

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Eighty-Second Session
February 22, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 1:31 p.m. on Wednesday, February 22, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Elaine Marzola, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblyman Max Carter
Assemblywoman Bea Duran
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Daniele Monroe-Moreno
Assemblyman P.K. O'Neill
Assemblywoman Selena Torres
Assemblyman Steve Yeager
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

Assemblywoman Shea Backus (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Marjorie Paslov-Thomas, Committee Policy Analyst
Sam Quast, Committee Counsel
Joe Steigmeyer, Committee Counsel
Cyndi Latour, Committee Manager
Julie Axelson, Committee Secretary
Garrett Kingen, Committee Assistant



OTHERS PRESENT:

Jason Mills, representing Nevada Justice Association
Misty Grimmer, representing Employers Insurance Company of Nevada
Craig Coziahr, representing Nevada Agriculture Self-Insured Group; Nevada Retail Network Self-Insured Group; Nevada Transportation Network Self-Insured Group; Nevada Auto Network Self-Insured Group; Builders Association of Western Nevada Self-Insured Group; and Nevada Self Insurers Association
Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry
Paul Young, representing Pharmaceutical Care Management Association
Bill Head, Assistant Vice President, State Affairs, Pharmaceutical Care Management Association
Michael Hillerby, representing State Board of Pharmacy
Elizabeth MacMenamin, Vice President, Government Affairs, Retail Association of Nevada
Paul Moradkhan, Senior Vice President, Vegas Chamber
Hamlin Wade, Assistant Vice President, External Affairs, DIRECTV

Chair Marzola:

[Roll was called and Committee rules and protocols explained.] Good afternoon and welcome to everyone here in Carson City, Las Vegas, and those listening over the phone lines. Today we will hear Assembly Bill 107, Assembly Bill 146, and Assembly Bill 165, and we will be taking them out of order. I will now open the hearing on Assembly Bill 165. This measure revises provisions governing payments for a permanent partial disability.

Assembly Bill 165: Revises provisions governing payments for a permanent partial disability. (BDR 53-777)

Assemblywoman Sandra Jauregui, Assembly District No. 41:

I am happy to be here in front of you today presenting what will probably be my two easiest bills of the session. First, we are starting with Assembly Bill 165. At the table with me are two groups who normally are not at the table together: insurance companies and trial lawyers. This cleanup bill has brought them together for the benefit of Nevada's injured workers. Earlier this year, the Division of Industrial Relations in the Department of Business and Industry issued a memo that due to the change in Assembly Bill 458 of the 79th Session, there is now a missing statutory authority to grant lump sum payment awards for injured workers in Nevada for injuries that result in under 30 percent whole person disability. They were going to stop processing these claims. This bill will fix that and allow those injured workers to receive one lump sum payment for their award.

Madam Chair, with your permission I would like to turn it over to Jason Mills with the Nevada Justice Association and then to Misty Grimmer for further information and to help answer any questions.

Jason Mills, representing Nevada Justice Association:

The critical issue that she [Assemblywoman Jauregui] pointed out was that this was effectively a drafting or scrivener's error on an amendment from the 2017 Legislative Session that none of the parties, and admittedly me included, did not pick up on that last minute error. However, for five years the claims were processed properly and timely. Yet, the Division of Industrial Relations noted the error late last year, and an emergency regulation was drafted by the previous administration, and a temporary regulation has been moving through the current administration to address this particular problem. This bill reinstates the status quo that has been in place for decades in this state. If there are any questions, problems, or issues you would like to ask of me, I am prepared.

Misty Grimmer, representing Employers Insurance Company of Nevada:

I will not add to what Jason said. I will just say ditto. It is also in the interest of the insurance side of the world that these smaller claims can be lump summed out. In Nevada, we have lifetime reopening, so they do not ever go away completely. As far as the administrative day-to-day, month-to-month activities on these claims, if we can lump sum out the smaller ones, then it is better for everybody involved.

Chair Marzola:

Yes, I think it is very important that our claimants are being paid. Are there any questions?

Assemblywoman Hardy:

You mentioned the emergency regulation that is currently in place, and I understand that expires in April. Is that correct?

Jason Mills:

That is correct. The emergency regulation went into place just days after the Division of Industrial Relations noticed the error. As you are well aware, emergency regulations only last 120 days. On April 4, 2023, the emergency regulation will cease to exist and the status quo where claimants in the state of Nevada that receive disability awards under 30 percent—which is the vast majority of all injured workers in Nevada—will lose their ability to receive lump sum payments to their detriment and the detriment of employers and insurers as well.

