

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

**Seventy-Fifth Session
May 8, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 12:59 p.m. on Friday, May 8, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chairman
Assemblyman Kelvin Atkinson, Vice Chairman
Assemblyman Bernie Anderson
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Mark A. Manendo
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblyman James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry Jr. (excused)
Assemblyman Ed A. Goedhart (excused)
Assemblyman William C. Horne (excused)

GUEST LEGISLATORS PRESENT:

Senator John Jay Lee, Clark County Senatorial District No. 1

Minutes ID: 1239

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STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Earlene Miller, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Michael Heidemann, Executive Director, Nevada State Firefighter's Association, Lovelock, Nevada
Pat Irwin, County Commissioner, Pershing County, Lovelock, Nevada
Randall A. Waterman, representing the Public Agency Compensation Trust, Carson City, Nevada
Keith L. Lee, Reno, Nevada, representing the State Board of Contractors, Henderson, Nevada
Gail Anderson, Acting Administrator, Manufactured Housing Division, Department of Business and Industry
Barbara Braaten, Interim Administrator, Manufactured Housing Division, Department of Business and Industry, Las Vegas, Nevada
Joseph Guild, representing Tahoe Shores, LLC, Reno, Nevada
Michael Phillips, representing the Manufactured Home Community Owners Association, Las Vegas, Nevada
Tracey Woods, representing Nevada Housing Alliance, Reno, Nevada
Jo A. Moore, Chairperson, Fernley Long-Term Recovery Team, Fernley, Nevada
Paul Theiss, Secretary, Fernley Long-Term Recovery Team, Fernley, Nevada
Larry Struve, representing the Religious Alliance in Nevada and Lutheran Advocacy Ministry in Nevada, Reno, Nevada
Keith L. Lee, Reno, Nevada, representing the State Contractors' Board, Henderson, Nevada

Chairman Conklin:

[Roll called. We will start as a Subcommittee.]

Senate Bill 363 (1st Reprint): Revises provisions relating to death benefits paid to surviving spouses under industrial insurance. (BDR 53-1130)

Senate Bill 363 (R1) has been removed from the agenda at the request of the sponsor, Senator Carlton. We will attempt to hear that bill on May 11, 2009. We will open the hearing on Senate Bill 6 (R1).

Senate Bill 6 (1st Reprint): Revises provisions regarding occupational diseases of volunteer firefighters. (BDR 53-46)

Senator John Jay Lee, Clark County Senatorial District No. 1:

Senate Bill 6 (1st Reprint) revises provisions regarding occupational diseases of volunteer firefighters. I am an auxiliary volunteer firefighter for the Mount Charleston Fire Department. I try to help them by raising money and doing things in the community, but I do not fight fires. The department responded to 265 calls in 2008. It takes a minimum of two hours for every call. If a paid unit from Las Vegas responded there, they would have two rescue people and four engine response people. Each individual is paid \$40 per hour which does not include benefits. In the case of Mount Charleston, the volunteers do it for free at no cost, wages or benefits. They are a great asset to our community.

I rode my bicycle from Lake Tahoe across Nevada to Utah. There were a couple of times that I thought I was going to get run over by a big truck. At that time, I hoped there were people out there who could help me in the middle of the desert. There are 13 volunteer stations in Clark County, and throughout the state there are many people trained to help in situations like that. If you live in Clark County, it does not mean that you are not going to be in the north some day and need these same services. The 13 volunteer stations in Clark County responded to 3,000 calls in 2008. If you accumulate all the time in hours that has been provided, it is a wonderful service for us. I urge the Committee to listen to the testimony today and understand the benefits they need for their people.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Settlemeyer:

I have a lot of volunteer firemen in my community. I think the vast majority of the fire departments are volunteer. I appreciate the bill.

Senator Lee:

There are people here to testify who do some of those calls.

**Michael Heidemann, Executive Director, Nevada State Firefighter's Association
Lovelock, Nevada:**

This bill removes the 55-year-old age stipulation from volunteer firefighters in regard to cardiac issues through Workers' Compensation. Career firefighters have a presumptive benefit so they can be doing things that are not on the fire grounds and still be covered under *Nevada Revised Statutes* (NRS) 617.457.

