bill evades the State's workers' compensation law, conflicts with sound principles of industrial accident insurance, will result in workers without any or without adequate coverage and will add unnecessary administrative costs.

Senate Committee on Transportation
March 24, 1981

legislature. Mr. Avance noted that the legislature had given the T.A. the right to regulate taxicabs. He stated that the prohibition of leasing came from a P.S.C. regulation.

Senator Hernstadt asked what was the rationale for prohibiting leasing. Mr. Avance believed that the rationale for prohibiting leasing was that leasing would lessen the control of the agency over the driver.

Mr. Avance stated that there had been no applications with the T.A. for leasing as long as he had been administrator. He stated that if the leasing concept were valid the members of the T.A. board, who have experience in passing ordinances and laws, would give the concept a fair hearing. This would provide that if leasing were allowed and after such allowance it was determined that leasing was not a valid concept it would be possible to take action immediately to correct the problem, rather than waiting until the legislature convened in two years.

Mr. Avance stated that there had been nationwide interest in leasing among taxicab owners. He said that while in San Francisco he asked taxicab drivers if they preferred being an employee or a lessee. Three out of every five drivers preferred leasing. Mr. Avance went on to say that the reason that owners would like to be able to lease is to relieve them of their responsibilities as employers, in regard to taxes and fees. Those responsibilities are shifted to the drivers. Mr. Avance quoted some N.I.C. premium figures for 1979 which were very substantial. Mr. Avance cited cases where it was determined that the lessee/lessor did indeed have an employee/employer relationship. He noted that the requirement of drivers to respond to dispatches is not definitely spelled out in state law and, therefore the lessor requiring the lessee to respond to a dispatch could be construed as excessive control over the lessee. If the lessor does not have this control over the lessee there is the possibility that not all of the public will receive adequate service. Mr. Avance supplied the committee with a graph of monthly trips by taxicabs. (See Exhibit H.) He felt that telephone requests would suffer if leasing were enacted. Mr. Avance explained that the lessee pays the lessor a fee every day and also buys the gasoline to run the taxicab. Any fares over the amount for gasoline and to the lessor is the lessee's. He felt that both the lessee and the lessor would make more money under the leasing concept. Mr. Avance supplied the committee additional information regarding taxicabs and the T.A., (this information is available in the Transportation Committee Office).

MAILGRAM SERVICE CENTER
MIDDLETOWN, N.Y. 22645



Mailgram



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Exhibit E

DR JAMES JONES
3801 MARYLAND PKWY SUITE 600
LAS VEGAS NV 89109

TO: JAMES JONES 3801 MARYLAND PKWY SUITE 600 LAS VEGAS NV 89109

FROM: SENATOR KEITH ASHCROFT 1-604-21 0709P EST

ZIP
SENATOR KEITH ASHCROFT
SENATE CHAMBERS STATE LEGISLATION
CARSON CITY NV 89701

DURING THE PERIOD OF JULY 1972 THROUGH JANUARY 1977, I HAD THE PLEASURE TO SERVE AS THE CHAIRMAN OF THE STATE TAXI CAB AUTHORITY. I WAS APPOINTED TO THIS POSITION BY GOVERNOR MIKE O'CALLAHAN. DURING THAT TIME, MANY HOURS OF STUDY WERE DONE ON THE SUBJECT OF TAXI CAB LEASING. I PERSONALLY VISITED MANY CITIES AND STUDIED THE LEASING PROBLEMS WHICH WERE IN EXISTENCE IN THOSE AREAS. AFTER THESE STUDIES, AN EXTENSIVE PUBLIC HEARING WAS HELD TO BRING THEM INTO THE AREA OF STATE CAB LEASING. AS A RESULT OF THESE STUDIES, I PERSONALLY FEEL THAT THE BILL BEFORE YOU IS THE MOST REASONABLE AND CRITICAL TO THE COMMUNITIES IN THE STATE OF NEVADA. I STRONGLY URGE YOU TO FAVORABLY SUPPORT THE BILL BEFORE YOU MAKING THIS A REALITY.

DR JAMES JONES
LAS VEGAS NEVADA

1947 EST

18V00NF NGM

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE*Approved by
full Council.
Exhibit F*

Date: January 26, 1981

To: Councilwoman Pat Russell, Chairwoman, Transportation and Traffic Committee
Attention: C. B. Pruner, City Clerk's Office, 395 City Hall

From: Board of Transportation Commissioners, 1200 City Hall

Subject: RENEWAL OF EXISTING TAXICAB FRANCHISES

E14

Council Files 80-1717, 80-2070, 80-1643, 80-1485, 80-1709, 80-1642, 80-1358,
77-1167, 80-1608, 80-1356, 80-1787, 80-2101, 80-1246, 80-1365

The franchises of all thirteen (13) existing taxicab companies in the City expired on October 29, 1980. They were subsequently extended, by Council actions, to March 31, 1981 in order to allow sufficient time for the Council to review the Board's September 3, 1980 recommendations on replacement franchises.

