

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

**Seventy-Seventh Session
May 17, 2013**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 2:13 p.m. on Friday, May 17, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Kelvin Atkinson, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Justin C. Jones
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Mark Hutchison

GUEST LEGISLATORS PRESENT:

Assemblywoman Lucy Flores, Assembly District No. 28
Assemblyman Lynn D. Stewart, Assembly District No. 22

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Caitlin Brady, Committee Secretary

OTHERS PRESENT:

Shawn Elicegui, Associate General Counsel, Legal, NV Energy
Stacey Crowley, Director, Office of Energy, Office of the Governor
Richard Perkins, Wynn Las Vegas
Lesley Pittman, Station Casinos, LLC
Josh Griffin, MGM Resorts International

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Danny Thompson, Nevada State AFL-CIO
Alaina Burtenshaw, Chair, Public Utilities Commission of Nevada
Anne-Marie Cuneo, Director of Regulatory Operations, Public Utilities
Commission of Nevada
Donald J. Lomoljo, Utilities Hearing Officer, Public Utilities Commission of
Nevada

Chair Atkinson:

I am opening the work session on Assembly Bill (A.B.) 284.

[ASSEMBLY BILL 284 \(1st Reprint\)](#): Provides for the early termination of certain rental agreements by victims of domestic violence. (BDR 10-525)

Marji Paslov Thomas (Policy Analyst):

I will read the summary of the bill and mock-up Proposed Amendment 8927 from the work session document ([Exhibit C](#)).

Senator Settelmeyer:

The amendment helps strengthen the bill and eliminate vagueness. Do the qualified third parties listed in section 1, subsection 10, paragraph (e), subparagraph (7) have to be licensed to provide health care pursuant to Title 54 of *Nevada Revised Statutes* (NRS)?

Assemblywoman Lucy Flores (Assembly District No. 28):

Yes.

Senator Hutchison:

Section 1.7 of the mock-up amendment refers to an affidavit submitted by a tenant or cotenant and requires the name of the qualified third party be included in the affidavit. Is that intended to apply only when there is a third-party affiant? It would not apply if there were a police report or order of protection. Correct?

Assemblywoman Flores:

Yes. The affidavit is in support of the notice. If you have one of the other qualifying documents eligible to accompany the written notice, such as the police report or temporary order of protection, then you would not need an affidavit. The affidavit is one of three documents in addition to a written notice.

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Senator Hardy:

There are three options—a copy of an order of protection, a copy of a police report or an affidavit—where the adverse party would be identified. Correct?

Assemblywoman Flores:

Yes.

Senator Settlemeyer:

There has been a lot of concern with the third-party affidavit. Assemblywoman Flores and I have agreed that if it is abused, we will fix it. We think the police reports and orders of protection will be used most often. I appreciate her commitment to fix it if necessary.

Chair Atkinson:

I will close the work session on A.B. 284.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 284 WITH PROPOSED AMENDMENT 8927.

SENATOR HUTCHISON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 326.

[ASSEMBLY BILL 326 \(1st Reprint\)](#): Revises provisions relating to arbitration.
(BDR 52-803)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document ([Exhibit D](#)).

Chair Atkinson:

Hearing no discussion, I will close the work session on A.B. 326.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 326.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 225.

ASSEMBLY BILL 225: Revises provisions relating to business brokers. (BDR 54-1017)

Ms. Paslov Thomas:

I will read the summary of the bill and the amendment proposed by Assemblyman Stewart from the work session document ([Exhibit E](#)).

Senator Hutchison:

Did the Real Estate Division of the Department of Business and Industry give input on the proposed amendment?

Assemblyman Lynn D. Stewart (Assembly District No. 22):

Yes. There were concerns from the Real Estate Division, but everyone is happy with the proposed amendment.

Chair Atkinson:

I will close the work session on A.B. 225.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 225 WITH THE AMENDMENT PROPOSED BY ASSEMBLYMAN STEWART.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 73.

ASSEMBLY BILL 73 (1st Reprint): Revises provisions governing the practice of chiropractic. (BDR 54-538)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document ([Exhibit F](#)).

Chair Atkinson:

Hearing no discussion, I will close the work session on A.B. 73.

SENATOR HARDY MOVED TO DO PASS A.B. 73.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 170.

ASSEMBLY BILL 170 (1st Reprint): Revises provisions relating to the advanced practice of nursing. (BDR 54-778)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document ([Exhibit G](#)). Senator Jones has a proposed amendment to A.B. 170 ([Exhibit H](#)).