The volunteers do not have the luxury of being covered under this statute. It needs to be made clear that this is a rebuttable benefit for volunteers. They are only covered while they are out saving the lives and property of the citizens of our state and our visitors. This has nothing to do with a rebuttable or presumptive benefit while they are off duty. The volunteers in our ranks have dropped by 2 to 3 percent over the past ten years and this has become more prevalent in this economy. We are not getting younger people to volunteer because they are already working two or three jobs, so we are dropping in numbers.

This bill should be passed because of the 44 million visitors who come to Nevada by way of our highways which are covered by volunteer fire departments who serve unconditionally. Former Assemblyman John Marvel had a rollover accident a few years ago in Pershing County, and he was pleased our volunteers were there. He did not care how old they were, he just wanted to know that someone was there who was trained, willing, able, and had the equipment to do the job.

This bill was presented last session and it passed until the last day when there was some confusion. Since then, there has been a federal lawsuit filed against the State of Nevada, Clark County, the Department of Business and Industry, and Sierra Nevada Administrators saying that this is age discrimination. We tried to hold the lawsuit. I worked with two Equal Employment Opportunity Commission attorneys and said I think we are going to try to do this the right way. Senate Bill 6 (R1) went through the Senate with no opposition in the Committee or on the floor. I provided you with some information packets ([Exhibit C](#)) which include statements from many cities and counties which support the minor fiscal impact to them because of the physical examinations. We changed this bill to include more physicals for volunteers once they reach the age of 50 years, so we have time to find out if they have any predisposing conditions and correct those before they reach the age of 55 years. We have agreed to those changes.

On December 15, 1987, there was a case in the First District Court in Carson City which determined this to be unconstitutional in the State of Nevada. For some reason, it fell through the cracks and was never changed in statute. It is time to do what we feel is morally, ethically, and legally responsible and the right thing to do. We would appreciate your support in passing this on behalf of our volunteers.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Pat Irwin, County Commissioner, Pershing County, Lovelock, Nevada:

I have been a volunteer firefighter for the last 20 years and the training captain for our department. It will be a true fiscal impact to us if this bill does not pass. It will take away my volunteers, not only in Lovelock but also in the cities that are in Pershing County. We have firefighters who work in Rye Patch, Imlay, and Grass Valley. These people, and there is a small pool to work from today, would walk away without this kind of coverage. We are telling them that we will not support them if they have a heart attack on the site or while they are responding to an emergency. This is an age discrimination issue and we need to fix it.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else to testify in support of Senate Bill 6 (R1)?

[Quorum]

**Randall A. Waterman, representing the Public Agency Compensation Trust,
Carson City, Nevada:**

We are in favor of this bill.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else to testify in favor of this bill? Is there anyone opposed? Is there anyone in the neutral position? There are ten people signed-in in support of this bill and not speaking. We will close the hearing on Senate Bill 6 (R1). We will open the hearing on Senate Bill 151 (1st Reprint).

Senate Bill 151 (1st Reprint): Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board. (BDR 54-702)

**Keith L. Lee, Reno, Nevada, representing the State Board of Contractors,
Henderson, Nevada:**

Senate Bill 151 (R1) refers to Chapter 624 of the *Nevada Revised Statutes* (NRS) and makes some amendments in it that we worked through with the sponsor. This bill was brought by Senator Carlton on behalf of the Builders Association of Western Nevada. We worked on a couple of amendments which are reflected in the first reprint. The Board has no problem with the bill, but I am not here to advocate for it.

Chairman Conklin:

Is there anyone else to testify in support of Senate Bill 151 (R1)? Is there anyone opposed? Is there anyone to speak in the neutral position? We will close the hearing on Senate Bill 151 (R1).

[Mark Turner, Silver Oak Homes and Black Pine Construction, submitted a letter of support ([Exhibit D](#)).]

We will open the hearing on Senate Bill 89 (1st Reprint).

