MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Fifth Session
April 3, 2009

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:24 a.m. on Friday, April 3, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 Bernie Anderson, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman William C. Horne
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Bonnie Parnell

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman David Bobzien, Washoe County Assembly District No. 24

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Nick Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Robert Gonzalez, Committee Secretary
Stephen Sineros, Committee Assistant

OTHERS PRESENT:

Risa Lang, Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau
Ben Graham, Carson City, Nevada, representing the Administrative Office of the Courts
Frank A. Ellis III, Las Vegas, Nevada, Chair, Article 6 Subcommittee on Judicial Discipline
Charles "Chuck" Short, Las Vegas, Nevada, Article 6 Subcommittee on Judicial Discipline
Greg Ferraro, Chairman, Commission on Judicial Discipline
David F. Sarnowski, Executive Director, Commission on Judicial Discipline
Allen Lichtenstein, representing the American Civil Liberties Union of Nevada, Las Vegas, Nevada
Mark H. Fiorentino, Kummer Kaempfer Bonner Renshaw & Ferrario, representing Wynn Resorts, Marriott International, and the Golden Nugget, Las Vegas, Nevada
Eric Rubeck, representing the Plumbers and Pipefitters Union Local 525, Las Vegas, Nevada
Steve Redlinger, Las Vegas, Nevada, representing the Southern Nevada Building and Construction Trades Council, Henderson, Nevada
David Kersh, Government Affairs Representative, Carpenters Contractors Cooperation Committee Inc., Los Angeles, California
Pilar Weiss, Political Director, Culinary Union Local 226, Las Vegas, Nevada
Josh Griffin, Reno, Nevada, representing MGM Mirage, Las Vegas, Nevada
Keith Munro, First Assistant Attorney General and Legislative Liaison, Office of the Attorney General

Chairman Anderson:
[The meeting was called to order. The Chairman reminded everyone present of the Committee rules.]

Let us begin with Assembly Bill 475. There is a mock-up that is being handed out (Exhibit C). There has been an issue in the *Nevada Revised Statutes* (NRS), and hopefully this will allay any concerns.

Assembly Bill 475: Makes various changes concerning the revision of statutes. (BDR 17-47)

Ms. Lang, we moved too quickly with this bill. The Legal Division determined this was the most appropriate carrier for this issue.

Risa Lang, Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau:
There are two issues that are addressed in this mock-up. The first one was brought to us by the Speaker of the Assembly. She spoke with the legislative counsel about bringing the NRS into conformance with what a lot of states are doing. We currently have our statutes written in the masculine tense throughout. Instead, we will make it all gender neutral. She asked us if there was a way we could do that which would not cost a lot of money. They have decided that, during our preparation of the codification, we could go through the statutes and revise them so they are gender neutral. We can make a lot of those changes in codification without legislation, but because we think we will need to revise some language, we wanted to put this in law so we would have the authority to change the language where necessary, not in a substantive way, but to make the sentences read properly once we have moved to a gender neutral tone.

The other thing that is added in here—both for the Chapter 484 changes that we talked about, moving it into five chapters, and for making the language gender neutral—gives us authority to go into the *Nevada Administrative Code* (NAC) and make those changes as well, so the agencies do not have to adopt a regulation to make those changes, which are nonsubstantive in nature. We can just do it in our codification process. Essentially, that is all that this proposed change will do.

Assemblyman Cobb:
How will you do that?

Risa Lang:
How are we going to change the NRS to gender neutral?

Chairman Anderson:
I think he is asking about the mechanics of making the changes.

Risa Lang:
In codification, we would go through basically the entire NRS, and where it is in the masculine, we will change it to be "he or she," or "person," or something in a more gender neutral tone.

Chairman Anderson:
Will it all be done at one time, or is it going to be done as we revise these various chapters and sections over time?

Risa Lang:
We would probably go through the NRS during this interim and make all those changes, so that the entire NRS would reflect these changes. We do several reprints during the course of the Interim, so if we could not get it all done in the first reprint, then we would continue to work on it and do it over the course of the two years.

Assemblyman Cobb:
How much is that going to cost?

Risa Lang:
It will not cost anything, because we will just roll it into our reprints. We will not need any additional people. There would not be any additional cost.

Assemblyman Hambrick:
Does this have to be done manually, or can a computer technician program it in so that it is done automatically?

Risa Lang:
Part of it may be able to be done by computer, but I think we will have to go through and do it manually. In some instances, we may need to change the sentences slightly to make them work. We will find a way. We have had other projects like this. It is not totally unprecedented.

Assemblyman Carpenter:
I will make a motion to amend and do pass A.B. 475.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 475.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:
With that, let us turn to our posted agenda for the day. Let us start with Assembly Bill 496.

Assembly Bill 496: Revises provisions governing judicial discipline. (BDR 1-1110)

Ben Graham, Carson City, Nevada, representing the Administrative Office of the Courts:
In reading a little bit of the introduction in the disciplinary report, which was made available, it is interesting to note that this project started several years ago and that it is not just a result of more recent notoriety that we have within the judiciary. The Administrative Office of the Courts does not have a position on this, except we appreciate and encourage this Committee to hear the report and work with the members to come up with a fair and reasonable disciplinary process. We have two members of the subcommittee with us today. Mr. Chuck Short, who was the director of the court administration in the Second Judicial District for 15 years, and attorney Frank Ellis III, who has practiced in Las Vegas for more than 20 years.

Frank A. Ellis III, Chair, Article 6 Subcommittee on Judicial Discipline, Las Vegas, Nevada:
This subcommittee was formed as a result of the Article 6 Commission. It has been going on for a couple of years. An outline is being handed out of what I will be going through (Exhibit D). Keep in mind, the goals we had in our Article 6 Commission and in our subcommittee were fourfold: to increase transparency of the Judicial Discipline Commission, to deal with issues of timeliness, to improve its effectiveness, and to ensure fair treatment of judges. With that in mind, I will proceed through the outline, which gives you not only direction to the report, page number and section, which includes our discussion and things we considered when we put together the report, but also the NRS sections and the particular sections of A.B. 496 that were amended, changed, or added to deal with some of these issues as well.

[Read from outline (Exhibit D).]

Chairman Anderson:
We are concerned with the process, making sure that the complaints are filed effectively so that there is confidence. One of my concerns is that somebody who makes a complaint might have to appear in front of a judge. Most likely, a complaint is going to come from an attorney or somebody who believes he has been unfairly treated. If I were an attorney, I would not want to have to stand in front of a judge when the judge knows I had made a complaint about his process. The public is expecting you, as members of the commission, to do the right thing.

Assemblyman Horne:
Mr. Ellis, could you elaborate on the issue of public disclosure of complaints? I think you used the term "their hands were bound" with reference to current law, prior to this bill. Can you elaborate? Will parties now be able to respond?

Frank Ellis:
Yes, sir. The state of the law currently holds that there is confidentiality until the statement of charge is filed by the commission. Currently there is a prohibition against the commission, its members, witnesses, or the complainant from speaking out publicly when a complaint is filed with the commission. The issue was the complainant is obligated to sign a form and swear that he will not release that information until it becomes public. If he does release it before, he could be held in contempt of court. What could happen, under the current state of the law, is that the complainant could file his or her complaint, sign the affidavit that he will not disclose it, and disclose it anyway. But the prohibition against the judge, witness, or even the commission saying anything would still prevent them from responding in any manner to what the complainant said publicly. Under the bill, if a complainant says something publicly, the judge can respond publicly. The commission can also respond publicly to correct any mistakes in what the complainant said.

Assemblyman Horne:
So is there going to be any type of constraint or limitation on the judges? Let us say that a complainant makes a public statement, and then the judge makes a public statement, the judge can respond to that issue only once? Would he be constrained once again after that, or would it be open season, so to speak?

Frank Ellis:
It is open season, to use your vernacular. Yes, sir.

Assemblyman Hambrick:
Apparently somebody in your commission anticipated some type of question. On the last page of the bill, where the fiscal note should be prepared, I notice

there is no fiscal note. However, in your presentation, there are four spots where it said, "funding will be required." Do you have an estimate of what that might be?

Chairman Anderson:
This is a policy committee, Mr. Hambrick. I will remind you of that.

Frank Ellis:
I do not have any idea. Understand, this process is all new to me. What we did was simply deal with the substantive issues of changing and amending the statute and the rules.

Chairman Anderson:
I would remind the Committee that it does not show a fiscal note on the face of the bill. I think the statement, “funding will be required," is their own internal note in the report.

Charles "Chuck" Short, Las Vegas, Nevada, Article 6 Subcommittee on Judicial Discipline:
We had a public hearing on January 15, 2009, with about six members of the public in attendance. Their issues regarded timeliness and transparency. They indicated that when they filed a complaint, they were never informed of the outcome. They just wanted somebody to get back to them and explain what happened to their complaint: was it dismissed, is it still under investigation, et cetera? They also asked for a hierarchy of discipline. What does censure mean, versus reprimand, versus suspension? How do they relate to one another? The Legislative Counsel Bureau (LCB) staff has done an excellent job in section 30, laying out the hierarchy from least severe to most severe.

Finally, I have comments about private discipline. We struggled with private discipline. We understand that private discipline has occurred. This bill was presented with the understanding from our commission that private discipline would no longer occur.

Greg Ferraro, Chairman, Commission on Judicial Discipline:
I wanted to speak to specifically our Commission's support for the four goals that are embodied in this measure before you: to increase the transparency and, therefore, the accountability of the Commission on Judicial Discipline, to decrease the time it takes for the disposition of our complaints, to clarify the authority and the procedures of the Judicial Discipline Commission to improve our effectiveness, and to ensure fair treatment of judges. We are seeking additional funding through the appropriate process.

Mr. Sarnowski has a flow chart about how our process works, which I think will be helpful as you consider this measure (Exhibit E).

In the end, we are directed by you. We are placing before you public policy issues that have to be decided to help direct and improve the effectiveness of our process.