Chair Marzola:

Are there any other questions? [There were none.] Next, we will hear testimony in support of A.B. 165. Is there anyone wishing to give testimony in support?

Craig Coziahr, representing Nevada Agriculture Self-Insured Group; Nevada Retail Network Self-Insured Group; Nevada Transportation Network Self-Insured Group; Nevada Auto Network Self-Insured Group; Builders Association of Western Nevada Self-Insured Group; and Nevada Self Insurers Association:

For the most part, this is a big ditto. This benefits everybody. Thank you very much for processing this quickly.

Chair Marzola:

Is there anyone else wishing to testify in support? [There was no one.] Is there anyone in opposition to A.B. 165? [There was no one.] Is there anyone wishing to testify in neutral on A.B. 165?

Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry:

I am testifying in neutral today on A.B. 165. I wanted to echo the comments earlier in that our office discovered the issue with the lump sum permanent partial disability payments in late 2022. After speaking with stakeholders, we did input an emergency regulation as was discussed on December 5, 2022, and that will expire on April 4, 2023. Because that is going to expire—and we were not sure of the timing of this legislation that is before you—we have started the process for a temporary regulation that would pick up when the emergency regulation expires. We are having a workshop on February 27, 2023, at 10 a.m., and the information on that workshop is provided in our written testimony [[Exhibit C](#)].

Chair Marzola:

Is there anyone else wishing to testify in the neutral position? [There was no one.] Assemblywoman Jauregui, do you have any closing remarks? [There were none.] We will close the hearing on A.B. 165.

I will open the hearing on Assembly Bill 107. This measure revises provisions governing certain pharmacies located outside of the state.

Assembly Bill 107: Revises provisions governing certain pharmacies located outside this State. (BDR 54-109)

Assemblywoman Sandra Jauregui, Assembly District No. 41:

I am here in front of you to introduce Assembly Bill 107. After having a conversation with Mr. Paul Young, I have been made aware that it was last year all these conversations started. I think with Assembly Bill 165, I had made reference to earlier this year, but we are in a new year. After having conversations last year with Mr. Young and learning about the history and reasons why this bill will allow for increased pharmaceutical care for Nevadans, I was happy to submit this bill as a committee bill on behalf of the Commerce and Labor Committee. This policy will allow Nevadans increased access to health care and access to the prescriptions that keep them healthy. Not being an expert in the area, I do have Mr. Paul Young and Mr. William Head here with me to walk the Committee through the bill and answer any questions you might have. Madam Chair, with your permission I would like to turn it over first to Mr. Young.

Paul Young, representing Pharmaceutical Care Management Association:

I am going to have Mr. Head walk through the bill and speak to the goal and where it came from. With that being said, I would like to thank all the stakeholders in this process. It has been a fairly easy and smooth process, which I cannot say is always the situation.

Bill Head, Assistant Vice President, State Affairs, Pharmaceutical Care Management Association:

To give you a little history on how this came about, there was an interpretation by the State Board of Pharmacy in 2021 in which they issued a notice to our members and all pharmacists that if you are an out-of-state pharmacist and had anything to do in the dispersing of the drug—besides the dispersing itself—but any contact in line with any part of that dispersing, you would have to be licensed in the state of Nevada. For us, our members have affiliated mail order pharmacies. Those pharmacies have been licensed by the state and regulated by the state, and the State Board of Pharmacy has regulatory control over those facilities. Separate from that is the idea of every pharmacist in those facilities being licensed in the state. This seems an unnecessary burden on our members and on the Board with little public benefit in doing so. Obviously, any drug dispensed to a resident of Nevada has to be dispensed by a pharmacist licensed in the state of Nevada. That has not changed and will not change. The idea of a single pharmacist, pharmacist in charge, or managing pharmacist—which is the language that the Board has come up with—would, in fact, be licensed in the state. There is an individual who is always accountable to the Board in the state of Nevada. We think that is the best solution, particularly for patients in the state without disrupting access to their drugs. With that, we will be happy to answer any questions.

Assemblywoman Duran:

I am curious to see who would be held responsible if the person holding the license is on vacation or out of town. How is that going to work when he is off premises or out of town? I am trying to figure out if he is the only one holding the license.