Senate Bill 89 (1st Reprint): Makes various changes to the provisions governing manufactured housing. (BDR 43-427)

Gail Anderson, Acting Administrator, Manufactured Housing Division, Department of Business and Industry:

Senate Bill 89 (R1) amends two chapters of the Manufactured Housing Division's jurisdiction in Chapter 489 of *Nevada Revised Statutes* (NRS) about mobile homes, similar vehicles, and manufactured homes; as well as NRS Chapter 118B which is about landlords and tenants for manufactured home parks. Much of this bill is housekeeping and repetitive. You should have two documents, the First Reprint of S.B. 89 and a mock-up, "Proposed Amendment 4653 to Senate Bill No. 89 First Reprint ([Exhibit E](#))." This bill had some drafting issues and is a very lengthy bill. We worked on a number of edits in the Senate. When the first reprint came out there were some things that had been passed by the Senate Commerce and Labor Committee. This amendment addresses those things. I wanted to be clear that these were presented in the Senate and were passed as amended by that Committee.

There were several definitions added to Chapter 489 of NRS. We added "factory-built housing," "manufactured building," and "modular component" in multiple places where appropriate. Chapter 461 of NRS, which is the chapter concerning manufactured buildings, contains these definitions. This arena has changed in terms of the products and this will update Chapter 489 to reflect those newer products.

Section 2 creates a new license requirement for and defines "distributor." "Distributor" describes an entity that wholesales manufactured homes to a Nevada-licensed dealer. At this time, there are no known existing distributors who would be required to register, but this is a definition from Housing and Urban Development (HUD) regulations and it mirrors their definition. The Nevada Manufactured Housing Division is a state administrative agency fully approved by HUD in this area so we wanted to add that into our law.

The first substantive change is in section 12 and addresses a financial audit that the Division may conduct of a dealer or distributor. It creates the authority for the Division to audit a financial account, including a trust account, related to the business of a dealer or distributor. It allows the administrator to adopt regulations which would prescribe the scope of such an audit. It defines "insolvent." The language in this section is necessary because there have been instances in the last two years where a dealer has inappropriately used money they were holding in deposit on a home, then has gone bankrupt, or literally disappeared, and left consumers without a product. We want to set this up so there are trust accounts to hold these deposits which are monitored and regulated by the Division. The deposits paid are significant in comparison to the total value of the home so this becomes very important. We have had Nevada consumers harmed by the disappearance of trust money, and we are seeking to strengthen the law by defining insolvency and allowing the Division to audit financial accounts of a business, a dealer, or a distributor.

In section 18, we are seeking to delete "or tears down" and replace that with "prepares for transport." This section is the definition of a general serviceman, what they may do, and what they must have a license to do. A general serviceman does not tear down a mobile home unit but he does prepare it for transport.

Section 19 broadens the definition of "manufacturer" to include and allow for corporate entities and not just persons. The next significant section is section 28. We would like to add the "Nevada Housing Alliance" and the "Modular Building Institute" to the list of industry-related organizations with which we work. Section 34 defines the conditions under which a landlord or manager may issue a limited lien resale license. So a landlord or manager would have the ability to do a resale of the property if the mobile home is located in a mobile home park that the landlord or manager owns, leases, or manages. If the landlord or manager purchases the mobile home at a sale to enforce the lien, it allows them to sell it.

In section 43, which addresses the grounds for disciplinary action under licensing in this chapter, we are requesting to delete the specific code references from statute and allow them to be done by regulation. These codes change and to have them in statute inhibits what we must hold for the standards of inspections and installations. Nevada meets and exceeds the HUD standards for codes and we try to keep very current with those as we work with HUD.

Section 44 deals with disciplinary action against a licensed dealer. It holds a dealer who is the salesperson responsible for the actions of their employees or

associates in a required supervisory position. This section holds the licensed general serviceman or licensed specialty serviceman responsible and accountable for supervision of their employees. It broadens the licensee's responsibility to any other person employed or associated with the licensed serviceman. It provides for a penalty of an administrative fine of not more than \$1,000 for failure to supervise in these areas. Administrative proceedings and due process would be part of, and prior to, any administrative sanction.

Sections 46 and 47 require the Division to adopt regulations and set a fee for the distributor and to pay into the account for education and recovery which is administrated by the Manufactured Housing Division.