Senator Jones:

We need to expand access to affordable health care, and this will help accomplish that. I had a few concerns. I discussed them with Assemblywoman Carlton, and she was amenable to a proposal to limit from prescribing Schedule II drugs to those who would be going into this field but do not yet have 2 years or 2,000 hours of clinical experience. That is what is proposed in my amendments.

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Chair Atkinson:

There are two amendments included in [Exhibit H](#). It is a conceptual amendment.

Senator Settlemeyer:

The amendment helps clarify one of my concerns about individuals getting out of school and having the ability to prescribe high-level narcotics. We will have a shortage of doctors, especially in the rural communities because of the Affordable Care Act. This will help with that too.

Senator Hardy:

We are trying to allow for more nurse practitioners. I want them to have experience. It is necessary to have new experiences and not just repeat the same type of experience. It is one of the challenges with gaining experience. I cannot support the bill.

Chair Atkinson:

I will close the work session on [A.B. 170](#).

SENATOR JONES MOVED TO AMEND AND DO PASS AS AMENDED
[A.B. 170](#) WITH THE AMENDMENTS PROPOSED BY SENATOR JONES.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY AND HUTCHISON VOTED
NO.)

Chair Atkinson:

I will open the work session on [A.B. 95](#).

[ASSEMBLY BILL 95 \(1st Reprint\)](#): Revises provisions governing prescription labels. (BDR 54-648)

Ms. Paslov Thomas:

I will read the summary of the bill and proposed amendment from the work session document ([Exhibit I](#)).

Chair Atkinson:

Hearing no discussion, I will close the work session on A.B. 95.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 95 WITH THE AMENDMENTS LISTED IN THE WORK SESSION DOCUMENT, EXHIBIT I.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 391.

ASSEMBLY BILL 391 (1st Reprint): Revises provisions relating to energy.
(BDR 58-1025)

Ms. Paslov Thomas:

I will read the summary of the bill and proposed amendment from the work session document (Exhibit J).

Senator Settelmeyer:

Does this add a new category to NRS 704?

Dan Yu (Counsel):

"No, this does not provide a new category per se. I mean, all this does is it specifies certain limitations and conditions regarding the scope of the operations that a co-op can engage in."

Senator Settelmeyer:

I am concerned the language "but are not limited to" used in the proposed amendment description will create vagueness. It is not uncommon for a rancher to switch between these cooperatives depending on price or situation. If an individual switches cooperatives, a filing with the Public Utilities Commission of Nevada (PUCN) is required. It is not uncommon for someone to sell a ranch, disconnect service and have the new owner hook up with a different provider. That will trigger a PUCN filing. I cannot support the bill.

Senator Hutchison:

I was concerned with the issues raised during the testimony. There are many admirable aspects to the bill. I do not think we should have non-PUCN-regulated utilities competing with those PUCN-regulated utilities. I am concerned about the effects this could have on the rural cooperatives that are not part of the problem. I am sympathetic to the aims of the bill. I cannot support it for reasons similar to those of Senator Settelmeyer.

Senator Jones:

I spoke with the sponsor to clarify that section 12 would be prospective and would not affect those who may have gone outside their service areas in the past.

Chair Atkinson:

We all agree that is the intent.

Senator Hardy:

I am concerned with the term "geographic area." A ranch can contract service with one utility and later contract with another. The term is problematic. I cannot support the bill.

Chair Atkinson:

I will close the work session on A.B. 391.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED A.B. 391 WITH THE AMENDMENT PROPOSED BY ASSEMBLYMAN DALY.

SENATOR JONES SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY, HUTCHISON AND SETTELMAYER VOTED NO.)

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Chair Atkinson:

I will open the work session on A.B. 349.

ASSEMBLY BILL 349 (1st Reprint): Revises provisions governing professions.
(BDR 54-420)

Ms. Paslov Thomas:

I will read the summary of the bill and Proposed Amendment 8972 from the work session document ([Exhibit K](#)). Additionally, we need to change “the” to “any” on page 11, line 9 and page 15, line 17, of the mock-up Proposed Amendment 8972. It was overlooked.

Chair Atkinson:

Hearing no discussion, I will close the work session on A.B. 349.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 349 WITH PROPOSED AMENDMENT 8972 AND THE VERBAL AMENDMENTS ADDED BY MS. PASLOV THOMAS.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 324.