As the Article 6 Subcommittee worked through these very hefty issues, we had an ex-officio member participate in those discussions, but he did not vote on those matters.

David F. Sarnowski, Executive Director, Commission on Judicial Discipline:
I have provided you with a few handouts (Exhibit E), (Exhibit F), and (Exhibit G).

I would like to start by clarifying that there is no case in which any complainant who files a complaint is not notified of the outcome. They are provided a letter. Ms. Schultz, who is here with me, is the person who prepares those letters physically. I sign them all. There may be an argument from the complainants as to what the letters say, and very often they want more information. Quite frankly, they call and want to debate with me once the commission takes action to dismiss a complaint. That debate time is not particularly time well-spent.

We have two forums of proceedings. One is the nonpublic or private part of the proceedings. The part that becomes public usually gathers quite a bit of media attention, as it has in this past calendar year. The national organization that monitors judicial conduct put out its report recently. It indicated that ten judges were removed or barred from the bench throughout the United States. One of those ten was a Nevada judge. The reason why that statistic was reported is because the removal was final. We conducted two proceedings in calendar year 2008, and a second judge was removed; however, that case is not final. It is on appeal. I cannot say much about it, because of the rules governing comments on pending cases.

If a case is serious enough, after it is investigated by our privately-retained investigators who we pay out of our budget, the commission then must decide whether to take the case into the public forum. The great majority of cases never reach that stage. They are summarily dismissed. Over the years, approximately 80 percent are summarily dismissed without investigation. That statistic is one that is common throughout the United States. As you can see from the pie chart statistics we have provided you (Exhibit F), in the last three years the number of complaints has ranged from 164 in 2006 to 168 in 2007. We dropped last year, but I think we are on track to get back into the 160's by the end of this year. Those are constant. What becomes problematic for us,

from the standpoint of how fast we can investigate and adjudicate, is the seriousness of any given complaint. One or two cases can totally skew how we have to operate. They cause us to expend our budget monies to hire the investigators and private lawyers who must present the cases in open court to the commission. This requires a lot of time from our volunteer members, both our lawyers and our lay people, as well as the judges who are assigned to the commission. We conducted a seven-day hearing in 2008 on one of these cases and spent another day on the other one, which was not contested at the end. So, those several people had eight days where they were not earning an income because they were volunteering their time to perform this function, other than the judges who have their regular salary.

With that said, we support greater transparency. We do not intend to report the names of particular judges against whom complaints were filed unless the matters become public. We would do that statistically without attribution to the judge. We get many complaints that are dismissed because they are not in our area of authority. People think we serve as a sort of appellate or review body to look at what judges do in order to decide whether the judge made a legal error. That is not the commission's function. Many people are very unhappy when dismissal occurs because they think we should do that. It is up to the next level of court, be it the Nevada Supreme Court, or the district court, if they are reviewing matters out of the justice and municipal courts, to make appellate determinations. The commission tries very carefully not to impinge upon the independence of the judicial officers to decide legal cases and to let the appellate process work as it is designed to do. Of course, our concern is behavior, both on and off the bench. We get cases of both kinds. We have jurisdiction over a judge 24 hours a day, if you will. Something that they do in their personal life may end up before the commission under the code of ethics, which is promulgated by the Nevada Supreme Court and enforced by our commission. It comes to our attention, and we might have to do something about that.

The court is undergoing a review process right now. We are expecting to see a report from another commission and panel to amend the code. Those amendments will probably not occur until later in the summer. That would be my best estimate.

I have provided a five-page handout dated April 2, 2009 with the proposed amendment (Exhibit G). I have identified items one through eleven. I do not intend to dwell on them all, but I think item 11 may be the most important one from our perspective. That suggests that you expressly and specifically say in this legislation that it is prospective. We need some reaction time to make amendments to our own rules, standard operating procedures, and so forth.

The other thing is that we do not want to get unduly engaged in litigation about whether this new legislation applies to cases or investigative matters that are already pending. I am concerned that, for example, a statute of limitations might impinge on a matter or two that are pending before the commission right now. I think a bright-line rule is the better way to go. We will begin to take into account the need to react to the statutory changes even before that, but I think a bright-line rule is necessary and appropriate here.

With two exceptions, these are what I would call technical changes. In one of the two—you may find at item 6—where we are suggesting that if a judge puts on an affirmative defense, he only needs to prove it by a preponderance of evidence, rather than by clear and convincing evidence. The commission has the burden to prove a violation of the code of conduct by clear and convincing evidence. It is a heavier burden than in a normal civil matter, less than a criminal case. We shoulder that burden willingly. We think it is appropriate. The Supreme Court has said that it is an appropriate burden. We have had occasion to have to deal with this issue of affirmative defenses. My research and the commission's decision was that a judge cannot be required to put on or prove an affirmative defense by such a high standard as clear and convincing evidence. A preponderance of the evidence is a common standard in civil matters. If a judge has the information, such as in a case where there is a medical issue, he might proffer it as the basis to explain his defense. It is proper to put the burden on him. Just how high a burden is the question to be answered. That is one of the items that could be deemed more substantive than the other, procedural, recommendations.

The second one is found at item 8, with regard to the 60-day rule. We have a rule in the commission that requires us to have a public hearing within 60 days after a judge answers the complaint publicly. If the judge waives that rule, similar to what occurs in criminal cases, the commission very often can and does set the time for the hearing outside of that 60-day time frame. We want to get matters to hearing quickly. The way the bill is written now, subsection 1 of section 28 would require us to do the hearing within 60 days. We are asking for latitude, for some discretion as we have now, to do those hearings according to the availability of our members and the appropriateness of putting a case on. The judge has to have time to properly prepare, and his attorney likewise has to have time to properly prepare. We have to take due process concerns into consideration. Had we had this rule in effect in 2008, when we had two major cases pending literally at the same time, the likelihood is that we could not have met the requirement to do them both in 60 days. Our members have their own schedules and court calendars and dockets and private business situations, which they very willingly put aside in many cases, but we need a

little latitude, rather than being locked into the 60-day rule that right now is written with a "must" instead of a "should."

Those are the two major substantive issues I wanted to address today.

I would address one other item. Mr. Ellis briefly alluded to the issue of immunity. We have suggested that the statute be clarified to provide immunity to witnesses from whom the commission obtains statements. Presently, the law provides immunity to complainants who file complaints and to witnesses who testify in hearings. A great many matters that we deal with, even those that we investigate, do not go to a hearing. However, we had an instance recently where a judge sued a witness on the theory that the witness lied to our investigator during the course of the investigative process. We think there is a hole in the statute that needs to be filled, and we are asking you to do that as well.

Assemblyman Horne:
What if the judge has evidence that the witness in your investigation did lie?

David Sarnowski:
If a witness testifies—and that is the only basis upon which the commission ultimately can rely if it is a contested case—there is a remedy under statute to prosecute the witness for perjury. Of course, a prosecuting attorney would have to do that. The commission could bring that to the attention of the appropriate authorities. It is a balancing issue, and it occurs in other ways. For example, people who come before the Committee and say things to you that they could not say on the sidewalk are immunized as a matter of public policy. I suggest to you that a judge has a remedy. If a matter ultimately results in discipline against him, which he is later able to prove through a malicious prosecution action against the particular witness in question, then it might stand up. But I think, as a matter of public policy, it would damage our investigation if witnesses know that, when we show up, whatever they say might subject them to a lawsuit by an unhappy judge who has the legal knowledge to bring the lawsuit in many cases without benefit of counsel.

Assemblyman Horne:
Let us take the example of a witness who provides you with false information on which you rely as the seed of the investigation. Everything that stems from that turns out to be false. And you do not use that witness, who began it all, on the stand. What do you do if the judge says, "If it were not for this one witness who told a lie and caused you to begin this investigation, even though you did not use him as a witness at the hearing, I would not have had to be defending this in the first place"?

David Sarnowski:
I do not take the position that everybody who gives us a statement is absolutely truthful. That probably happens from time-to-time. I have seen it happen. The reason we have hearings if a judge contests the evidence is to have the crucible of examination and cross-examination of witnesses so that the commission can determine credibility, just like any other finder of fact. I understand your point that a judge may be unhappy that a certain person's statement triggered or furthered the process against them. But I think the public policy determination is whether you want those persons subjected to civil liability, or even the prospect of civil liability, when there is no basis for the judge to do that. Let us say that the commission made a finding against the judge that a particular witness was credible; yet the judge, under the law, has the wherewithal to bring a lawsuit against the person contesting his credibility. It is a balancing test; you have to make a determination as to the right of a judge to go after witnesses who bring evidence against him, just as the right of a criminal defendant or a civil litigant in other circumstances.

Allen Lichtenstein, representing the American Civil Liberties Union of Nevada, Las Vegas, Nevada:
I am in support of A.B. 496. Our concern had always been about the gag rule that said that someone who was a complainant could talk about the substance of the complaint but even if asked, "Did you file a complaint with the Judicial Discipline Commission?" would have to say, "I am not allowed to talk about that." As Mr. Ellis said, this is something that goes against most of the law. We are very happy that this particular aspect is going to be eliminated in this particular bill. The sections that were repealed on pages 19 and 20 are some of the ones that seemed to be the most offending, so this is something we support.

In terms of the question of immunity, to reiterate what Mr. Sarnowski said, in any kind of judicial or quasi-judicial proceeding, a remedy for a defamation claim is generally not allowed simply because that is considered outside of the bounds of that process. It may intimidate people to not give testimony. If you look on page 18, subsection 3 of section 32, the immunity does not apply to any statement made outside of the process. In other words, if a complainant or a witness complains about a judge to the press or to his brother-in-law, or whomever, those statements are not immunized. They are immunized only within the process, in the hearing, or, with Mr. Sarnowski's proposed amendment, within the investigative process, which does track other judicial and quasi-judicial kinds of processes.

Chairman Anderson:
I will admit into the record a letter I received from Alecia Biddison from the Busick Group (Exhibit H). She raised some concerns. She asked to specifically include judges who are so-called "senior judges" because she did not believe that the current law, using the language "other judicial officers," was broad enough to include them.