We needed a clarification in section 52 that the Division does not deal with the issuance of certificates of ownership, which is a title, for factory-built housing. That is the modular type of component. Section 61 in the mock-up concerns money received by a dealer on behalf of another. This requires a deposit into a separate account for holding money that is in deposit. It sets forth restrictions on when money may be withdrawn from that account and addresses the problem of money disappearing or being used for improper purposes, such as the comingling of funds for operating purposes when it is money that should be held in trust as a deposit. The law already requires a licensee to maintain a trust account, but this amendment in section 61 places additional requirements on the trust account. It requires each separate trust account to be balanced at least monthly. It requires the dealer to provide an annual reconciliation of that trust account to the Manufactured Housing Division on a form which the Division will prepare and provide. It disallows comingling of trust funds held from a purchaser with an operating account except for the legitimate costs as itemized in a written contract between the depositor and the dealer. This is patterned after the Real Estate Division's trust account reconciliation program in Chapter 645 of NRS, which was very successful. There have been serious problems with this and some consumers have been put at risk and had their money spent. Money can be held in an escrow account pursuant to an entity that is licensed under Chapter 645A or Chapter 692A of NRS, which is escrow companies or title companies that hold escrow.

Section 70 adds to the list of gross misdemeanor offenses that can be considered in discipline—failure to cooperate or comply or knowingly impede or interfere with an investigation or audit conducted by the Division, or acting as a dealer while insolvent. Dealers have continued to take in money when there was insolvency. That would make that an actionable offense.

Section 71 is about filing a notice of opposition to a lien. It clarifies that this section does not affect the rights of a secured party per NRS Chapter 104,

which is the uniform commercial code. This does not supersede or override that.

In sections 72 to the end, the bill addresses changes to Chapter 118B of NRS. This is landlord and tenant law for manufactured home parks. The significant part of the remainder of the bill is definitions concerning a "certified appraiser" and an appraisal that must be conducted when a park is going to be closed. Section 73 defines "certified appraiser" for the purpose of appraising personal property. Section 74 in the mock-up defines what qualifies as a "certified appraiser" for the purposes of Chapter 118B of NRS. In section 74, subsection 5, this explains what happens if there is no licensed dealer who holds a professional certification as an appraiser to appraise the property when a park is going to close. The owner of the personal property may choose to have their unit moved or leave it and be paid by the park owner at fair market value. We needed clarification about who could determine the fair market value. This section says that a person who meets the HUD requirements for appraiser qualifications for manufactured homes may be selected. The appraiser must use current guidelines as set forth in the National Automobile Dealers Association or the Manufactured Housing National Appraisal System. This section requires that the appraiser is a dealer licensed pursuant to Chapter 489 of NRS and must use these guidelines in performing the appraisal.

Section 78, subsection 8, paragraph (c), explains that if there are insufficient persons available for the purposes of paragraphs (a) and (b), or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to Chapter 489 of NRS or a certified appraiser who shall make the determination. The first attempt is for the landlord and the tenant to agree to a qualified appraiser. If they cannot agree, the Administrator may appoint an appraiser. This is a needed process. We are currently involved in a district court suit over this process of valuation. That is repetitive in sections 78, 79, 80, and 81. It is the same language, but with different scenarios for when or why a park would close. Section 83 specifies there is no right of action against an employee or an officer in carrying out the provisions of this chapter.

Section 79 is repeated in section 81, subsection 4. In the mock-up, this is a requirement that the tenant notify the landlord of their intent to move the manufactured home within 75 days of receiving notice that the park is going to close or one of the other four scenarios of closure. This 75-day written requirement would have been a very helpful factor in the lawsuit we have in district court. There is already a requirement to give written notice of remaining in the park, but there needs to be a notice to move the home.

Section 84 repeals NRS 489.601 because this is no longer being done in practice. The Department of Motor Vehicles and the Nevada Highway Patrol are no longer honoring plates issued by the Division. The Division has not been issuing plates for some time; instead "trip permits" are issued.