ASSEMBLY BILL 324 (1st Reprint): Revises provisions relating to dental assistants. (BDR 54-938)

Ms. Paslov Thomas:

I will read the summary of the bill and amendments from the work session document ([Exhibit L](#)).

Senator Settelmeyer:

I appreciate the concept of the bill. I had some concerns and talked to my dentist, hygienist and dental assistants. They are not in support of the bill. They

do not think it adds anything to patient safety but creates a new burden. I will defer to their expertise and will not be supporting the bill.

Senator Hutchison:

I am concerned about the need for this bill. The Nevada Dental Association testified that dental assistants are the most supervised members of the dental team. The doctors do a good job training them. I do not see a need for this. We are adding another cost and layer of bureaucracy to dental operations and customers. I will not be supporting this.

Chair Atkinson:

I will close the work session on A.B. 324.

SENATOR JONES MOVED TO AMEND AND DO PASS AS AMENDED A.B. 324 WITH THE AMENDMENTS LISTED IN THE WORK SESSION DOCUMENT, [EXHIBIT L](#).

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS HARDY, HUTCHISON AND SETTELMAYER VOTED NO.)

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Chair Atkinson:

I will open the work session on A.B. 341.

[ASSEMBLY BILL 341 \(1st Reprint\)](#): Revises provisions relating to homeopathic medicine. (BDR 54-1032)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document ([Exhibit M](#)).

Chair Atkinson:

Hearing no discussion, I will close the work session on A.B. 341.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 341.

SENATOR HUTCHISON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on A.B. 456.

[ASSEMBLY BILL 456 \(1st Reprint\)](#): Revises provisions governing health care.
(BDR 54-1102)

Ms. Paslov Thomas:

I will read the summary of the bill and proposed amendments from the work session document ([Exhibit N](#)).

Senator Hardy:

Page 1, lines 12-13 of the mock-up Proposed Amendment 8904 state "The writing must be of sufficient size to be visible and apparent to all current and prospective patients." Doctors will no longer be able to have blind people as patients. We cannot do that. We need to say "all current and prospective patients who have normal vision" or something similar.

Senator Jones:

I have similar concerns. We need to include language to clarify the writing must be visible to the average person so we do not exclude the visually impaired.

Senator Hardy:

What is average? Could we say non-visually impaired patients? Is that defined in statute?

Senator Jones:

We could set a font size instead.

Senator Hutchison:

We could say, "The writing must be of sufficient size to be reasonably visible."

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Chair Atkinson:

I like Senator Hutchison's suggestion.

Senator Hardy:

I agree.

Senator Settlemeyer:

Will this allow an embroidered lab coat, or does it have to be a badge? A lab coat should be acceptable if it has all the required credentials.

Senator Hardy:

I have an embroidered lab coat, and it displays a sufficient font size to be seen by non-visually impaired patients. The font size would still give us the same problem for blind people. I think "reasonably" is a good word to use. We can allow for whatever regulations are needed.

Chair Atkinson:

I like the suggestion from Senator Hutchison. Please repeat your verbal amendment.

Senator Hutchison:

The sentence would read, "The writing must be of sufficient size to be reasonably visible." We would strike the remaining part of the sentence.

Chair Atkinson:

I will close the work session on A.B. 456.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED A.B. 456 WITH ALL THE AMENDMENTS PROPOSED IN THE WORK SESSION DOCUMENT, EXHIBIT N, AND SENATOR HUTCHISON'S VERBAL AMENDMENT.

SENATOR JONES SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

I will open the work session on Senate Bill (S.B.) 123.

SENATE BILL 123 (1st Reprint): Revises provisions relating to energy. (BDR 58-106)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document ([Exhibit O](#)). There is a proposed amendment from NV Energy included in the work session document.

Shawn Elicegui (Associate General Counsel, Legal, NV Energy):

I will briefly summarize the bill if it were amended, how it would operate and highlight the key differences between the proposed amended version of the bill and the first reprint of S.B. 123. This amendment recognizes the federal regulatory uncertainty associated with NV Energy's ownership of older coal-fired facilities and the significant associated risk for customers. The bill would require NV Energy to retire or eliminate 800 megawatts of coal-fired generating units, which is all the company-owned coal-fired units serving southern Nevada. It would also require NV Energy to construct or acquire and own the first 550 megawatts of generating capacity needed to meet the needs of its customers. The amended version of the bill would require NV Energy to issue three separate requests for proposals (RFPs) for renewable energy projects. The RFPs would each be in the amount of 100 megawatts. NV Energy would issue one request each year from 2014 until 2016, inclusive. The amendment also requires NV Energy to construct or acquire and own 50 megawatts of renewable energy generating facilities.