David Sarnowski:
I have not seen this letter. Could you restate your question?

Chairman Anderson:
In section 17 of the bill, there is a list of "judges." Do we need to specifically list senior judges? I was of the opinion that subsection 5 was a catch-all. I could not imagine that there would be anyone who was not subject to your authority.

David Sarnowski:
I agree with your assessment. We believe that senior judges are already covered. Without giving away any secrets, we deal with senior judges from time-to-time in our process.

Chairman Anderson:
I would think that the proposed new subsection 5 of the bill, at lines 10 through 13 on page 5, is broad enough.

I will close the hearing on A.B. 496.

I will now open Assembly Bill 476.

Assembly Bill 476: Makes changes relating to gaming enterprise districts. (BDR 41-659)

Mr. Fiorentino, you and I had a discussion on this topic several months ago. We were hopeful that we would have a nice clean bill. Bill drafting did a great job, but there are some technical corrections.

Mark H. Fiorentino, Kummer Kaempfer Bonner Renshaw & Ferrario, representing Wynn Resorts, Marriott International, and the Golden Nugget, Las Vegas, Nevada:
There are some technical corrections that need to be made to the language. This is an issue that is easier to understand visually, which is why I asked to have a booklet distributed (Exhibit I).

In Clark County, resort hotels' and casinos' nonrestricted gaming has to be located in a gaming enterprise district. That law has been on the books for a very long time. Decisions on whether or not to establish or amend the boundaries of a gaming enterprise district under current law are left to the local governing bodies. If you are in the City of Las Vegas, for example, it is the City Council that decides whether a gaming enterprise district should be established. However, under state law, those governing bodies are governed by a set of parameters. They have to make certain findings, and in some circumstances there are minimum requirements that must be met. In all cases, no matter where you are in Clark County, today, under existing law, the local governing body must determine that your project, establishing a gaming enterprise district, is in the best interest of the public. The local body must find that it will expand and stabilize the local economy, that there is necessary infrastructure in place to facilitate the project, and that it is compatible with the surrounding area. That is the case no matter where you are in Clark County. However, in areas outside of the Las Vegas Boulevard gaming corridor, which is the subject of this particular bill, in addition to those findings, there are certain minimum distance requirements to schools, churches, and residential developments. If you are in the Las Vegas gaming corridor, you are exempt from those minimum distance requirements. If you are outside of the Las Vegas gaming corridor, you must meet those minimum requirements. If you are not exempt, there is no provision for waiver. You simply cannot even ask the local governing body to consider your project.

The purpose of this current regulatory scheme was to provide additional protection to those living in the outlying areas. It was not designed to provide unnecessary burdens on development in the resort and tourist corridor.

If everyone will turn to tab one, under existing law, the Las Vegas Boulevard gaming corridor is the area depicted in red. If you are in that red zone, you can get a gaming enterprise district and you are subject to the findings regarding infrastructure and so forth, you are exempt from the minimum distance requirements. Yellow is where we are proposing to expand the gaming corridor. If you adopt the bill before you today, you would be adding the yellow areas to the gaming corridor, and property owners in that corridor would be exempt from those minimum distance requirements.

If you turn to tab 2, I will show you a few examples of why this is necessary and what the unintended consequences are of the existing law. Page 1 of tab 2 shows the property owned by the Golden Nugget in downtown Las Vegas. It is at the heart of the existing resort tourist corridor in downtown Las Vegas. The crosshatched portion of what the Golden Nugget owns is in an existing gaming enterprise district. The yellow highlighted area is property that the

Golden Nugget has acquired over the years. The Golden Nugget's plan is to redevelop the whole property some day and try to do a new project there. Under today's law, if you do not pass this bill, they cannot expand into that yellow area because there is an existing church a few blocks away in downtown Las Vegas. They cannot even ask. There is no ability to work with the church. They simply cannot do it because of the minimum distance requirements, even though, in this particular instance, the expansion or renovation of their project would be further away from the church than the existing project. I do not think this is a good result.

The circumstances shown on page 2 are slightly different but illustrate that the same problem exists in Clark County. It is the area between Desert Inn Road, Las Vegas Boulevard, and Paradise Road. It is an area that is dominated by resort hotels and casinos: the Venetian, the Mirage, Treasure Island, Wynn Resorts, and so forth. On the north side of Desert Inn, in the crosshatched area, you will see property currently owned by Marriott. Marriott owns that whole area: the crosshatched, the yellow, and the other rectangular piece designated as a gaming enterprise district. Marriott has two pieces in the gaming enterprise district and a sliver in between those two pieces that they would like to add. In Marriott's case, it would be a new casino. They have a hotel, but they want to renovate it into a complete hotel resort casino. Under today's law, if you do not pass this bill, they cannot, because again there is a church along Las Vegas Boulevard that has been there for many years. This particular church's stated mission is to serve the workers and people who live near this area and who utilize the casinos on the strip. Under today's law, they would have to design a project around a gap in the middle of the property that they own.

This also shows the circumstances for Wynn Resorts. The big green area in this map, just south of the yellow I described, is the existing golf course for Wynn Resorts. A good portion of that golf course falls within the prohibited area of that same church. So some day, if Wynn has plans to develop new projects and new hotel resort casinos between Las Vegas Boulevard and Paradise Road, adjacent to Desert Inn Road, a good portion of their plans could not happen under current law.

This additional map shows the main purpose of our bill because that red crosshatched line that runs diagonally is the outer boundary of the existing gaming corridor. You can see how close we are to where the existing gaming corridor is. In fact, in Marriott's case, they have this problem just because they are a couple of hundred feet outside of that corridor. The same thing holds true for Wynn. They are adjacent to that line. If you adopt our proposed legislation,

it would move the line to Paradise Road, which seems to make perfectly good sense to us. I will show you more about that behind tabs 3 and 4.

Tab 3 highlights the basis of existing law. These are the legislative findings that govern this whole section of statute dealing with gaming enterprise districts, the findings you made in 1997 when you adopted this law. I highlighted for you the ones I think are particularly relevant. You found at the time, and I submit it is still equally true today if not more so, that these projects are specifically supposed to be concentrated in this corridor, because that is where all the development is, and the infrastructure is, the transportation is, and that is where the tourists go anyway. What we are asking you to do today fits perfectly within the stautory framework that already exists.

Page 4 is a copy of the Clark County master plan. This is the plan that governs where what uses are appropriate in the county. We highlighted and superimposed for you the portion of the boundaries that are in Clark County which we suggest adding into the gaming corridor. The vast majority of the properties inside those boundaries are that color purple. The color purple is tourist/commercial in the county's land use plan. Translated very simply, that is the area that is planned for resort hotels, and casinos. It is already in the master plan. In addition, the vast majority is already developed with resort hotels and casinos. This is where City Center is. Las Vegas Boulevard runs right through the middle. It is where all the resorts exist: between the freeway and Paradise. Also, a good majority of that land is already in a gaming enterprise district. We are not creating situations that do not exist today. There are pockets in there that have these anomalies under the current law. There is virtually no single family residential in that area.

Tab 5 shows a portion of this map that extends into the City of Las Vegas. The Golden Nugget is in the City of Las Vegas. What we are proposing that you add to the Las Vegas gaming corridor lies between the railroad tracks and Las Vegas Boulevard. Page 1 shows the city's master plan for that area. Page 2 tells you what the colors mean. All of that red and yellow color—the vast majority of the area inside where we are proposing to put the gaming corridor—is planned for mixed use or general commercial. Both categories, under the city's land use plan, allow resort hotels and casinos. Of course, you have to go through the process. You have to hold public hearings, and you have to get a gaming enterprise district.

Tab 6 highlights a different issue that warrants your attention. We are in very difficult economic times in the State of Nevada. Throughout the whole Session so far, and probably with stepped-up efforts throughout the remaining part of the Session, you are struggling with ways to continue to provide essential

services to the citizens of Nevada. You are also trying to find ways to allow and promote economic recovery and growth. I would submit to you that this bill is a very powerful tool to accomplish those goals. You would be allowing development and redevelopment of new resort hotel projects in the tourist corridor where they otherwise would not be allowed today. Ask yourself about the worst case scenario: I have convinced you to pass this bill, and in the next year or so after the effective date of this bill, every single property owner in the yellow puts the pieces in place and actually either develops or redevelops a resort hotel in that corridor. Ask yourself: what is the downside to the State of Nevada and the citizens of Nevada if that actually occurs?

Tab 6 is just statistics from the state's website dealing with employment and unemployment. I highlighted areas I think are relevant to this bill. In the last year, the State of Nevada lost 20,000 construction jobs and nearly 20,000 jobs in the hotel, leisure, and entertainment industry. This is a perfect vehicle to create the opportunity to start to reverse that trend.

Finally, I want to walk you through the amendments, which are in tab 7, in green. The language, as in the original bill, does not match the map that I have shown you. The boundaries do not close, and they do not line up exactly. If you adopt the amendments in green, the bill text will exactly match the map that I have shown you.

Assemblyman Carpenter:
Have you spoken to those two churches that might be affected?

Mark Fiorentino:
I, personally, have not spoken to either of the churches. Our clients have talked to both of them.

Assemblyman Carpenter:
What was their response?

Mark Fiorentino:
They had no objection.

Assemblyman Manendo:
You have mentioned there are very few homes in the area, but has there been any dialogue with the residents who would possibly be affected by this?

Mark Fiorentino:
To the best of my knowledge, there has been no official dialogue.

Assemblyman Manendo:
How many homes are we talking about?

Mark Fiorentino:
In the southern portion in Clark County, I believe there are zero homes inside that boundary. We are talking about the area between Interstate 15 and Paradise Road, between Tropicana and Sahara. To the best of my knowledge, there are no single family homes.

Assemblyman Manendo:
I thought you had mentioned there were a few single family homes. Is it the downtown part?

