

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session  
March 22, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:06 a.m. on Tuesday, March 22, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Sandra Tiffany  
Senator Joe Heck  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator John Lee

**GUEST LEGISLATORS PRESENT:**

Assemblyman Chad Christensen, Assembly District No. 13

**STAFF MEMBERS PRESENT:**

Kevin Powers, Committee Counsel  
Jane Tetherton, Committee Secretary  
Scott Young, Committee Policy Analyst  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Richard Burdette, Energy Advisor, Office of the Governor  
Jon B. Wellinghoff  
Don Soderberg, Chairman, Public Utilities Commission of Nevada  
Michael W. Yackira, CFO, Sierra Pacific Resources

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Adriana Escobar-Chanos, Chief Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General

Walt Higgins, CEO, Sierra Pacific Resources

Fred J. Schmidt, Ormat Nevada, Incorporated; Southern Nevada Water Authority

Joe L. Johnson, Toiyabe Chapter Sierra Club

Ellen Allman, Caithness Operating Company

Robert Tretiak, Ph.D., International Energy Conservation

Mark Russell, Renewable Energy and Energy Conservation Task Force

Gail J. Anderson, Administrator, Real Estate Division, Department of Business and Industry

Marc Sykes, Treasurer, Nevada Association of Realtors

Michael S. Trudell, Caughlin Ranch Homeowners Association

Robert C. Maddox, Community Associations Institute

Alisa Vyenielo, Community Association Management Executive Officers, Incorporated; Real Properties Management Group, Incorporated

CHAIR TOWNSEND:

We will open the hearing on Senate Bill (S.B.) 188.

**SENATE BILL 188**: Makes various changes relating to energy. (BDR 58-364)

CHAIR TOWNSEND:

This bill is the result of the work of a broad-based panel working together over the past 12 months to analyze the problems Nevada faces in the energy field and propose solutions. At the request of the Office of the Governor, we have included the Temporary Renewable Energy Development (TRED) program in this bill. Those involved are to be commended for their commitment and effort in this matter.

RICHARD BURDETTE (Energy Advisor, Office of the Governor):

I support this bill. It is in the best interests of the State.

JON B. WELLINGHOFF:

I am a former Consumer's Advocate for the State of Nevada. I support this bill. It will have tremendous benefit for the State.

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DON SODERBERG (Chairman, Public Utilities Commission of Nevada):  
I support this bill. We believe we have all the nuts and bolts worked out on this bill.

MICHAEL W. YACKIRA (CFO, Sierra Pacific Resources):  
I support S.B. 188. This bill will help in attaining the portfolio standard, including the TRED program.

ADRIANA ESCOBAR-CHANOS (Chief Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):  
It is our opinion this bill is in the public interest, and we support it.

WALT HIGGINS (CEO, Sierra Pacific Resources):  
I support this bill. It is in the best interests of the State.

MR. SODERBERG:  
Nevada is considered the Saudi Arabia of renewable energy, with its abundant sunlight, geothermal resources and other sources of renewable power. Unfortunately, the western United States is also a place of vast energy waste. This bill makes energy conservation the policy of the State and creates a mechanism to facilitate that.

In addition, the bill is designed to assist the State, the utilities and renewable developers in developing renewable resources. Efforts to do this in past Legislative Sessions have not taken into account the difficulty of financing the development of renewable energy sources. This bill attempts to make it easier by giving statutory support to the TRED program.

FRED J. SCHMIDT (Ormat Nevada, Incorporated; Southern Nevada Water Authority):  
I will present the amendments offered by the task group.

In section 3, subsection 1, paragraph (a), insert "of a provider of electric service" after "retail customer." This makes clear the original intent that the scope of the energy efficiency measure related to the provider of electric services.

In section 3, subsection 1, paragraph (c), change the wording to: "The costs of the acquisition or installation of the measure are directly reimbursed, in whole or

in part, by the provider of electric service." Similarly, in section 12, subsection 3, change the word "subsidized" to "reimbursed." This is an improvement of language.

In section 8, subsection 3, paragraph (b), change the wording to: "The payment of money from the private trust to carry out the terms of contracts for new renewable energy projects." This ensures the TRED program is used to make continuing payments toward the contracts, not just provide financial subsidies.

In section 12, subsection 2, paragraph (b), strike the phrase: "For calendar year 2005 and for each calendar year thereafter through calendar year 2009" so paragraph (b) begins, "Of the total amount of electricity ... ." The bill inadvertently dropped the cap after 2009. This could result in energy efficiency swallowing up as much as 50 percent or more of the portfolio, which was not the intent.

In that same section, at the end of paragraph (b) add: "Of that 25 percent limit, at least 50 percent may be generated, acquired or saved from energy efficiency measures at the service location of a customer who is not a residential customer, unless a different percentage is authorized by the Commission." The purpose of this is to ensure residential customers get to participate in 50 percent of the capped amount applied for energy efficiency credits.