Bill Head:

I think that is a good question for the Board. There are two people. The first is the pharmacist whose name is on the prescription because that pharmacist will, in fact, have a Nevada pharmacist license. In addition, this would make sure that the managing pharmacist—or who we refer to as the pharmacist in charge—would also be licensed in the state, and that person would have some accountability as well. I think the Board may be able to answer in more detail.

Chair Marzola:

Is Mr. Wuest on the phone? [Technical difficulties.] We can always take this offline as well.

Michael Hillerby, representing State Board of Pharmacy:

I will do my best to pinch-hit for Mr. Wuest. As a general rule, the pharmacy, the pharmacist, and others handling drugs, as Mr. Head said, are licensed so the state of Nevada would know there is recourse should something amiss happen. My understanding is because the pharmacy is licensed as well as the pharmacist in charge, or managing pharmacist, that recourse still exists. They might be out of the facility for whatever reason. I will confirm that with Mr. Wuest and the staff, and we will get back to you. I believe that is the case in these situations. We also have a license for the business itself.

Assemblywoman Duran:

My concern with that is if there is a problem, I want to know that the person who holds the license knows he is going to be responsible for that. How does that work? Is he in agreement?

Michael Hillerby:

Our registered pharmacists and technicians are well aware of their obligations under state law. The other issue is they would also be licensed in whatever state they are practicing in those pharmacies. There is sort of a dual piece there. They are licensed in the state in which the facility is located, so there is some recourse there. Again, they are expected, as a part of being registered or licensed here, that they understand the Pharmacy Practice Act and Nevada law.

Chair Marzola:

That was going to be my question on the liability portion, so I appreciate your answer.

Assemblyman Yurek:

Can you clarify for us what percentage of the pharmaceutical industry here in Nevada is occurring through these out-of-state pharmacists that are shipping through mail order pharmaceuticals here in Nevada?

Bill Head:

Nationally, the number of mail order drugs is less than 10 percent. Ten percent sounds like a low number, but obviously that is hundreds of thousands of prescriptions. It is a fairly low number comparatively to what people receive at their retail facility in-state.

Chair Marzola:

Are there any other questions? [There were none.] We will hear testimony in support of A.B. 107. Is there anyone wishing to testify in support?

Elizabeth MacMenamin, Vice President, Government Affairs, Retail Association of Nevada:

As Mr. Head stated, in July 2021 the State Board of Pharmacy issued an opinion letter that was drafted by their staff attorney stating that *Nevada Revised Statutes* 639.100 would require all pharmacists who had anything to do with any type of prescription in the state of Nevada to be licensed in our state. This was in direct opposition to the historical practices that have been going on for many years. The nonresident pharmacy is currently licensed in the state of Nevada, and they were the ones responsible at that point in time.

We are very pleased to see this legislation, and we are happy to have the Board's support. I know they helped to draft the language. I am pretty sure it comes into confirmation to what they are going to need going forward and the concerns they had.

We also want to talk about how important this is and the unintended consequences. What happened after that opinion? Many of our members have pharmacies outside of the state that do some of the administrative work, not necessarily filling the prescription, but if they were touching that prescription from a person in Nevada, this Board was then going to require they be licensed in the state of Nevada. These pharmacists are already licensed and are professionals in the states that they are practicing in, such as Arizona, which does a lot of work for the patients in southern Nevada. They are licensed in Arizona and are professionals the same as our pharmacists. The facility itself is required to be licensed by the Board of Pharmacy, so that license took care of the liability—that licensure of that facility. Then it would be up to them to take care of any responsibility for the pharmacists who reside in that facility.

Paul Moradkhan, Senior Vice President, Vegas Chamber:

The Vegas Chamber is in support of A.B. 107. As you heard, it maintains the safeguards for the consumer, the patients, while addressing some of the inefficiencies that have arisen that could impact the industry. We are in agreement with the presentations and thank you for your time today.

[Letters in support, [Exhibit D](#) and [Exhibit E](#), were submitted but not discussed and will become part of the record.]

Chair Marzola:

Is there anyone else in support? [There was no one.] Is there anyone wishing to testify in opposition to A.B. 107? [There was no one.] Is there anyone wishing to testify in the neutral position on A.B. 107? [There was no one.] We will now close the hearing on A.B. 107.

We are going to recess. [Meeting recessed at 1:58 p.m. and reconvened at 1:59 p.m.]

[Assemblywoman Jauregui assumed the Chair.]

Vice Chair Jauregui:

We will come back to order. I am now going to open the hearing on Assembly Bill 146.