Mark Fiorentino:
If you proceed north, the portion that goes through downtown, as confident as I am that there are zero homes in the county, I am confident that there are a number not a substantial number, but a number of old, single family residences between Las Vegas Boulevard and the railroad tracks. Very few.

Assemblyman Manendo:
The project that you are talking about for redevelopment: when are they looking at doing that, in the very near future or several years down the road?

Mark Fiorentino:
The answer to that is, as soon as they can. This means, in today's market, the biggest hurdle is finding the financing for the projects.

Chairman Anderson:
The financing in the current market is not there to complete those projects. Realistically, you would have to say that they would be lucky to even start the financial process in three to five years.

Mark Fiorentino:
All of us are hoping, and banking on the fact, that the market changes as soon as possible. In an ironic sort of way, you, by passing this bill, would help that situation. When the money is available, what you are doing is removing a barrier to these projects actually being constructed. Which means, when the money is available, these projects will be financeable.

Assemblyman McArthur:
I want to make sure I am reading this map correctly. According to the map, it looks like what we refer to as the downtown area is not now in the gaming corridor.

Mark Fiorentino:
It is not. That is correct.

Assemblyman McArthur:
How did they get all those casinos in there without being in the gaming corridor?

Mark Fiorentino:
The vast majority of them were constructed prior to the adoption of the corridor.

Assemblyman McArthur:
So this new bill would help this out. It would put all the casinos in the gaming corridor, then?

Mark Fiorentino:
That is correct.

Chairman Anderson:
When Mr. Fiorentino and I had our initial discussion, it was about the inequity to the City of Las Vegas. When we established the gaming corridor in 1997, we discussed that it might create an unusual set of circumstances. Clearly, the City of Las Vegas had been harmed by this in their opportunity to expand. In my discussion with Mr. Fiorentino, I said, "If we are going to do it, it seems to me that we should try to find some natural geographical features." Thus, the line exists at my suggestion.

Assemblyman Segerblom:
I represent the area north of Sahara, which is old Las Vegas. This would impact my assembly district and also an old neighborhood that is currently under historic designation. Have you consulted with the city with respect to this?

Mark Fiorentino:
Yes, we did consult with the city, and that is precisely why we limited the new yellow to the west side of Las Vegas Boulevard. We and the city were both very cognizant that the east side of Las Vegas Boulevard does contain substantial residential neighborhoods.

Assemblyman Segerblom:
You are saying that the city has endorsed this?

Mark Fiorentino:
The city has taken no position on this, but they did help us determine the boundaries that are in yellow.

Assemblywoman Dondero Loop:
I am looking at where Desert Inn crosses Paradise. There used to be the old Landmark. The Hilton might still be in the yellow area. Is that correct? Or is the Hilton just inside that red on Paradise?

Mark Fiorentino:
Which exhibit are you looking at?

Assemblywoman Dondero Loop:
The map behind tab 1.

Mark Fiorentino:
Las Vegas Hilton is on the east side of Paradise, so it is outside of the yellow.

Assemblywoman Dondero Loop:
Were those hotels grandfathered in?

Mark Fiorentino:
Yes, because they were constructed prior to the adoption of the law. In Clark County, the Hilton is already in a gaming enterprise district. What happened was, when you adopted the law that required the findings to expand the gaming enterprise district, you grandfathered all of the existing resort hotel casinos. That is why the Hilton today exists in a gaming enterprise district but not in the gaming corridor. If you look again at tab 1, as you radiate out from where the yellow is, you will find that there are existing resort hotels outside that corridor. But, the further you get away from that corridor, the more you have the potential of impacting existing single family residential neighborhoods. That is why we drew the yellow where we did, because Paradise is a natural boundary.

Chairman Anderson:
Before passage of the initial legislation, the Las Vegas City Council and the County Commission were concerned that potential development was going to destroy all the neighborhoods in an ever-increasing circle. They did not want to see that happen. They were afraid that, as time continued without the gaming corridor, development would eat up those districts, and thus they wanted us to restrict their ability to do that.

Assemblyman Segerblom:
We know that the City Center is in virtual bankruptcy. The Echelon, which is in the existing gaming district, has stopped construction. I question the timing of this request. It seems like, right now, we are trying to fill up The Strip, and with this you would actually try to create new development off The Strip. What is the necessity for this?

Mark Fiorentino:
It depends on how you define The Strip. This bill contemplates defining The Strip as running through downtown Las Vegas and including the tourist and resort corridor downtown. To answer the second part of your question, the sooner that you can remove the legal barriers to these projects being developed the better, because, when the credit market frees up, you will encourage and promote new development. This will mean new jobs, both in the construction and operational phases, as well as new tax revenues.

Assemblyman Mortensen:
It seems very logical to me that you want to prepare for the future. We all know that we are going to come out of this hole at some time. To prepare for the future, and be available to move when you can move, makes sense to me. I see no reason why we should look at this as, "Gee, why do you want to do it now when we are in a big hole?" It is logical. Thank you.

Eric Rubeck, representing the Plumber and Pipefitter Union Local 525, Las Vegas, Nevada:
We are definitely in support of A.B. 476.

Steve Redlinger, Las Vegas, Nevada, representing the Southern Nevada Building and Construction Trades Council, Henderson, Nevada:
We are in support of A.B. 476. This bill represents an expansion of the Las Vegas Boulevard gaming corridor, which would encourage new hotel casino development and new jobs for both construction workers and hotel casino workers. With the unemployment rate in southern Nevada passing 10 percent, and the unemployment rate in the construction sector closer to 25 percent, we are eager to throw our support behind A.B. 476, which we believe would create much needed jobs in southern Nevada.

David Kersh, Government Affairs Representative, Carpenters-Contractors Cooperation Committee, Los Angeles, California:
This bill will facilitate development, which will create jobs. We all know jobs are key and are needed. The numbers regarding the unemployment figures in the construction industry are extremely stark. We need to prepare for the future. I do not see anything negative in the bill. It makes sense from a land

use perspective. We want to show our very strong support and hope you move this forward.

Pilar Weiss, Political Director, Culinary Union Local 226, Las Vegas, Nevada:
We are opposed to A.B. 476 in two areas. We represent 60,000 workers who work both downtown and in the Las Vegas Strip casino corridor, and so we are obviously quite concerned about the health and strength of the industry. The first concern deals with the extension up north of Sahara. Although Mr. Fiorentino implied that there are no single family homes in this area, it encroaches and moves the gaming into an area where many casino workers live. There are a lot of apartments, a lot of long-term hotels, and it moves very close to neighborhoods that are highly populated by casino workers who live close to downtown and The Strip. We are very concerned about the changes that will make in this neighborhood north of Sahara through downtown. The Culinary Union's office is also smack in the middle there. We are in a mixed use neighborhood, but we understand that neighborhood very clearly. Although it is mixed use, it is a prime residential area for casino workers. We are concerned about how that would change the lay of the land there, especially with the availability of affordable apartments.

The second issue that we are concerned about is the rest of the extension along the current gaming enterprise district and along the Las Vegas Strip. We share the concern with our colleagues in the building trades side of the job market, but we see this more as a long-term issue. We are concerned as well about layoffs and decreases in jobs, but we are very concerned about the cannibalization that we see along the Las Vegas Strip. With the concerns about financing and continuance of projects that are currently in construction, including City Center, we worry that the increase in the pressures of having new gaming-entitled areas will actually adversely affect the projects that we are trying to currently complete and come online.

Josh Griffin, Reno, Nevada, representing MGM Mirage, Las Vegas, Nevada:
We are opposed to A.B. 476. We are not sure of the impact that this bill would have on Nevada's largest employer. At our first look at this bill, it expands the resort corridor in ways we do not understand completely. We do not know how it could impact all the properties within MGM Mirage. Does it change potential development distinctions? The map touches virtually all of our properties.

We are all worried about the economy, so we want to do the best thing. However, considering the fragile state of this economy, and considering we do not know the impact as you potentially expand this corridor, we urge a no vote on A.B. 476.

Chairman Anderson:
What about the message that is sent to the people if we reject this bill? By not making land available for future growth, are we suggesting to the people that we do not have confidence that the gaming industry will come back?

Josh Griffin:
Our opposition is based on a complete and total lack of understanding of the impact. MGM Mirage has invested billions of dollars and hired tens of thousands of people based upon a set of rules, in a competitive environment, that you have set as public policy makers. As we are in the process of finalizing the largest investment in, I think, the country's history in terms of a single property, we want to give it the most careful review we can. I do not think we can do that now. Our opposition is based on the investments we have made in the current policy environment that you have established. But we are very bullish on the future of Las Vegas.

Assemblyman Mortensen:
I agree with you, Mr. Chairman, that turning this bill down would present a negative attitude about the future of the gaming industry in southern Nevada. I have lived here for 47 years, and I think every year I have heard prognostications from various entities on The Strip saying, "We have got to quit growing." I think most of it was self-interest and saying, "We do not want any more competition." MGM could never have gotten as big as it is if it were not for the Steve Wynns and the Bill Bennets who pushed development on The Strip. We grow with competition and expansion. I think MGM's arguments are mostly protective.

Assemblyman Horne:
The concern about the neighborhoods in the area is legitimate, and we should take that under consideration. Ms. Weiss used the term "cannibalizing." Mr. Griffin is concerned about the impacts on MGM Mirage and the investments they have made. However, it is not anticipated that, if we were to process this bill and expand the corridor, these potential projects are only going to happen if the economy turns around. Would you not see that as a win-win situation? Would there not be more job opportunities for culinary workers and other employee groups, Ms. Weiss?

To Mr. Griffin, under your theory of prior investment, if we take that approach would we not be precluded from making any changes down the road, whether the economy is good or bad, because there are always going to be some types of investment? Would we not stifle ourselves?