The Transportation and Traffic Committee at their meeting of December 10, 1980 considered the renewal of the thirteen franchises including the matter of leasing to driver-owners by franchised taxicab companies. The Committee recommended that the matter of leasing to driver-owners by franchised taxicab companies be referred back to the Board to request that the Board consider alternatives for the accommodation of driver-owners whose authority to lease would be discontinued by the terms of the proposed franchises. The Board was also requested to include any necessary modifications to the proposed franchises.

At its regular meeting on January 22, 1981, the Board of Transportation Commissioners approved certain revisions to their September 3, 1980 recommendations to Council on this matter. The revisions are discussed in detail on the attached Board approved report.

The following represents the Board's original recommendations as revised and is submitted for your action.

1. That a multi-year replacement taxicab franchise, that will expire on March 31, 1985, in accordance with the attached draft be granted to:

LUPE, INC.
GOLDEN STATE TRANSIT CO.
CELEBRITY PRIVATE CAR SERVICE
WILMINGTON CAB COMPANY
MONARCH TRANSPORTATION, INC.
THE F. MICHAEL CRAWFORD CORP.

January 26, 1981

2. That a one-year franchise, which will expire March 31, 1982, with a provision that it will then only be renewed at the discretion of the Council, upon its adoption of the necessary ordinance and provided the Grantee has demonstrated to the satisfaction of the Board continuous compliance with all franchise terms and conditions, be granted to the following:

A & W CAB CO.
HIGH LAND TRANSIT CO.
YELLOW CAB COMPANY OF CULVER CITY, INC.
JAMES D. MITCHELL
SOUTHERN CALIFORNIA TRANSIT CO.
RED AND WHITE CAB CO.
LOS ANGELES CITY CAB COMPANY, INC.

3. That any change in ownership of the grantee shall be subject to Council approval.
4. That the Council amend Section 71.05(b) of the Los Angeles Municipal Code to provide for an increase in vehicle permit fees for taxicals and that the revised Section read substantially in accordance with the accompanying draft.

In addition to the above recommendations, the Board adopted the following resolution by Commissioner Michael Bennett:

"I move that all existing authorities for leasing of taxicabs by franchised companies to driver-owners, granted by the Board pursuant to 71.15 of the Municipal Code, be rescinded on a phased basis, that the companies be instructed to terminate the driver-owner relationship upon completion of their one-year contract and in no event later than July 1, 1981, and that the City Council be advised of this action of the Board."