In section 12, subsection 7, paragraph (b), add: "In evaluating any such proposal, the Commission must consider the effect on rates paid by customers of the provider." This ensures the opportunity to consider the effect on the utility would be balanced against the Commission's obligation to consider the effect on the customer.

SENATOR CARLTON:

What was the justification for replacing "subsidize" with "reimburse"?

MR. SODERBERG:

The word "subsidize" creates the appearance that the public would be paying the full cost of this. We are looking for the utility to create a level of incentive to implement conservation programs. The intention is to assist conservation measures, not subsidize them.

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SENATOR LEE:

In section 14, subsection 5, how would you adjudicate the fining process? What would be the amount of these administrative fines?

MR. SODERBERG:

This bill does not modify existing statute or procedure.

JOE L. JOHNSON (Toiyabe Chapter Sierra Club):

We fully support this measure and the inclusion of conservation within the portfolio. We have concerns about the language in the bill. We have amendments to offer ([Exhibit C](#)).

SENATOR LEE:

You recommend section 14, subsection 6 be changed so that fines be deposited in the Trust Fund for Renewable Energy and Energy Conservation rather than in the State General Fund. How would the Trust Fund be used to benefit conservation?

MR. JOHNSON:

The Renewable Energy and Energy Conservation Task Force receives its funding from the Trust Fund.

CHAIR TOWNSEND:

Why do you want to delete subsection 3 of section 12?

MR. JOHNSON:

This section is prescriptive. It allows any subsidy or reimbursement to take all of the solar credits. As it is written, if the utility gave a \$5 subsidy to a solar facility, it would get all of the solar credit. The Public Utilities Commission of Nevada should have the ability to establish what is a reasonable subsidy to get the entire credit. I also have concerns that in implementing this program, the projects that qualify may be already existing efficiency programs, such as Energy Star.

CHAIR TOWNSEND:

This issue will be dealt with by the Commission.

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MR. JOHNSON:

I am also concerned that as the bill is written, the efficiency credit can only be applied to the nonsolar portion of the portfolio.

CHAIR TOWNSEND:

I do not know if this was intended. We will look into the matter.

ELLEN ALLMAN (Caithness Operating Company):

We support this bill and approve of the amendments offered by Mr. Schmidt.

ROBERT TRETIAK, PH.D. (International Energy Conservation):

We support this bill. I have written testimony ([Exhibit D](#)). Because of the shortfall between the electricity Nevada generates and the electricity it uses, we are shipping \$3 billion out of the State to pay for additional energy. This bill will reduce the shortfall and shift the money into creating additional jobs in the State, mostly International Brotherhood of Electrical Workers union jobs.

SENATOR HARDY:

Are you saying the jobs will be mostly union because of the quality of training received, or are you contemplating project labor agreements?

DR. TRETIAK:

It has to do with the training.

SENATOR HARDY:

There are a number of nonunion electricians and companies who are actively moving towards green energy generation. "I wanted to make sure, on the record, that there was no attempt to exclude them from being able to participate."

DR. TRETIAK:

It was not intended to be exclusionary.

MR. SODERBERG:

I have a status report on compliance with the renewable portfolio standard ([Exhibit E](#)).

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MARK RUSSELL (Renewable Energy and Energy Conservation Task Force):  
We support this bill and were pleased to see the across-the-board group of experts presenting the bill.

CHAIR TOWNSEND:

These changes will be incorporated into the bill in a multicolored mock-up. Please inform staff if you wish to receive a copy of the mock-up when it is completed. This bill and S.B. 123, which deals with similar issues, will be discussed in subcommittee at the same time.

**SENATE BILL 123**: Revises provisions governing energy assistance.  
(BDR 58-238)

CHAIR TOWNSEND:

I will close the hearing on S.B. 188. We have a number of bill draft requests (BDRs) to consider.

**BILL DRAFT REQUEST 10-129**: Makes various changes relating to common-interest communities. (Later introduced as [Senate Bill 258](#).)

**BILL DRAFT REQUEST 54-360**: Makes various changes relating to regulation of certified public accountants. (Later introduced as [Senate Bill 257](#).)

**BILL DRAFT REQUEST 58-655**: Revises certain provisions relating to regulation of public utilities. (Later introduced as [Senate Bill 256](#).)

**BILL DRAFT REQUEST 55-1229**: Revises provisions governing acquisition of branches of certain financial institutions. (Later introduced as [Senate Bill 255](#).)

SENATOR HARDY MOVED TO INTRODUCE BDR 10-129, BDR 54-360, BDR 58-655 AND BDR 55-1229.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SCHNEIDER WAS ABSENT FOR THE VOTE.)

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CHAIR TOWNSEND:

I will open the hearing on Assembly Bill (A.B.) 71.