Pilar Weiss:
We are optimistic about the future of the gaming industry and Las Vegas, but our concern is that there has not been a real analysis of how this could affect the area. Right now, with the downturn in occupancy levels, the economy, and tourism, we see that the industry, and those of us who work in that industry, are having a hard time anticipating what is going to happen. There are a huge number of rooms that are coming online, not only with MGM Mirage's properties at City Center but along The Strip. As someone noted, with Echelon sitting unfinished and numerous projects already filling in the previously designated gaming corridor, part of our concern in my reference to cannibalization is trying to understand, not trying to stifle competition but trying to understand, the impact on the area, right now, where projects cannot find financing and are cutting back expansions and job opportunities. There are towers that were supposed to open that are not going to open.

Assemblyman Horne:
I was under the impression that utilization of this bill would not occur until things turned around, and that might alleviate some of your concerns.

Josh Griffin:
The quickest answer I can give you is that I do not know. I just want to stress that our opposition to this bill is not purely based on the competitive environment in which we operate. There are hundreds of acres on The Strip that are able to be developed within the resort corridor. Some are owned by MGM Mirage, some are owned by other entities. There will continue to be, for the next several decades, all kinds of opportunities for competition to continue. I do not know what the impact is, but we are not afraid of competition.

Assemblyman Segerblom:
Some of us do not want that much more gaming. One of the ironies of this is that in Nevada, right now, the reason we are having a $3 billon shortfall is we have an industry that is like a sales tax, it goes up and down and is not very consistent. We are trying to diversify. To me, we have a corridor now that allows for a lot of development. However, we do not want casinos to be our primary source of revenue. We are trying to reach out, build neighborhoods, find other industries to come to Nevada, and have a more stable tax base. Because this is coming from the top down, as opposed to the county coming to us and saying, "Let us expand this district," it is like we are dictating to the county and the city, without their cooperation or their participation. It seems insane to me.

Assemblywoman Parnell:
I think there have been some assumptions made that this would necessarily be a negative for the residences in this area. Is it not true that the new look of mixed use and housing areas can benefit from new construction and a new vibrancy in a neighborhood? I would like to know your thoughts as to whether it can be a positive development?

Pilar Weiss:
I think it certainly can be a positive development. Our concerns stem from the areas in question that would either be enveloped by the gaming enterprise district or would be right along the edges. These areas tend to be on the affordable side. Assemblymen Ohrenschall, Kihuen, and Segerblom all have little pieces in this section. There are a lot of apartments and older homes. Certainly, there has been a lot of condominium development in these live/work condominium loft-type of developments along The Strip, which may be an opportunity. But I think there is a real question—I do not have a direct answer—as to whether it might deplete the existing affordable, lower-income housing so that luxury developments can take place.

Assemblywoman Parnell:
I think it is important to leave that open, and I would hope that any new construction, if this bill were to pass, would take that into account and really add value to those areas, instead of considering them to be a negative.

Chairman Anderson:
Would anyone else like to testify against A.B. 476? Are there any persons who are neutral? With that, I will close the hearing on A.B. 476.

Assemblyman Manendo:
Mr. Chairman, if we could hold onto this bill for a little bit, there may be some questions we could work out.

Chairman Anderson:
Is this part of your Assembly district?

Assemblyman Manendo:
No, but I do have some friends that live in this area. I would like to contact them. Furthermore, we have some members of the Committee that might have a little bit of concern. I have not talked to either side regarding this. If the Chairman would give us until early next week, it would be helpful.

Chairman Anderson:
Okay.

Let us begin the work session with Assembly Bill 46.

Assembly Bill 46: Makes various changes concerning the right of certain persons to purchase or possess a firearm. (BDR 14-271)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 46 was presented by the Attorney General's Office on February 20, 2009 (Exhibit J). The bill requires a court to transmit, to the Criminal History Repository, records related to defendants or others who are deemed mentally ill. The repository is then required to submit those records to the federal database for purposes of disqualifying those mentally-ill individuals from owning or possessing a firearm.

The Committee has several amendments to consider on this bill. An amendment was submitted by the Attorney General's Office during the hearing, however, Mr. Cobb and Mr. Ohrenschall worked with the Attorney General's Office to address concerns raised during the hearing. The result is the compromise amendment that is summarized in the document and presented in the attached mock-up for your review.

This mock-up was created by me, based on the amendments submitted by Mr. Cobb and Mr. Ohrenschall. Of course, this is just my representation of how I interpreted those amendments and where I placed them. The Legal Division certainly has the final say on the way it will ultimately look.

Amendment (a) authorizes the Department of Public Safety to prescribe a form to be used by all courts for submitting those mental health records addressed in the bill, to ensure that the information comes in a consistent manner. This amendment is included in several sections of the bill and can be identified by green language on pages 2, 3, 4, 5, 6, and 8 of the mock-up.

Amendment (b) can be found on page 6 of your mock-up in subsections 6 and 7. This addresses that when a person's right to own a firearm is restored, the repository must submit a record of that order within five days to the National Instant Criminal Background Check (NICS) database. If the repository fails to do so, a cause of action may be filed.

Chairman Anderson:
That is on page 6 of the mock-up, subsection 7 of section 7?

Jennifer M. Chisel:
Yes. Subsection 6 and subsection 7 of section 7.

The next amendment, (c), is also on page 6 of the mock-up. You will find that in subsections 8, 9, and 10. This clarifies the procedure to file a petition to have one's right to own a firearm restored. The petition must be filed in the court that issued the order disqualifying firearm ownership and served on the district attorney of that county. When a disqualifying order is issued, a person must wait five years before bringing a restoration petition and must wait two years to bring a subsequent petition after a restoration petition has been denied.

The next amendment, (d), is at the top of page 7 of the mock-up. It is indicated by the green writing, which adds the words "or governmental entity" and "for damages." This amendment provides for a lawsuit for mandamus or injunctive relief to require the repository to comply with an order to update the NICS database, but there are no damages allowed.

The issue of guardianships is addressed in amendment (e). This is shown by deleting sections 10 and 11 of the original bill, but those sections are replaced by new sections 14 and 15 on page 9 of the mock-up. The definition of a person with a mental defect is intended to apply to the guardianship chapter of the statutes, which is Chapter 159 of *Nevada Revised Statutes* (NRS). Section 15 in the mock-up requires a court to find, by clear and convincing evidence, whether a ward is a person with a mental defect in permanent guardianship cases.

Amendment (f), which begins at the bottom of page 9 and continues to page 10 of the mock-up, provides an administrative procedure to review and challenge the records held by the repository if a person was denied the right to purchase a firearm. This particular language is modeled after the existing process to inspect and correct criminal records held by the repository.

The final amendment, on page 8 of the mock-up in green lettering, addresses NRS 433A.715, which requires that mental health records be sealed. This provision provides an exemption to ensure that these records can be sent to the repository for purposes of the NICS database firearm eligibility.

Assemblyman Carpenter:
Under what kind of circumstances could you bring an action against the central repository? Unless it is a mistake or an oversight, I do not know why they would not comply. I was wondering about that because in another section it says, "a person or governmental entity is required," and if they do not comply,

there is no action for damages. What sets the Central Repository apart from everyone else and gives them a different set of standards with which they have to comply?

Keith Munro, First Assistant Attorney General and Legislative Liaison, Office of the Attorney General:
This was put in to make sure there was a remedy if the Central Repository failed to do what they were supposed to do. If the repository failed to do what they were supposed to do, or failed to move quickly, a person could go to court, make sure that it was done, and be compensated for his attorney's fees. If there was a dispute about whether or not certain information be removed, it also provides an opportunity to go to court and make sure that it is removed.

Chairman Anderson:
It is a remedy for a person who feels that the repository did not remove a record as required or did not remove it in a timely manner.

Keith Munro:
That is correct.

Assemblyman Carpenter:
It also says, "within five days." Does that include holidays and weekends? If it includes a weekend, do you take two or three days away from them?

Chairman Anderson:
I was under the impression that they are open 24 hours a day in terms of their response, because they have to respond to police officers and court agencies who are open. P.K. O'Neill did not seem to be concerned about it during the hearing.

Keith Munro:
We would be happy to insert the words "five business days."

Chairman Anderson:
Could you direct my attention to the lines you are discussing?

Assemblyman Carpenter:
It is on page 6, line 20 of the mock-up: "Within five days."

Nick Anthony, Committee Counsel:
Yes, that is fine. If it is the Committee's intent, we can add "five business days," if that would give you a level of comfort.

Chairman Anderson:
Since it is a state agency, open seven days a week, 24 hours a day, do we need to say something like "standard business days," or is it clearly understood that holidays are excluded?

Nick Anthony:
I believe just the general term "business days" would apply. If it is closed for a holiday, that would be excluded.

Chairman Anderson:
I will entertain a motion to amend and do pass A.B. 46, with the amendments set forth in the work session documents.

> ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS ASSEMBLY BILL 46.
>
> ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Assemblyman Carpenter:
I still have a real problem with being able to bring an action against the Central Repository. In section 6, it says they "shall take reasonable steps," and in the next section, you are going to take them to court. I just have a problem with that.

Chairman Anderson:
I think Mr. Munro indicated that it was to alleviate a continuing concern or misconception that people have that it is hard to get documents removed from the central repository. As we have heard several times, that is not the case.

Assemblyman Cobb:
That is correct, Mr. Chairman. The intent is to provide a remedy for an individual who cannot get the Central Repository to act in a timely fashion. The idea is not to allow damages because we do not want to have lawsuits with money settlements. We just want the action to be taken so people can have their second amendment rights restored.

Chairman Anderson:
[Called for a vote on the motion.]

> THE MOTION PASSED. (ASSEMBLYMAN CARPENTER VOTED NO).

Let us turn our attention to Assembly Bill 47.

Assembly Bill 47: Revises provisions relating to specialty courts. (BDR 14-409)

Jennifer M. Chisel, Committee Policy Analyst:
The Committee heard A.B. 47 on February 16, 2009 (Exhibit K). This deals with specialty courts, specifically drug court and mental health court. There are four amendments for the Committee to consider, which are summarized and provided in the attached amendment.

Amendment (a) on page 1, section 1 of the mock-up, would maintain existing law, which provides the prosecutor with the authority to stipulate to the assignment of a defendant to mental health court when the defendant commits certain violent offenses. The original bill had removed that prosecutorial involvement in the cases. The amendment puts it back.