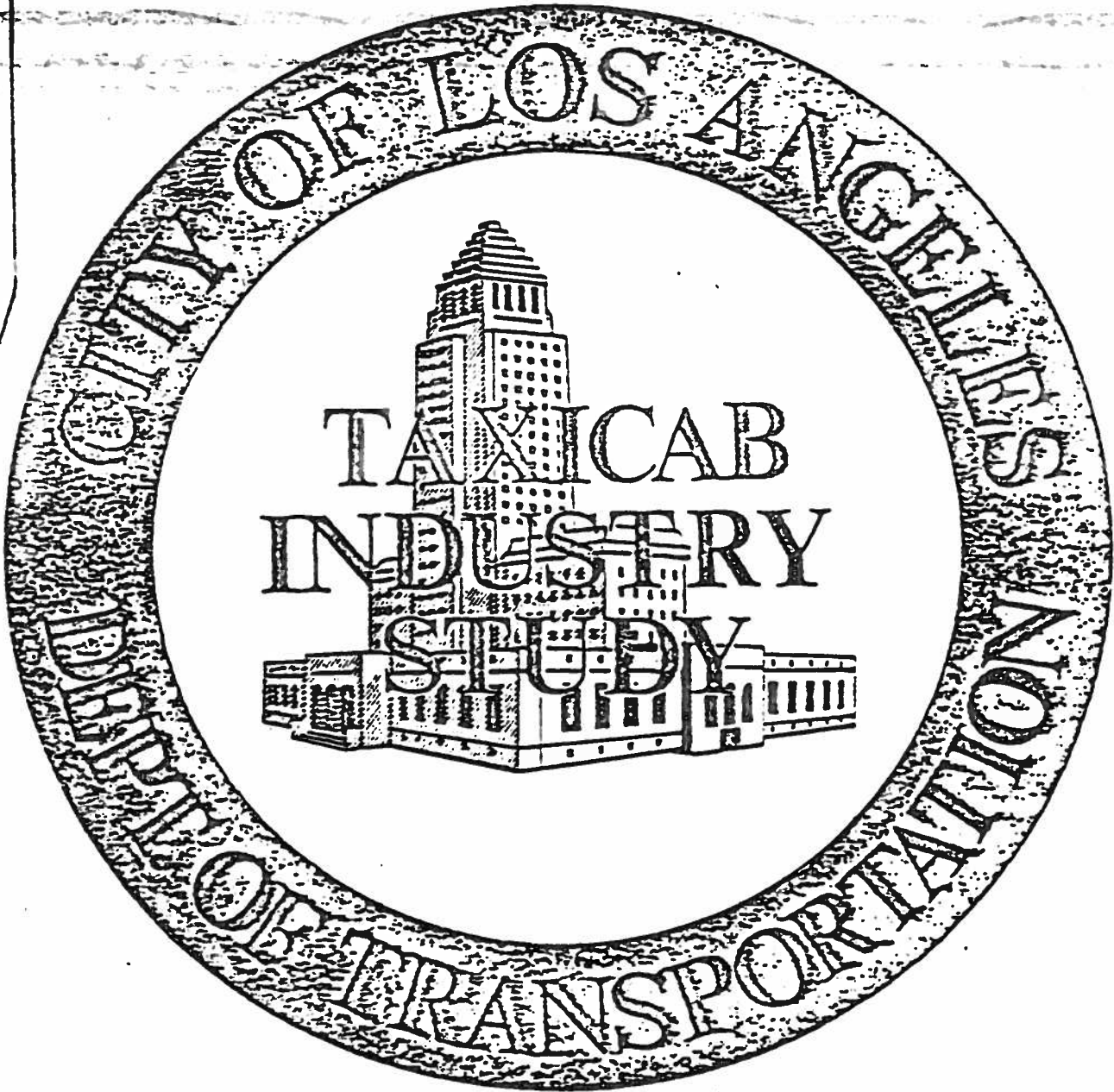
This matter is being returned for your action.


Joy Ventura, Acting Secretary
Board of Transportation Commissioners

JR:jcv

Attachments

cc: All Franchised Operators



DONALD R. HOWERY
General Manager

AUGUST 1980

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I. SUMMARY OF RECOMMENDATIONS

A. Franchises

1. That a 5 year replacement taxicab franchise, that will expire on October 29, 1985, substantially in accordance with the attached franchise (See Appendix) be granted to:

LUPE, INC.
GOLDEN STATE TRANSIT CO.
CELEBRITY PRIVATE CAR SERVICE
RED AND WHITE CAB CO.
WILMINGTON CAB COMPANY

2. That a four month probationary franchise with a provision for extension to five years upon affirmative finding of compliance by the Board, substantially in accordance with the attached franchise, be granted to each of the following:

<u>Companies</u>	<u>*Conditions of Probation</u>
MONARCH TRANSPORTATION, INC.	A
THE F. MICHAEL CRAWFORD CORP.	B C
A & W CAB CO.	B C
HIGH LAND TRANSIT CO.	A B C E
YELLOW CAB COMPANY OF CULVER CITY, INC.	B C
JAMES D. MITCHELL	A B C D
SOUTHERN CALIFORNIA TRANSIT CO.	D

- *A) Payment of franchise fees.
- B) Compliance with all rules regarding leasing/contracting operations.
- C) Furnish waybills and dispatch records.
- D) Maintain minimum number of vehicles required by franchise.
- E) Compliance with Affirmative Action requirements of franchise.

3. That the application of Los Angeles City Cab Company, Inc., for a replacement franchise be denied.
4. That no additional operators be considered for taxicab franchises, and existing service area boundaries be retained.
5. That any change in ownership of the grantee shall be subject to Council approval.
6. That franchise fees shall be collected monthly at a base rate of \$500 per taxicab per year with increments for level of service and provisions for late payment penalties.
- * 7. That all leasing/contracting between grantee and driver-owners or other than employees be prohibited.

8. Associations

8. That the request of the Los Angeles Independent Taxi Association to operate as a third independent association be denied without prejudice.
9. That existing service area boundaries be retained.
10. That the Associations' agreements with the Board require that the Affirmative Action provisions of Ordinance 147,030 be applied to the membership (non-employees) as well as employees.
11. That the Associations' agreements with the Board require that the Association approve members' alternate drivers and submit an updated list of same to the Department.
12. That the Council amend Section 71.05(b) of the Los Angeles Municipal Code to provide for an increase in vehicle permit fees for taxicabs and that the revised Section read substantially in accordance with the accompanying draft (See Appendix).

13. That the term of the operating agreement between the Associations and the Board be continued at one year and that the Board approve and execute the attached agreements.