**ASSEMBLY BILL 71**: Requires association of common-interest community to provide copy of declaration of covenants, conditions and restrictions to unit's owner upon request. (BDR 10-441)

ASSEMBLYMAN CHAD CHRISTENSEN (Clark County Assembly District No. 13):  
This bill addresses an inequity I encountered when I sold my house this summer. The seller is required by statute to provide the buyer with a copy of the conditions, covenants and restrictions (CC&Rs) of the common-interest community. When I went to the management company contracted by my homeowners' association, I was told the charge to photocopy the 50-page document was \$150. If I took this same document to a commercial photocopy store, it would cost perhaps \$4 to produce a copy.

CHAIR TOWNSEND:

You have a good point. The price limit of 25 cents a page may be too high, if a photocopy store can make copies for 8 cents a page. I wonder, though, if this is the best vehicle to deal with the problem.

ASSEMBLYMAN CHRISTENSEN:

This was the recommendation of the Legislative Counsel Bureau.

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

We reviewed this bill and have no opposition to it. We have no opinion as to the appropriate fee to charge. It is important that the unit owner be able to acquire these documents.

SENATOR TIFFANY:

Is there any requirement or regulation that unit owners be given updated CC&Rs when they change?

KEVIN POWERS (Committee Counsel):

There in fact is a requirement in the law, and it's found in *Nevada Revised Statute* (NRS) 116.12065. It doesn't require a new set of the governing documents to be sent out to each unit in the homeowners association; it only requires a copy of the change to



the governing documents. If one section of the governing documents were to be changed, the homeowners association would be required at their own cost to send out a copy of that one section that was changed to each of the units in the homeowners association or to each of the unit owners.

SENATOR TIFFANY:

With the high monthly fees sometimes charged by common-interest communities, unit owners should be provided with a current copy of the CC&Rs free on request.

SENATOR LEE:

Why is there a charge for this at all? The first set should be available to the homeowner at no charge. I have also encountered situations in which copies were not provided for more than a week. These documents could be put on the Internet and be available immediately. I would like to see a time restraint added to the bill.

ASSEMBLYMAN CHRISTENSEN:

Some associations do have their documents on the Internet. I believe an amendment is to be offered to address the time limit.

SENATOR SCHNEIDER:

Management companies are often selected in a bid process, which often results in the contract to manage a common-interest community being awarded to a company that has underbid significantly. A management company cannot make enough money to survive on a fee of \$5 or \$6 a door. This type of charge is used as another income stream to make up their cash flow. In some areas of California, the fees are up to \$20 a door. As the Commission for Common-Interest Communities increases the education requirements for managers, the industry will be upgraded and bids will be more accurate. In the short term, perhaps the Commission could handle this by regulation.

MARC SYKES (Treasurer, Nevada Association of Realtors):

We support this bill. We have an amendment to offer ([Exhibit F](#)). The seller is required to provide a number of documents regarding the common-interest community to the buyer. We recommend expanding the bill to include these documents in the bill along with CC&Rs. Some of these documents may require staff time to research and produce, and for that reason we recommend allowing

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an additional fee to be charged if a document requires extraordinary staff time to prepare.

SENATOR LEE:

Your amendment would allow ten days for these documents to be produced. This is far too long.

MR. SYKES:

I agree that the ten days currently allowed in statute is excessive.

MICHAEL S. TRUDELL (Caughlin Ranch Homeowners Association):

I have an amendment to offer ([Exhibit G](#)). Realtors sometimes request multiple copies of these documents to have on file in case a sale occurs. It is not always a case of one owner who wants one copy. For this reason, Caughlin charges \$50 per packet. We also have our information on the Internet for those who have access.

SENATOR LEE:

Can you justify the ten-day written request in your amendment?

MR. TRUDELL:

Because we do inspections on properties being sold, we request title companies give us a minimum notice of 72 hours.

ROBERT C. MADDOX (Community Associations Institute):

We support A.B. 71 and the amendment offered by Mr. Trudell. It should be noted Mr. Trudell's amendment speaks only to title transfers. The ten-day requirement is part of existing law because transfer of title requires much more than simply copying a single document. I agree the Commission for Common-Interest Communities needs to deal with this overall issue rather than simply doing away with it by legislation.

ALISA VYENIELO (Community Association Management Executive Officers, Incorporated; Real Properties Management Group, Incorporated):

I support this bill in its original language. I am concerned the amendments offered seek to include items in this cap that require more than photocopying to prepare.

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SENATOR LEE:

I would like to work with Assemblyman Christensen on this bill to make it more user-friendly. This bill is greatly needed.

SENATOR SCHNEIDER:

I get many calls from realtors complaining about this problem. It might be better not to include a price cap of 25 cents in statute because of the difficulty of adjusting the amount. Perhaps the Commission for Common-Interest Communities would be the best body to deal with the issue.

CHAIR TOWNSEND:

We will refer this bill to the subcommittee chaired by Senator Schneider, with Senator Carlton and Senator Lee. Please leave your contact information with staff if you wish to be informed when this meeting is scheduled.

Is there any further comment? Hearing none, I will adjourn the meeting at 9:55 a.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Randolph J. Townsend, Chair

DATE: \_\_\_\_\_