Amendment (b) removes the three-year waiting period to have the defendant's criminal record sealed after successful completion of a mental health or drug court program. According to testimony, these amendments would make the programs consistent with the record-sealing provisions in the NRS Chapter 458 drug program. These amendments can be found on page 1, section 2 of the amendment and then on page 4, section 7. Section 9, on page 6 of the amendment, also has similar language related to record sealing.

Amendment (c) is on page 5, section 8 of the amendment. This would amend the bill to maintain existing law regarding defendants who are eligible for the drug court program. The original bill had expanded this eligibility list. The amendment brings it back to what the current law is.

The last amendment is on page 7. This would avoid a potential double-license-suspension penalty for a defendant who is in a drug diversion program.

Assemblyman Segerblom:
It is my understanding that this does not apply to domestic abuse. Is that correct?

Jennifer Chisel:
Yes. If you look at section 8 of the amendment, at page 5, there are certain crimes that are prohibited from being diverted into this program. The amendment adds back "an act which constitutes domestic violence" back into that list of prohibited offenses.

Chairman Anderson:
I will entertain a motion to amend and do pass A.B. 47, with the amendments set forth in the work session documents.

ASSEMBLYMAN SEGERBLOM MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 47.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:
Let us turn our attention to Assembly Bill 105.

Assembly Bill 105: Makes various changes concerning genetic marker testing of certain criminal defendants. (BDR 14-51)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 105 is the first of two deoxyribonucleic acid (DNA)-related bills that were brought by Assemblywoman Gansert to this Committee (Exhibit L). This bill authorizes a board of county commissioners to deposit grants and donations into the county's DNA testing fund, and it expands the authority of the forensic lab to use funding to cover any expense related to DNA testing. The bill maintains the requirement that a convicted defendant provide identifying information and a biological sample, but it eliminates the need for a court order to obtain such information.

During the hearing, Ms. Gansert proposed an amendment to strike the language in section 1, subsection 5 of the bill. However, after the hearing, she revised that amendment to provide that, if it is determined that a person's biological specimen has previously been submitted for conviction of a prior offense, an additional sample is not required.

Chairman Anderson:
The Chair will entertain an amend and do pass motion on A.B. 105, the amendments being those described by Ms. Chisel.

ASSEMBLYMAN CARPENTER MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 105.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us turn our attention again to Assembly Bill 120.

Assembly Bill 120: Makes changes concerning orders for protection of victims of sexual assault. (BDR 15-625)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 120 provides a sexual assault victim with the authority to request a protection order against the alleged perpetrator (Exhibit M). This was discussed in a prior work session, but it received no motion. The Committee has one amendment to consider, expanding the scope of the protection order to all victims of a felony crime of violence. However, as the members pointed out during the last work session, the Committee had no opportunity to hear testimony on this proposed amendment.

Chairman Anderson:
I suggest we make a do pass motion on A.B. 120. That would get the bill to the floor and provide an opportunity for proper notification and a hearing on the question on the Senate side. We can anticipate that it might come back to us in a conference. I have no objection to the amendment that is being suggested, but I am concerned about the precedent of taking it without any testimony. It is a dramatic move to a much broader statement.

Assemblyman Segerblom:
I make a motion to adopt the bill without the amendment. However, I would also point out that this amendment was something that was proposed by one of my constituents. I apologize for bringing it so late. I would ask that just the bill be passed.

ASSEMBLYMAN SEGERBLOM MADE A MOTION TO DO PASS ASSEMBLY BILL 120.

ASSEBMLYMAN COBB SECONDED THE MOTION.

Assemblyman Segerblom:
I apologize to the Committee for trying to add the words "crime of violence." That was brought to me by a constituent. I think passing the bill, as the Chairman said now, would be perfect. We can let my constituent discuss her concerns in the Senate.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:
Let us turn our attention to Assembly Bill 253.

Assembly Bill 253: Revises the crime of resisting, delaying or obstructing a public officer in the discharge of his duties. (BDR 15-892)

Jennifer M. Chisel, Committee Policy Analyst:
The Committee heard A.B. 253 on March 16, 2009 (Exhibit N). The Committee will recall that it was presented by Assemblyman Cobb and Captain P.K. O'Neill from the Records and Technology Division. The bill increases the penalty from a category D to a category C felony for using a firearm while resisting an officer. The bill also provides that taking or attempting to take an officer's firearm while resisting is a category C felony and that taking or attempting to take any other type of weapon while resisting is a category D felony. There are no amendments for the Committee to consider on this bill.

Chairman Anderson:
The Chair will entertain a do pass motion on A.B. 253.

> ASSEMBLYMAN OHRENSCHALL MADE A MOTION TO DO PASS ASSEMBLY BILL 253.
>
> ASSEMBLYMAN MCARTHUR SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN HORNE VOTED NO. ASSEMBLYMAN HORNE RESERVED THE RIGHT TO CHANGE HIS VOTE ON THE FLOOR.)

Let us now turn our attention to Assembly Bill 262.

Assembly Bill 262: Makes various changes concerning the issuance of marriage licenses. (BDR 11-961)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 262 was presented by George Flint on March 23, 2009 (Exhibit O). The bill makes various changes to marriage licenses, and the Committee has several amendments to consider on this bill.

The compromise amendment, noted as amendment 1, is in agreement among the interested parties. The Committee heard testimony on this during the hearing. This amendment was submitted under the Chairman's name, and the conceptual language is attached for your review.

Amendment 1(a) clarifies section 1 of the bill regarding the renewal of marriage vows. Amendment 1(b) retains the existing minimum age to marry with parental consent at 16. The original bill had lowered that minimum to 15. Amendment 1(c), which is found in section 3 of the bill, makes the following changes to the license application. Proof of name and age is required, which is current law. A secondary document must contain a photo, or identification (ID) must be verified to obtain the document. Provides no proof of age is required when the person clearly appears older than the age of 25. Eighteen was the age in the original bill. A social security number is required on the application. The county cannot deny an application if the applicant does not have a social security number or states that any other answer on the marriage license application is unknown. It removes the ability to use a notarized statement of consent by a parent and the requirement to issue a license to an applicant who fulfills the application requirements are both removed. Amendment 1(d) provides that the collection of the additional $10 fee is discretionary, not mandatory, and that the fee should be deposited with the county, and not the state as it was in the original bill. Amendment 1(e) replaces section 5 of the bill with a change to NRS 247.305, instead, which authorizes the county recorder, not the clerk, to collect the money. It raises the additional fee from $5 to $10 to be dispersed equally between the Domestic Violence Victims Fund and the county.

Amendment 2 proposed by Vice Chairman Segerblom, requires the witness present during the marriage ceremony be at least 16 years of age. Current law has no minimum age for such a witness.

Amendment 3, proposed by George Flint, requires the county clerk, in counties with a population of 400,000 or less, to appoint marriage-licensing agents affiliated with commercial wedding chapels.

Chairman Anderson:
Mr. Segerblom, while only one witness is currently required, two individuals usually witness the marriage. Is it your intention that at least one of them be 16 years of age or older?

Assemblyman Segerblom:
That is correct.

Chairman Anderson:
In the event that somebody wanted to allow their younger sister or brother, or even their child, to be a witness, at least one witness has to be 16 years of age or older.

Assemblyman Horne:
I respectfully disagree with Mr. Segerblom on this issue. This is the only place where you put an age limit on the requirement of a witness. If the Committee is inclined to have an age limit, I think 16 is high. I think a 10-year-old can say, "Yes, I observed the marriage," if it ever came to that. I challenge anybody to tell me about any kind of litigation where a witness had to be asked, "Did you witness this marriage?" But if you are going to have an age limit, I think 16 is really high.

Assemblyman Gustavson:
If we are going to put an age limit in there, I think it should be 18. I am not going to hold up the bill because of that, however. I support the bill as it is.

Assemblyman Hambrick:
I thought, during testimony, someone came forward and said that as long as one of the witnesses was of legal age, we did not care about the second witness.

Chairman Anderson:
That was the point I was trying to make earlier. It is my understanding that there are normally two witnesses. I think Mr. Horne's point is that we do not require an age limit for any other kind of witness.

Assemblyman Segerblom:
I do not want to make a big issue out of it. This was brought to me by my constituency, which has a lot of the wedding chapels in Las Vegas. Their concern was that, because they are required to provide witnesses for people from out of the state who do not have a witness, they wanted to have a requirement that there was a minimum threshold so that somebody does not pull a child off the street to be a witness even if he does not know the people who are getting married. The statute requires one witness. We can eliminate the requirement for a witness at all, if you like.

Chairman Anderson:
I think it is important that there be a witness to a marriage. It is a legal ceremony, and, therefore, it requires a witness.

Assemblyman Horne:
I just cannot imagine a couple that is getting ready to get married and they do not have a witness, so they step outside and grab a young child as he or she happens to be walking by. I cannot see this as a problem. My motion would be to amend and do pass, but not accept amendment 2. We do not need the age limit. We have been marrying people in this state since before we were

admitted to the Union, and we have not had any issues or challenges to those marriages.

Assemblyman Mortensen:
I think I agree with Mr. Horne. I was going to suggest amending the bill to say that one witness is required to be at least age 16 and any other witnesses could be of any age.

Assemblyman Segerblom:
I will withdraw my proposed amendment, amendment number 2.

Assemblywoman Dondero Loop:
I am confused as to what the amendment is now. If Mr. Segerblom has withdrawn his amendment, is there any age limit at all for witnesses?

Chairman Anderson:
No, there would not be an age limit. Does anyone feel strongly about amendment 2 being included? I see none. Let us now take up amendment 3.

This is an issue that is not agreed to. Mr. Flint has been pursuing this for some time and would like to see it instituted.

Assemblywoman Parnell:
I will probably vote with the majority on this, but I would like to reserve the right to check with Mr. Glover. I also think that I would have been much more comfortable had it been a "may" instead of a "shall." I think for counties that want to do this, it would be a great thing; however, requiring it concerns me.

