

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session
April 19, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:02 a.m. on Tuesday, April 19, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Mark E. Amodei, Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Terry Care
Senator Steven Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)
Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Mo Denis, Assembly District No. 28
Assemblyman John W. Marvel, Assembly District No. 32
Assemblyman John Ocegquera, Assembly District No. 16

STAFF MEMBERS PRESENT:

Nicolas Anthony, Committee Policy Analyst
Bradley Wilkinson, Committee Counsel
Ellie West, Committee Secretary

OTHERS PRESENT:

Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State

Senate Committee on Judiciary
April 19, 2005
Page 2

Pilar Weiss, Culinary Workers Union Local 226
Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection,
Office of the Attorney General
William R. Uffelman, Nevada Bankers Association
David Straus, Attorney

Chair Amodei opened the meeting and invited Assemblyman Mo Denis to testify on Assembly Bill (A.B.) 227.

ASSEMBLY BILL 227: Revises provisions relating to advertising by notaries public. (BDR 19-862)

Assemblyman Mo Denis, Assembly District No. 28, quoted from the Legislative Counsel's Digest, lines 8 through 14 of A.B. 227:

This bill prohibits a notary public who is not an attorney licensed to practice law in Nevada from using the terms "notario," "notario publico" or any other equivalent non-English term in any communication that advertises his services, including business cards, stationery, notices and signs. A notary public who violates this prohibition is subject to the same penalties imposed on a notary public who is not a licensed attorney in Nevada relating to advertising his services in a language other than English.

The effective date would be October 1, he stated. He said the reason for this bill was because the words "notario" and "notario publico" in Latin-American countries had different meanings than in the United States. He gave examples of countries like Peru and Bolivia where a notario performed only clerical functions; whereas in Mexico and Ecuador, a notario was a lawyer, expert in property transfers. In Guatemala, notaries could work on medical malpractice, he continued. He said unqualified people used the terms "notario" and "notario publico" in Spanish and actually performed the functions of an attorney. He stated most of the abuse was in immigration law.

The provisions in A.B. 227 were already law in many states that bordered Latin-American countries, Assemblyman Denis noted. He said prosecution was easier with lines 11 through 14 of A.B. 227 which stated, "I am not an attorney in the State of Nevada. I am not licensed to give legal advice. I may not accept fees for giving legal advice." He said people told him they paid fees to notaries

in the United States who performed immigration work for them, and charged fees commensurate with those of an attorney.

Senator Care asked Assemblyman Denis if there was a word, in the Spanish language, in place of "notario" that would mean notary. Assemblyman Denis replied there was no equivalent word, and what other states had done was to use the word notary in English. Senator Care asked if any radio stations that directed their programming to a Latin audience used non-English terms equating to notary. He asked if this bill was specific to the Spanish language. Assemblyman Denis responded it was mostly specific to the Spanish language for the term "notario." He elaborated and explained the bill also covered the term "notaria" which was the feminine version of "notario."

Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State, said her office supported Assemblyman Denis's bill because it would help identify situations where the disclaimer, which was also in statute, was required. She said A.B. 227 would lead to better enforcement of fraudulent activities similar to the immigration works notaries performed who were unlicensed to act in that capacity.

Pilar Weiss, Culinary Workers Union Local 226, said she supported A.B. 227, and her Union represented 50,000 members. A large majority of their membership was Hispanic, and many sought legal assistance for citizenship, family reunification and other legal matters, she said. Many of their members had lost great sums of money due to their misunderstanding of the word "notario," expecting to get bona fide legal advice. Senator Care asked Ms. Parker if she had heard from the State Bar of Nevada about this situation where fees were exorbitant and if this was practicing law without a license. Ms. Parker said they had not heard from the State Bar.

Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General, said her office supported A.B. 227 and stated they had heard from the State Bar Association regarding another bill which limited the exposure of the immigrant population to fraud by those who practiced law without a license. She said her office had a conversation with the State Bar Association subsequent to the other bill's introduction, and they indicated they would be present today to express their support. The State Bar of Nevada had already expressed support for A.B. 227 to Assemblyman Denis and to her, she said.

SENATOR WIENER MOVED TO DO PASS A.B. 227.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

Chair Amodei closed the hearing on A.B. 227 and assigned the floor work to Senator Horsford and opened the hearing on A.B. 243.

ASSEMBLY BILL 243: Revises definition of "securities account" for purposes of Uniform TOD Security Registration Act to include investment management or custody accounts with trust company or trust division of bank. (BDR 10-809)

Assemblyman John W. Marvel, Assembly District No. 32, said A.B. 243 helped preserve estates for heirs and stated the Nevada Bankers Association brought him the bill. He declared probate was time-consuming and expensive. This bill would help avoid probate and preserve assets for heirs, he said.

William R. Uffelman, Nevada Bankers Association, affirmed what Assemblyman Marvel stated and said A.B. 243 afforded the opportunity for an investment management or a custody account, which was in a trust company or a trust division of a bank with trust powers, to have a beneficiary designation effective upon the death of the owner. He explained this made the account much like a brokerage account, which had a designated beneficiary, because the account passed outside of probate. Mr. Uffelman mentioned several states where similar bills were enacted.

SENATOR WIENER MOVED TO DO PASS A.B. 243.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

Chair Amodei closed the hearing on Assembly Bill 243 and opened the hearing on Assembly Bill 178, allowing attorneys to notarize documents.

ASSEMBLY BILL 178: Revises provisions governing notaries public. (BDR 19-1130)

Assemblyman John Ocegüera, Assembly District No. 16, said A.B. 178 basically allowed an attorney to become a notary public if he so desired. The attorney could not receive any benefit from the position other than the ability to notarize a file he worked on, he explained. Senator Care clarified the bill enabled an attorney to notarize a document in the event a client needed this service when all notaries were out of the office.

David Straus, Attorney, testified from Las Vegas that he supported A.B. 178.

SENATOR WIENER MOVED TO DO PASS A.B. 178.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

Chair Amodei closed the hearing on A.B. 178 and assigned the floor work to Senator Care. Chair Amodei opened the hearing on A.B. 79.

ASSEMBLY BILL 79: Authorizes award of reasonable expenses, including attorney's fees, in certain contempt proceedings. (BDR 2-72)

Bradley Wilkinson, Committee Counsel, was asked to give a briefing on the bill by Chair Amodei. Mr. Wilkinson said, in essence, A.B. 79 provided the court the ability to require a person found in contempt of court to pay reasonable expenses to the other party, including attorney's fees. Chair Amodei referred to *Nevada Revised Statute* (NRS) 22.010, subsection 3, and he quoted, "disobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers" constituted contempt.

Senate Committee on Judiciary
April 19, 2005
Page 6

SENATOR WIENER MOVED TO DO PASS A.B. 79.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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Chair Amodei closed the hearing on A.B. 79.

Senator Wiener said she would do the floor work on S.B. 347. Senator Wiener asked for a summary of the language on the complicated identity-theft bill from Mr. Nicolas Anthony, Committee Policy Analyst, and Mr. Wilkinson.

There being no further business to discuss, Chair Amodei adjourned the meeting at 9:24 a.m.

RESPECTFULLY SUBMITTED:

Ellie West,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____