These are the highlights of the significant sections. There are a lot of language changes and definitions.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

On lines 13 and 14 on page 3 of the mock-up, I see that you are going to be adding the Nevada Housing Alliance and the Modular Building Institute. I am concerned when I see that because I am afraid that we are going to begin the process of creating a laundry list of potential groups to recognize as to their importance. I was under the impression that we had already given the Division the latitude to make that judgment with the phrase "any other organization approved by the Division."

Gail Anderson:

We discussed whether we should remove existing (a) through (d). Instead we add the other two industry groups that we work with closely. It is not the Division's intent to exclude anyone. This section is in regard to soliciting advice and assistance. They are entities that are noticed about any workshops or proposed regulation changes. We do not intend to limit. I understand your concern about creating a laundry list, but we have "any other organization approved by the Division."

Assemblyman Anderson:

Are there no other competing entities? I am concerned that you are moving towards specificity. I disagree with your reasoning.

Assemblyman Manendo

In section 46 of the bill, you said you would be adopting regulations for fees.

Gail Anderson:

They are already in existence, and we added the definition of "distributors" to that list.

Assemblyman Manendo:

On the mock-up in Section 79, I had a question about how you derived the 75-day number.

Gail Anderson:

The 75-day number already exists in another notification and it is in section 78 of the mock-up. It is under NRS 118B.130, subsection 2, and says, "A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park." We have patterned it after the same notification.

Assemblyman Manendo:

The notice when a park closes and the notice given to the residents, how is that done?

Gail Anderson:

I am going to ask Ms. Braaten to respond to that question.

**Barbara Braaten, Interim Administrator, Manufactured Housing Division,
Department of Business and Industry, Las Vegas, Nevada:**

They currently provide a written notice to all of the tenants, and that is done with 180-day advanced notice of whenever the park is going to close or change usage.

Assemblyman Manendo:

Is that done by mail or is it posted?

Barbara Braaten:

They are required to send it by mail, but I believe a lot of them post it, depending on the size of the park. If it is a large park that has a clubhouse and a formal office, they post it there, too, in case someone did not receive their notice by mail.

Assemblyman Manendo:

Have you ever heard of anyone who said they did not see the notice at the clubhouse and did not get the notice by mail? I am thinking that maybe we should do it by certified mail if it is a park with over 1,500 homes.

Barbara Braaten:

We have heard that response, but not in regards to a park closure. We do get complaints from tenants who did not receive notice of a rent increase or a change in the rules, but never regarding a park closure.

Assemblyman Manendo:

Thank you for mentioning that.

Joseph Guild, representing Tahoe Shores, LLC, Reno, Nevada:

Nevada Revised Statutes (NRS) 118B.177 says that written notice of any closure must be served timely on each tenant in a manner provided in NRS 40.280 which is a list that includes certification or personal delivery.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone wishing to get on the record in support of S.B. 89 (R1)?

Michael Phillips, representing the Manufactured Home Community Owners Association, Las Vegas, Nevada:

We are in support of the mock-up of this bill and appreciate the work that the Legislative Counsel Bureau and Gail Anderson put in to make sure everything was right.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Tracey Woods, representing Nevada Housing Alliance, Reno, Nevada:

We are regulated by this bill and this Division. We worked with Ms. Anderson to add some language related to providing for escrow accounts and we appreciate her attempts to work with us on the audit process. We are in agreement with the mock-up and the reprint.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to testify in support? Is there any opposition? Is there anyone to speak from a neutral position? We will close the hearing on S.B.89 (R1) and bring it back to Committee.

We will open the hearing on Senate Bill 127 (1st Reprint).

Senate Bill 127 (1st Reprint): Exempts qualified persons or groups providing construction oversight services to a long-term recovery group from regulation as a contractor. (BDR 54-596)

Jo A. Moore, Chairperson, Fernley Long-Term Recovery Team, Fernley, Nevada: Long-term disaster recovery is the last item in the sequence of disaster recovery. The duration and success of long-term disaster recovery depends on many factors and differs from community to community and from resident to resident. Here in Nevada, we are blessed because we have had so few true large scale disasters. The flipside of that blessing is that we forget in between disasters how much volunteer work it takes to bring those communities back.