Assemblyman Cobb:
I reviewed this amendment, and I understand the concerns of my colleague from Carson City, but I like the idea. I compare it to being able to go to a private shop to get your smog checked, and they can print out all your verification without having to go back to the Department of Motor Vehicles (DMV). So I think this is the innovative direction that we want to be going with our government. I would support amendment 3.

Assemblyman Ohrenschall:
I also wanted to voice my support for amendment 3. I think that, with proper safeguards, the chapels can perform this function and save everyone a lot of time.

Assemblyman Hambrick:
I also support amendment 3. There is a sunset clause, so in 2011, if there are problems, it will terminate. It gives us an opportunity to judge the program for two years.

Chairman Anderson:
As Ms. Parnell pointed out, the language says the county shall do it. So, for this window of time, they will be required to do it, even though they may not have anybody who is making an application do to it. They would still have to make it available, and, therefore, the time period is going to be an issue.

Assemblyman Mortensen:
I support the amendment as well. I think that, as Mr. Hambrick said, it is something that will help people who want to get married. They can get a license where they are going to be married. I may have a little concern about what the Chairman said. Will they have to appoint one, even if there are no volunteers? Maybe it should be a "may."

Chairman Anderson:
Amendment 3 concerns me because of the number of county clerks in some of the other counties who did not feel it was viable. I know Mr. Flint feels very strongly about it. As Mr. Hambrick pointed out, it does have a sunset clause. The sunset clause only gives me a little comfort. The other issue is you are going to have to meet an age threshold of 21 years. It is not going to be available to everyone. I am still having a problem with it.

I clearly feel that amendment 1 is acceptable and makes the bill stronger.

Assemblyman Cobb:
I do have a concern that, if we put "may" in the language, the localities simply will not do it. They have been hesitant. If it is the will of the Committee that we allow these types of innovative procedures, and we want to change it to "may," perhaps we could say, "may establish this, if requested." That seems to handle all of the concerns. The counties will not have to find someone to do this if they do not want to, but if they are requested to do it by the wedding chapels, then they should follow through and get this done.

Chairman Anderson:
Let me move the bill to the next work session. Ms. Chisel, if you would put into writing the suggestion just made by Mr. Cobb so that we could see it, I would appreciate it.

Let us turn our attention to Assembly Bill 271.

Assembly Bill 271: Makes various changes relating to the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR 14-903)

Jennifer M. Chisel, Committee Policy Analyst:
The Committee heard A.B. 271 on March 18, 2009, (Exhibit P) and will recall that it was presented by Ron Titus and Ben Graham. This bill provides a collection process for fines, fees, and restitution owed by criminal defendants. It also creates an administrative probation process, which may be imposed after the conditions of the defendants' traditional probation have been satisfied, with the exception of those financial obligations.

The Administrative Office of the Courts (AOC) submitted an amendment after the hearing, which is attached for your review. Amendment (a) on page 1 of the attachment clarifies the authority of the AOC to oversee and coordinate the collection of fines, fees, and restitution. Amendment (b) on page 2, subsection 1 of the attachment, provides that administrative probation may be imposed at a time other than at sentencing. Amendment (c) on page 2, subsection 4, removes a jail penalty for nonpayment of those financial obligations. The last amendment, (d), delays the effective date of the bill to January 1, 2010.

Chairman Anderson:
In my notes, I have some questions about whether there was an effect upon local government. While the bill says, "No," I have written in pencil "Yes." It seems as if there is a potential economic effect on local government. I want to make sure that we are okay. There is a mock-up proposed by Mr. Graham and Mr. Titus. Mr. Graham is here.

Assemblyman Mortensen:
Did we not have some discussion about the fact that a jail penalty for nonpayment was instituting a debtor's prison?

Chairman Anderson:
I think that is removed.

Assemblyman Mortensen:
Good. Thank you.

Chairman Anderson:
The Chair will entertain an amend and do pass motion on A.B. 271, the amendments being those outlined in the work session document under number 1, (a), (b), (c), and (d).

ASSEMBLYMAN HORNE MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 271.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us look at Assembly Bill 286.

Assembly Bill 286: Revises the provisions governing the crime of trespassing. (BDR 2-833)

Jennifer M. Chisel, Committee Policy Analyst:
The Committee heard A.B. 286 on March 23, 2009, (Exhibit Q) presented by Assemblyman Christensen. This bill provides that a land owner gives sufficient warning not to trespass when the owner asks a guest to leave. The disinvited guest commits trespass if he refuses to leave the premises. There are no amendments for the Committee to consider on this bill.

Chairman Anderson:
It amazes me that the sheriff in Clark County could not figure out how to utilize the statutes that currently exist, since this particular issue dates from a 1968 Nevada Supreme Court case, but by putting this in statute, we will give the police the necessary authority.

ASSEMBLYMAN CARPENTER MADE A MOTION TO DO PASS ASSEMBLY BILL 286.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Horne:
I support the bill; however, I shudder to think how many old Supreme Court cases, that are still good law, are going to come before the Committee. We are going to be turning them into laws in the statutes.

Chairman Anderson:
Let us now turn our attention to Assembly Bill 309.

Assembly Bill 309: Revises provisions relating to the crime of stalking. (BDR 15-994)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 309 was presented by Assemblywoman Koivisto on March 25, 2009 (Exhibit R). This bill adds conduct to the crime of stalking and raises the penalties for that crime. During the hearing, Ms. Koivisto agreed to several amendments, and they are reflected in the attached mock-up.

Amendment 1 removes emotional distress from the bill, at pages 1 and 2 of the mock-up. Amendment 2 removes the provisions related to the protective order. So this amendment retains existing law regarding the protective order process in stalking cases. Amendment 3 is a drafting amendment, which is found on page 2, line 39 of the mock-up. This would remove the term "actor" from the definition of text messaging. Discussion during the hearing indicated that this terminology is unclear, and after review by bill drafting, the term is really unnecessary and can just be deleted.

Chairman Anderson:
The Chair will entertain an amend and do pass motion on A.B. 309, the amendments being those suggested to Ms. Koivisto at the hearing.

Assemblyman Horne:
We had some discussion with Ms. Hart about no notice being a defense. I still have some concern about that. If this person is not told that his advances are not welcome, it creates an impossible situation. I would not be able to support the bill because it will cause all kinds of people to get charged for the violation of this statute.

Jennifer Chisel:
Let me direct the Committee. Mr. Horne's concern is on page 3 of the bill, lines 8 through 14.

Assemblyman Horne:
Even trespassers are admonished and told that they are trespassing. If someone comes onto private property and the sign says, "No trespassing," they have received notice and can be cited for trespassing. There are a variety of circumstances which could arise where somebody is charged with something like this, and they did not even know. You did not tell them that they are unwelcome. I think that there should be a standard.

Assemblyman Cobb:
I agree with Mr. Horne.

Assemblyman Ohrenschall:
I agree with Mr. Cobb and Mr. Horne.

Assemblyman Hambrick:
Many stalkers, as I understand, never make contact. They do it from a distance—telephoto lenses, et cetera. Many do not want to harm. They want to marry and take care of their objects of obsession. We have to look at what is happening. A lot of these people are never seen. We have to have some method to protect these people. Stalkers can be male or female.

Chairman Anderson:
Mr. Hambrick brings his Secret Service experience to bear.

Assemblyman Carpenter:
What would you actually have to do? Send them a notice? Call them on the telephone? What would "notice" mean? Could you explain that?

Assemblyman Horne:
Of course nobody can give notice to somebody who is peering through a telescope at 300 meters. But this bill has the potential of capturing that person who keeps coming by your work place. They may be infatuated with you. I will give you an example from when I was a flight attendant. There was a flight attendant who got this copilot in trouble and suspended because he was making advances to her and would send flowers to her room on overnight stays. She filed a report, and she told me about it. I said, "It seems like this guy really likes you. He is calling you and sending you flowers." But what if it had been this other first officer I knew that she liked? We flew on a lot of trips together. And she replied, "Well, that is different. He is really cute." I said, "But it is not different. You are only doing it because you think this other guy is not so attractive and a little creepy. But if this good looking guy had done it, you would have been flattered. Maybe if you would have just told him to stop, he would have. But now he has this blemish on his employment record. He was suspended." That is the type of conduct I am trying to eliminate by requiring that type of notice. Of course you cannot reach the person peering through a telescope, but if this bill were only to capture those, I would have no problem with it. However, it is not. Other people will get caught up in it.

Assemblyman Gustavson:
I tend to agree with Mr. Horne.

Assemblywoman Dondero Loop:
To my colleague from the south: I need some clarification about the difference between sexual harassment and stalking. What you are describing to me would be more like sexual harassment, where this guy is sending her stuff and she really likes the other guy. Stalking is not that. Stalking is somebody you could have had a relationship with, or you do not want to have a relationship with; it could be either way. This person will not leave you alone. So, what happens? You could have told him "No." You could be divorced from that person and that person could continue to pursue you. Well, a divorce is a "No." But you also could not know that person. What if she did not know who was sending her flowers all the time? By the time she figured it out, it has gotten pretty scary. That is a question that one of the attorneys might need to answer.

Chairman Anderson:
Ms. Dondero Loop, in your scenario, if there had been some sort of relationship between two individuals, and one person broke it off and said, "I do not want anything else to do with you," then would that not constitute fair warning?

Assemblyman Horne:
I am not asking that you have to give every person notice. What I am saying is that you should not preclude that as being a defense. You can still charge, but that person should be able to say in court, "Well, I was never told. If I had known, I would not have done it." This legislation precludes that from even being an option. Let them be able to use lack of notice as a defense. A jury or judge may still find them guilty, but they should have that option as a defense.

Assemblywoman Dondero Loop:
We need to have a description of what actual notice is. Not responding to somebody's text messages when they send them over and over again could be actual notice. You are not responding, so you are not interested. That is where we need to look. I am on the fence and trying to look at both sides.