Assembly Bill 146: Revises provisions governing video service. (BDR 58-669)

Assemblywoman Elaine Marzola, Assembly District No. 21:

I am here today to present Assembly Bill 146, which seeks to clarify provisions governing video services. With me today is Hamlin Wade. He is the Associate Vice President of State External Affairs for DIRECTV. With the Vice Chair's permission, I would first like to provide some general background information before Mr. Wade provides detailed information on the bill and answers any questions the members may have.

Assembly Bill 146 clarifies existing law to clearly state that video streaming providers and their customers do not owe franchise fees for streaming video content. This bill makes no change to current state law and there is no fiscal impact for this bill. Only those companies

that have cable lines and equipment running through and beneath public streets and sidewalks to provide video service to their customers, such as cable companies, pay a franchise fee, essentially for having the right to occupy the public right of way. The franchise fees are passed down to the customer. You may be aware that streaming video content is transmitted as a digital signal through the same Internet line as every website you view on the Internet and every email that you send. This is a line that is already on the ground, which streaming providers did not put in the ground and do not have the right to touch it. Many households in Nevada have multiple streaming subscriptions. I know I do. If cities are able to impose additional fees, families would pay 5 percent more on their Sling TV, DIRECTV, Netflix, YouTube bills—which is where we are currently streaming this committee meeting—and so on. For every streaming bill they have, they would have to pay additional fees.

Next, Mr. Wade will provide a summary of the bill and the proposed amendment [[Exhibit F](#)], which incorporates requested edits from the cable industry.

Hamlin Wade, Assistant Vice President, External Affairs, DIRECTV:

I am here to walk through the amendment [[Exhibit F](#)] that should be in the Nevada Electronic Legislative Information System that makes some conforming and clarifying comments. We tried to work with all the players in this ecosystem to reach a consensus on this bill, and we are appreciative to the cable industry for working with us and getting to a place where they are comfortable with our language.

As Assemblywoman Marzola said, this bill tries to clarify status quo in Nevada. When the video service law was passed 15 or 16 years ago, it was never intended to include streaming services in owing franchise fees. Franchise fees, as Assemblywoman Marzola mentioned, are intended to be collected for those entities that have physical occupation of the right of way. If you go and want to lay your cable line, Internet line, electric, or any sort of utility, you need to get permission from the city to do that, and you need to compensate the city for tearing up the sidewalks or repairing those roads. That is federally capped at 5 percent of gross revenues on a customer's bill as it relates to video service. That is a fee that every customer who has cable pays. If you have an Internet line to your home, you pay a different type of linear square foot fee to access that fiber line that is in your home. What this bill is trying to do is clarify that those fees are not supposed to be applied to videos streamed over the Internet.

What we have seen is there has been an effort around the country to have streamers pay those fees, which would add a 5 percent fee on to every streaming service you have. You are already paying for that access to the Internet line and cable line. Now, it would be paying that fee once and then for every streaming service you have you wind up paying again and again. That was never the intent for that maintenance of the right of way. As a streaming service, you do not have access to that right of way. If you are watching Netflix, and your Netflix stops working because your Internet is out, you do not call Netflix to ask them to fix the Internet line. You call the Internet provider because they have that exclusive right to the right of way.

We think this is a simple clarifying statute. I would note, as Assemblywoman Marzola said, there is no fiscal impact to the state. The only fiscal impact would be to all your constituents because their bills would go up by 5 percent every month on every streaming service that they have. With that, I am happy to answer any questions that anyone may have.

Assemblyman Yeager:

What is the status in other jurisdictions? Is this a problem you are addressing? Would we be the first state to do this, or where do we sit in that order of what is happening around the country?

Hamlin Wade:

Last year, four states clarified this exact statute. Ohio, Louisiana, Georgia, and Arizona all acted on this and made a simple clarifying change to their statute to ensure that streamers were not captured. This is an effort that is being undertaken across the country. Nevada would not be the first but still on the front half of our efforts, and it would be greatly appreciated.

Vice Chair Jauregui:

I have a question as well, and I apologize if you covered this. Would this apply to gaming as well, such as if someone is playing an online game?

Hamlin Wade:

Our fear is that there is no end to this. Right now, the lawsuits that have been filed are going after the big streaming providers, such as Netflix, Hulu, DIRECTV Stream, and Sling TV. However, there is a cascading effect that this could then fall onto first-person gaming operations; a Zoom call, if you are doing a video conference call, and that is now a video that is being delivered over the Internet; or if you send an email with a video that you recorded yourself. Is that now considered a video streaming? There is no end to this, and it gets very close into a blanket tax on any video on the Internet. While we do not know for sure if it would capture video gaming, our fear is that if it is not stopped and constraining clearly defined, that could be the long-term effect here.