The gap between the haves and the have nots becomes painfully evident in the aftermath of a disaster. Long-term recovery committees are formed to identify and assist the recovery efforts of those residents least able to recover without assistance. The elderly, the disabled, single parents, and low-income families are the most vulnerable yet bear the greatest proportion of disaster recovery burden and have the highest incidence of unmet need. Volunteers for long-term recovery organizations do not get awards. They do not get paid, no one hails them as heroes, and they often do not get thanked. They will work early in the morning and late into the evening in addition to their regular jobs. They take on the burdens of their neighbors, fight for people they do not know, and keep working long after everyone else has gone home. They survive on the support of their families and sheer willpower, and are driven by the needs of their neighbors. They come together asking only two questions, "Who is hurting and what are we going to do about it?"

Currently in Nevada, the ability of a long-term disaster recovery team to function is hamstrung by Nevada's contractor laws. The Fernley team was threatened with the felony charge of operating as an unlicensed general contractor in a federally declared disaster zone if we paid a stipend or even gave gas money to a volunteer helping us with construction oversight. There was no recourse for us, no exemption was offered, and no slack given by the local building official or the Contractors Board. That left the Fernley team in the very unenviable position of managing the repair of dozens of homes with inexperienced volunteers. This problem seriously delayed recovery for many families and may have contributed to some families losing their homes to foreclosure simply because they could not afford two dwellings.

We could have obtained a grant for a stipend to a qualified individual, but were unable to because the qualified individuals who stepped forward were retired, licensed in other states, or knowledgeable unlicensed local residents. The function of construction oversight requires 20 to 80 hours per week in the beginning stages. Very few people can donate that many hours without some kind of compensation. Under the current statutes, it is up to the local building official to interpret the NRS. The Contractors Board will then support that decision. This ambiguity means that the success of a disaster recovery effort could depend on the personality and politics of a single individual. In Fernley, the building official's interpretation of the NRS compounded our problems, in effect creating a disaster on top of a disaster for our community. This legislation is intended to remove that ambiguity to provide a clear exemption for a formal long-term recovery committee and to facilitate future disaster recovery efforts. It is the position of the Board of the Fernley Long-Term Disaster Recovery Team that this amendment substantially meets that goal. We urge you to pass this bill as amended.

Chairman Conklin:

You are trying to exempt emergency disaster relief from the contractor licensing law.

Jo Moore:

Not emergency disaster relief, but long-term disaster relief. In the sequence of the delivery after a disaster, you have the response efforts, then the relief efforts, and after everyone else goes home you have the community, and nothing but the community, aiding in the long-term recovery effort. These teams are volunteers that have to find a sponsor, become a 501(c)(3) tax exempt entity, or find an umbrella organization.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

I do not think any of us could ever thank all of the volunteers who do all of the things that need to be done in an emergency. Are we asking these people to do construction work?

Jo Moore:

In a federally declared disaster, national organizations will show up. In order for those people to come in, like the southern disaster relief crew, the community has to have established a recovery team and has to have construction coordination. The homeowner signs an owner-builder agreement.

Assemblyman Anderson:

This group arrives and they work on a particular house. Then, six months later there is a problem with what they have done. Since they are not subject to our law, is the homeowner going to be caught with no recourse for improper construction? For example, mold may have set in because it was not properly eliminated or water was left standing under the house or other factors may not have been done intentionally, but subsequently became a problem.

Jo Moore:

Volunteers are volunteers and they are human. When an organization like a long-term recovery team sets out, the homes that we work on are homes that will not be worked on unless there are volunteers to do it. There is no recourse because that homeowner has signed a release. It has been explained to them that these are volunteers who are here for a couple of days. The home will be inspected in the normal inspection process of the jurisdiction, but it is no different than if you did it yourself or asked your friends to do it. There is no

type of contractor recourse. If the team is still active and the homeowner said they had an additional problem, the team will return to fix it.

Assemblyman Anderson:

I want to make sure that we are not giving some abnormal expectation with no responsibility for doing the right job.

Jo Moore:

I can provide you with copies of all of our forms and releases. The best I can say is that it is as if you did it yourself. You would have the same recourses that you would have if you did it yourself. The important thing to remember is that for a long-term recovery committee, these homes are not going to be repaired if we do not find a way to do it.