Chairman Anderson:
It appears that the Committee has yet to reach a conclusion on the bill. It is still in discussion. I will ask for it to be in our next work session document.

Let us then turn our attention to Assembly Bill 353.

Assembly Bill 353: Makes various changes concerning certain crimes related to property. (BDR 15-514)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 353 was brought by Assemblyman Bobzien and was heard on March 25, 2009 (Exhibit S). This bill provides for abatement of public nuisances and relates to illegal dumping. A compromise amendment was submitted by the interested parties and was included for the Committee's consideration.

Amendment 1a of the compromise provides that it is discretionary for a responsible agency to abate the nuisance if a defendant fails to. This can be found on page 2 of the attached amendment in green lettering, and it is also indicated by purple strikethrough language.

Amendment 1b removes the requirement for courts to make these nuisance cases a priority on the docket. This is on page 3 of the attached amendment at lines 9 and 10.

Amendment 1c removes sections 2 and 4 of the bill, which would have required cities and counties to adopt ordinances related to public nuisance. Instead, NRS 244.3601 is being amended. It is found as new section 2 on page 3 of the amendment. It is regarding the abatement of dangerous structures or conditions, and it provides for a summary abatement process.

Amendment 1d amends section 3 of the bill to further clarify the county obligation in nuisance abatement.

Amendment 2 was proposed by Mr. Cobb to provide the court with discretion when imposing fines for nuisance cases.

Amendment 3 was proposed by Mr. Carpenter to remove the population cap in order to authorize the solid waste management authority in any county to establish a program to control unlawful dumping.

Assemblyman Cobb:
I requested this amendment after the hearing. I discussed with the Legal Counsel some of the issues that I had brought forward. It was their opinion that the testimony was not accurate and that my concerns were actually founded. There was no discretion in the bill, as I had questioned; therefore, I brought this amendment to provide for the type of discretion that we discussed in the hearing.

Chairman Anderson:
Mr. Carpenter, have you discussed this with the rest of the counties to see if they would be willing to do this, or even consider it? It is an option that is open to them; it is not a requirement.

Assemblyman Carpenter:
I think that dumping is a big problem everywhere. By removing the population cap, if the counties want to do it, they certainly have the opportunity to do so.

Assemblyman David Bobzien, Washoe County Assembly District No. 24:
Without getting into a discussion about the accuracy of the testimony during the hearing, section 1, subsection (b) is the critical part of this bill and what this community coalition is bringing forward as a proposed solution to deal with illegal dumping. Having the minimum penalties set in here serves two purposes. The first one is psychological. We are trying to make the case that illegal dumping is a very serious issue and we as a society intend to deal with it as such. More practically, number two, this civil penalty is designed to go into a fund to help with the abatement of the dumping. It serves a very practical purpose that has been a problem in the past: not having the resources to deal with the dumps. In terms of concern about the ability to pay, or other economic hardship concerns, this would be taken care of by the fact that the court is given, specifically in statute, the ability to work out a flexible installment plan for payment of that minimum $500 penalty.

Chairman Anderson:
The discretion for a court to waive fines upon showing of a financial hardship is not unusual. Taking $500 from one individual may be of little or no significance, while from someone else, may be taking food.

Assemblyman Horne:
In reading section 1, it says, "a magistrate before whom there may be pending any proceeding...shall, in addition to any fine or other punishment which it may impose for such a violation, order," and then, colon. So it may impose, (b), a civil penalty of not less than $500, but not more than $5000. It seems to me that the discretion already does exist. It is already there.

Nick Anthony, Committee Counsel:
In reading this statute, it is important to note the "shall." So, what they are saying is they shall do (a), (b), and (c), in addition to any other penalty or remedy.

Assemblyman Cobb:
I agree with you, Mr. Chairman. This is language from another bill where we are encouraging the courts to have discretion in terms of weighing factors such as good faith effort and financial hardship.

Assemblyman Segerblom:
My understanding of this is the person is going to have notice to begin with; that they are supposed to clean things up. We only take action when they refuse to take action. You have to have the carrot and the stick, and this is the stick. If we waive that part, then we are taking away the leverage the county has.

Assemblyman Carpenter:
It looks to me like we are giving the judge discretion that he can put it into installments. I guess he could do it $5 a month for 100 months. He ought to be able to pay that. I think these things are serious. Like my colleague said, most of the time, they have been given innumerable opportunities to clean the mess up.

Chairman Anderson:
I think A.B. 353 is an important piece of legislation. I think amendments 1 and 3 are without debate. We can move forward with those confidently. I think Mr. Cobb's issue of judicial discretion is one well worth discussing, and maybe the owner of the bill would consider that when it gets to the other house. I suggest we stick with amendments 1 and 3, and try to get to the other parts of the work session document. Or, we could put it off and not reach a decision today.

Assemblyman Horne:
I would move to amend and do pass, with amendments 1 and 3.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 353.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblyman Ohrenschall:
I will be voting in the affirmative. I wanted to reserve my right to change my vote on the floor, because I do have a couple of concerns. I applaud my colleague for bringing the bill forward.

Assemblyman Gustavson:
I will vote in the negative. I know it is an important piece of legislation. I represent parts of Washoe County, and this is a serious problem. I know it is a problem statewide. I know people who live in other areas that we discussed during the hearing on this bill. A lot of them do not have the money to pay that fine. I would like to give that discretion to the judge. I would like to see amendment 2 included. I vote no, but I reserve my right to change my vote on the floor.

> THE MOTION PASSED. (ASSEMBLYMEN COBB AND GUSTAVSON VOTED NO. ASSEMBLYMEN COBB, GUSTAVSON, AND OHRENSCHALL RESERVED THE RIGHT TO CHANGE THEIR VOTES ON THE FLOOR.)

Chairman Anderson:
Let us look at Assembly Bill 388. Ms. Chisel, would you explain the four amendments that were suggested (Exhibit T)?

Assembly Bill 388: Makes various changes relating to gaming. (BDR 41-711)

Jennifer M. Chisel, Committee Policy Analyst:
The first amendment authorizes off-track pari-mutuel wagering on dog races in Nevada. This amendment is found at the bottom of the second page of the attached amendment and also on page 3 of the amendment. This only allows betting on dog races. It does not allow dog races to occur here in Nevada.

The second amendment is located at the bottom of section 4, on page 2 of the amendment, and it provides that the rate for wagers placed on the licensed premises of a sports book must be the same as the rate for wagers placed via communications technology.

Amendment 3 delays the effective date of the bill to October 1, 2009.

Amendment 4 was presented by the Chairman as a compromise regarding the minimum slot wager required in gaming salons. The amendment would lower the minimum required wager to $50, and it would also restrict the number of slot devices in a gaming salon to five.

Chairman Anderson:
Let me explain amendment 4. I felt it was a good compromise after talking to several people. By limiting the number of games in one of these areas, we would not be making it a slot arcade. Secondly, a $50 minimum would mean that you would be able to play a 25-way video machine at $2 a crack without

too much trouble. It would probably have enough entertainment value to keep somebody occupied, given the high level of dollar participation necessary in order to get into one of these salons.

Assemblyman Manendo:
I had some concerns on the bill. I think this is a great compromise. I appreciate the Chairman's work on this bill.

Assemblyman Cobb:
Could someone refresh my memory on amendment 2? What is the issue there?

Jennifer Chisel:
I did receive some explanatory language on this. In recent negotiations between tracks and the state-appointed off-track pari-mutuel wagering committee over the rates that Nevada books will be charged to accept wagers on races at the tracks, the tracks indicated a desire to have higher rates for intrastate wagers placed by players via the use of communications technologies, than those placed at the licensed premises of the book itself. This disparity would create an increased expense to service people in the remote locations and jeopardize a casino's willingness to service those individuals. The purpose of the amendment is to prevent differing expenses by requiring that those negotiated contracts establish the same rates, no matter where the bets are placed.

Assemblyman Cobb:
So this is going to set limits on the actual tracks which are outside of the state, correct?

Chairman Anderson:
Well, yes. There are no race tracks here in the State of Nevada. Elko, Ely and Winnemucca have a form of racing that is regulated and bet on. Other than those three communities, I cannot think of anywhere else. Generally speaking, it is out of state.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 388.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Gustavson:
On Assembly Bill 253, I failed to state my disclosure under rule 23. I made the disclosure during the actual hearing.

Chairman Anderson:
Very well. We are adjourned.

[Meeting adjourned at 12:42 p.m.]

RESPECTFULLY SUBMITTED:

Robert Gonzalez
Committee Secretary

RESPECTFULLY SUBMITTED:

Karyn Werner
Editing Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE:

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 3, 2009 **Time of Meeting: 8:24 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda.
	B		Attendance roster.
A.B. 475	C	Risa Lang	"Proposed Amendment 3849 to Assembly Bill 475."
A.B. 496	D	Frank Ellis	Outline for hearing on A.B. 496.
A.B. 496	E	David Sarnowski	Flow chart. "Complaint Process: Confidential Proceedings"
A.B. 496	F	David Sarnowski	"State of Nevada Judicial Discipline Commission Statistics"
A.B. 496	G	David Sarnowski	Recommended amendments to A.B. 496
A.B. 496	H	Alecia Biddison	Letter addressed to the Committee regarding A.B. 496.
A.B. 476	I	Mark Fiorentino	"Exhibits in Support of A.B. 476."
A.B. 46	J	Jennifer Chisel	Work session document
A.B. 47	K	Jennifer Chisel	Work session document
A.B. 105	L	Jennifer Chisel	Work session document
A.B. 120	M	Jennifer Chisel	Work session document
A.B. 253	N	Jennifer Chisel	Work session document
A.B. 262	O	Jennifer Chisel	Work session document
A.B. 271	P	Jennifer Chisel	Work session document
A.B. 286	Q	Jennifer Chisel	Work session document

A.B. 309	R	Jennifer Chisel	Work session document
A.B. 353	S	Jennifer Chisel	Work session document
A.B. 388	T	Jennifer Chisel	Work session document