Assemblyman Carter:

How does this tie into DIRECTV and DISH Network's very public effort to become the fifth network or whatever they call it, and push out all of the franchise paying Internet providers within residential neighborhoods?

Hamlin Wade:

I believe your question is in regard to DISH's efforts to build out a 5G wireless network. That is not related to this. As they build out a 5G network, they would pay a right-of-way fee in order to put their infrastructure on lampposts, street signs, et cetera. They would be paying a fee, but it would be a different fee. There is probably a 5G standard for, What is that fee? What does that look like? What does that structure? This only deals with the video service provision, which would not impact that.

Assemblywoman Torres:

I have a question regarding the amendment [[Exhibit F](#)]. I am looking at the definition of "cable service," as well as "video content." I am wondering if that is consistent with a federal definition? I see the definition for "cable service" is the federal definition. Is there a federal definition for "video content" that we are drawing this information off of? Additionally, is this consistent with what other states are doing, and if there have been policies introduced in others?

Hamlin Wade:

As you mentioned, the "cable service" definition is the federally recognized definition for cable. In all of these efforts, we have used the same statutes and the same definitions to make sure that there is uniformity across the space. As it relates to "video content" and particularly streaming content, this is a more newly entered space. There is not a federal definition, but it is generally considered to be digital audio-visual works delivered over the Internet. That has been put forth in statutes as it relates to different digital goods bills as things are defined in the ecosystem, but there is not a federal definition for "video content" as of yet.

Assemblywoman Torres:

I imagine that is something that will have to change soon and hopefully does.

Vice Chair Jauregui:

Any other questions? [There were none.] I am going to open it up to testimony in support of [A.B. 146](#). Is there anyone wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition? [There was no one.] Is there anyone wishing to testify in the neutral position? [There was no one.] Assemblywoman Marzola, would you like to give any closing remarks? [There were none.] Thank you so much. I will now close the hearing on [A.B. 146](#).

We will go to a recess. [Meeting recessed at 2:12 p.m. and reconvened at 2:17 p.m.]

[Assemblywoman Marzola reassumed the Chair.]

Chair Marzola:

We will now open a work session on [Assembly Bill 165](#), which revises provisions governing payments for a permanent partial disability. Speaker Yeager, would you like to make some remarks?

Assemblyman Steve Yeager, Assembly District No. 9:

As you know, there is Rule 57 in the Assembly Standing Rules that talks about a 24-hour waiting period where we typically will wait 24 hours after hearing a measure before doing a work session. That can be waived in a couple of circumstances: (1) it can be waived with the permission of the Speaker, and (2) it can be waived with the consent of the entire

Committee. I am going to go ahead and waive the 24-hour period for Assembly Bill 165. As folks heard, there is some urgency to getting this passed. I am formally doing that on the record, so a work session for A.B. 165 would now be in order.

Chair Marzola:

I will accept a motion to do pass Assembly Bill 165.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS
ASSEMBLY BILL 165.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BACKUS WAS
ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui.

We will go to a recess. [Meeting recessed at 2:18 p.m. and reconvened at 2:19 p.m.]

I will open up for public comment. Is there anyone wishing to give public comment? [There was no one.] Are there any comments from Committee members? [There were none.] This concludes our meeting for today. Our next meeting will be Friday, February 24, 2023, at 1:30 p.m. Our meeting is adjourned [at 2:20 p.m.].

RESPECTFULLY SUBMITTED:

Julie Axelson
Committee Secretary

APPROVED BY:

Assemblywoman Elaine Marzola, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony dated February 22, 2023, presented and signed by Victoria Carreón, Administrator, Division of Industrial Relations, Department of Business and Industry, regarding [Assembly Bill 165](#).

[Exhibit D](#) is a letter submitted by Joanne Steckler, Private Citizen, Las Vegas, Nevada, in support of [Assembly Bill 107](#).

[Exhibit E](#) is a letter dated February 23, 2023, submitted and signed by Sheila Arquette, President and CEO, National Association of Specialty Pharmacy, in support of [Assembly Bill 107](#).

[Exhibit F](#) is a proposed amendment to [Assembly Bill 146](#), dated February 22, 2023, submitted and presented by Hamlin Wade, Assistant Vice President, External Affairs, DIRECTV.