Assemblyman Anderson:

Will it be disclosed that it was done by an individual later?

Jo Moore:

I do not have a legal answer for that. After we are done, it is the responsibility of the homeowner.

Chairman Conklin:

Are there any additional questions from the Committee? There are none. Is there anyone else wishing to get on the record in support of S.B. 127 (R1)?

Paul Theiss, Secretary, Fernley Long-Term Recovery Team, Fernley, Nevada:

I am the pastor of Gift of Grace Lutheran Fellowship in Fernley. This is not about providing a separate category of unlicensed contractors. This is about helping people who have nowhere else to turn in a disaster. Homeowners get a maximum of \$29,000 in assistance from the Federal Emergency Management Agency (FEMA) in the event of a disaster and there are significant restrictions even on that amount of money. In Fernley, only four households qualified for the full grant. There was much more damage done to many of the 300 houses that were affected by our flood. This amendment narrowly expands the existing rights of homeowners to act as their own contractors under subsection 4. What we are faced with here is a choice between accepting volunteer help or having these victims of disaster sleep on the street.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Larry Struve, representing the Religious Alliance in Nevada and Lutheran Advocacy Ministry in Nevada, Reno, Nevada:

We are here to express our support for the bill. On page 3, lines 7 and 8 of the bill it says, " 'Construction oversight services' means the coordination and oversight of labor by volunteers." Many of the volunteers who work with the long-term recovery committees come from faith communities. A large number came to Fernley from the Methodist organization, and the Methodist church is a member of the Religious Alliance in Nevada (RAIN). Without this bill, we are concerned that there will continue to be confusion over whether a person who is asked by a long-term recovery team to coordinate the volunteers can do so without getting into trouble with the State Contractors' Board. The language in the amended version of this bill was put together by Mr. Keith Lee, the lobbyist for the State Contractors' Board. We believe this is an effective solution to the problem that existed out in Fernley. I have reviewed this with the RAIN Board and they feel that this is a very necessary and constructive way forward. If we have another disaster, we will have a mechanism to engage these volunteers and to help the citizens who are in great need of those services. We are happy to support the bill in its revised form and hope you will pass it.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Keith L. Lee, Reno, Nevada, representing the State Contractors' Board, Henderson, Nevada:

We, at the Board have been working with Ms. Moore, Mr. Struve, Senator Amodei, and others to come up with language that gives comfort to the Board. I think the definition of construction oversight services with a "qualified person," which is in section 1, subsection 10, paragraph (c), provides comfort to the Board that who we have coming in are people who otherwise have expertise, but are not licensed in the State of Nevada because they are retired people. We are comfortable with those definitions and also with the fact that the long-term recovery group is an organization of people that we, as the Board, have confidence in to make the right decisions as to who is a qualified person and to make sure that construction oversight services are provided as defined here. We encourage you to process the bill as revised today.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to testify in support of S.B. 127 (R1)? Is there anyone opposed? Is there anyone to testify in the neutral position? We will close the hearing on S.B. 127 (R1). If the members have questions, they should contact the bill

sponsor or the witnesses. Is there anything else to come before the Committee? Is there any public comment?

Assemblywoman Kirkpatrick:

I wanted to report that we met with all the parties on Senate Bill 227. They all left in agreement and a lot was clarified. Mr. Ziegler has all of that information.

Chairman Conklin:

For the Committee members, S.B. 227 is the data encryption bill. Assemblywoman Kirkpatrick did yeoman's work on behalf of the Committee to find a compromise which she can explain to everybody.

Assemblywoman Kirkpatrick:

It was much simpler than it was made out to be in Committee.

Chairman Conklin:

We will see that bill in the work session next week. Thank you, Ms. Kirkpatrick, for taking that over in our behalf. Is there anything else to come before the Committee?

The meeting is adjourned [at 2:04 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

Cheryl Williams
Editing Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 8, 2009

Time of Meeting: 12:59 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 6 (R1)	C	Mike Heidemann	Supportive Documents
S.B. 151 (R1)	D	Mark Turner	Letter of Support
S.B. 89 (R1)	E	Gail Anderson	Proposed Amendment