ISSUE 5

~~should the practice of leasing/contracting by franchise companies be allowed to continue?~~

DISCUSSION

Leasing/contracting was prohibited prior to the revision of Los Angeles Municipal Code Section 71.15. The revision became effective on May 21, 1977 and now reads as follows:

"Notwithstanding the foregoing provisions of this Section, (which prohibited lease, contract, agreements or understandings) however, any motor bus or taxicab as described in Section 71.00 for which a permit or franchise has been granted may be operated pursuant to a contract, agreement, or understanding between the grantee and the driver provided the grantee secures the prior authorization of the Board regarding the extent thereof".

The purpose of this revision was to afford the independent owner-operator permittee the opportunity to lease his cab to a second and third driver on a lessee-lessor basis. For the independents it was felt that to properly serve the public on a 24-hour basis it was necessary that each independent be able to put his vehicle in service in addition to his own shift.

This also permitted the franchisee to arrange compensation for drivers other than on a commission basis. This action permitted the leasing of company owned vehicles as well as leases to driver-owners.

In order to control such an operation with the franchise companies and insure that the service standards would not be compromised, this arrangement was limited initially to 20% of the fleet of those companies authorized to participate. Four companies were approved at first and eventually four others applied and were authorized to lease.

The lease fleet size fluctuated with Board actions until January 11, 1979, when the Board established the maximum number of lease vehicles for each of the eight companies. No additional companies have been authorized to lease pending further studies. The eight companies authorized to lease and the maximum number of vehicles each is permitted in the lease fleet is indicated as follows:

<u>Cab Company</u>	<u>Permitted No. of Lease Vehicles</u>	<u>Service Area</u>
A & W	45	C
Red & White	34	C-2
L. A. Checker	33	C-1
City	16	B-2
Valley	12	A
L. A. Red Top	12	B-1
Celebrity	19	B-1
Beverly Hills	9	B-1

The above listed companies are not to exceed their lease authority, are responsible for collecting and maintaining waybills, dispatch records and current lists of all drivers involved in the leasing operation and must make franchise payments that reflect the revenue collected by the driver-owners.

It has now become obvious to the Department that there is widespread violation of the leasing operation. Each of the eight companies, plus some franchise companies not authorized for leasing, have been found in violation of the leasing authority. Many companies are consistently exceeding their lease fleet maximum. The driver-owner often subleases his vehicle to a second driver, without company approval, which is illegal, and does not drive as the primary driver. In many instances a driver-owner has been found to own more than one vehicle in the lease fleet, which is also illegal, and actually operates his own mini-fleet within the company lease authority. It is extremely difficult to retrieve the City seals from a driver-owner who has been dismissed from the lease fleet. The Company and the Department too often experience extreme difficulty in trying to collect waybills from the driver-owner. Without waybills it is impossible to verify who was driving the vehicle at any given time. The waybills also verify revenue that is to be added to the company gross for franchise fee calculations. Second drivers, for commission fleet only, are not permitted unless they too enter into a contract/lease with the company. Many second drivers have been found with no contract/lease with the company. Another problem of accountability arises when the driver-owner sells his vehicle to another, without informing the company or the City and obtaining the proper authority. In many instances the first notification to the city is through an insurance cancellation notice on the former owner. In the meanwhile the vehicle is operating without insurance. Obviously the companies have no control over their driver-owners and in many cases have been reluctant to dismiss an offending driver from the lease fleet for the aforementioned violations.

In the Appendix is a record of the illegal operations for each company found in violation of the leasing authority.

CONCLUSION

~~It is clear that all taxicabs operated on behalf of a franchise should be under the direct control of the Grantee. the Grantee should not be permitted to provide tax service through a contracting or leasing type operation with a driver-owner, but only by the operation of its taxicabs by employees and officers of the Grantee.~~

MOTOR CARRIER DIVISION

SB-477

I. Intent:

Proposes a "Single License Plate" concept for the Department of Motor Vehicles. Eliminates trailing vehicles from mandatory Motor Carrier licensing and prorate registration and prorate privilege tax and shifts the fees and taxes to the motor vehicles.

II. Justification:

Eliminates duplication of efforts by the Registration Division and/or County Assessors and the Motor Carrier Division and the Automation Division. The Department would require a single license plate for Nevada based commercial vehicles rather than a registration license plate and a Motor Carrier license plate.

Eliminating trailing vehicles from mandatory Motor Carrier licensing and prorate registration and prorate privilege taxes reduces the work load of the department (Automation Division, Motor Carrier Division and Administrative Services Division) and eliminates efforts, which are administratively and economically unfeasible.

Increasing the fees and taxes on motor vehicles will generate the loss of revenue from the trailers.