The first key difference between the proposed amendment and the first reprint of S.B. 123 is in section 3 of the amendment. Section 3 makes explicit what was implicit in the bill—the bill only requires the company to retire or eliminate company-owned coal facilities.

Section 7, section 12 and section 21.5 address renewable energy RFPs. In section 7, the amount would be reduced from 450 megawatts to 300 megawatts, and in section 12, the company-owned renewable energy generation would be reduced from 150 megawatts to 50 megawatts. Section 21.5 proposes to add new transitory language recognizing the company may need to issue additional RFPs for renewable energy to comply with the

renewable portfolio standard (RPS). If that happens, the RFPs would be reviewed by the PUCN. The PUCN would need to authorize the RFPs before the company could issue additional RFPs for renewable energy. Section 12 provides for the PUCN review of the facilities and projects in the RFP process. It specifies the PUCN should consider the cost to customers in its review.

Section 7, subsection 2, paragraph (c) of the proposed amendment would reduce the company-owned replacement capacity to 550 megawatts and is no longer technology specific. Section 7, subsection 2, paragraph (d) would require a fixed-price gas strategy only if a plan includes a request to construct or acquire gas-fired facilities.

Section 8 would be deleted by the amendment. Section 9 proposes to eliminate the project-specific rates included in the first reprint of S.B. 123. Section 9 directs the company to establish a regulatory asset account to address cost issues.

Section 11 would require the company to propose rate mitigation in a general rate case if the increase in total revenue would exceed 5 percent. The PUCN has absolute discretion to accept or reject the rate mitigation. If the proposal is accepted and involves deferring revenue, the company would calculate and record carrying charges on the deferred revenue. Section 15 would modify the existing provision of NRS to recognize when the decision to retire coal-fired plants is accepted by the PUCN, it will be deemed prudent. It also allows the company to recover a just and reasonable cost of carrying out the plan.

Section 15.5 proposes to add new language to existing integrated resource planning (IRP) statutes requiring the company to file an emissions reduction plan in an amendment to an IRP or a triennial IRP filing. Section 16 provides for PUCN review and acceptance or modification of an emissions reduction plan. The emissions reduction plan must contain all elements required by statute. This requires a PUCN hearing on the emissions reduction plan to consider the cost of the plan, the greatest economic benefit to the State, the opportunity for job creation and the value of the plan to the company's customers. Section 17 provides a procedural mechanism for the PUCN to modify an emissions reduction plan, and for the company to accept the changes or withdraw and refile the plan. Section 17, subsection 7 provides for NV Energy to construct or acquire and own the first 550 megawatts of new capacity for which there is a need determined by the PUCN.

Chair Atkinson:

Did you address the Committee's concerns about PUCN oversight and regulation authority?

Mr. Elicegui:

We addressed those concerns. First, the original scope of the bill had 2,000 megawatts of company-owned capacity. As I indicated, the company has a need to construct 2,000 megawatts by 2025. Our sister company has a need to construct or acquire 1,000 megawatts by 2025. By reducing the replacement capacity within the emissions plan to 550 megawatts, there is a significant amount of decision making and long-term planning that will occur with the full oversight and review of the PUCN. Second, regarding the 550 megawatts of replacement capacity, we recognize the PUCN will determine if there is a need to add capacity. Section 17, subsection 7, provides that the first 550 megawatts of new or replacement capacity needed will be added by the company. This provides for significant regulatory oversight.

Chair Atkinson:

In the last version, there was 150 megawatts of company-owned renewable capacity. That has been reduced to 50 megawatts in this amendment. Is that sufficient capacity? Will that capacity still be regulated?

Mr. Elicegui:

Yes. We have decreased the company-owned renewable capacity from 150 megawatts to 50 megawatts. That reflects a reduction of 100 megawatts of company-owned renewable capacity. That reduction has a planned cost of \$400 million. That reduces the rate impact of this legislation. Additionally, the legislation would require the company to begin construction by 2017 and complete it by 2021, provided the PUCN reviews and accepts the proposal. The bill also recognizes that the renewable energy constructed or acquired and the IRP would satisfy the RPS. The transitory language in section 21.5 recognizes there may be additional capacity needed to meet the RPS. Any RFPs to meet the additional capacity would be processed through the IRP process with full supervision of the PUCN.

Chair Atkinson:

Does this put the plan within the regulation of the IRP process?

Mr. Elicegui:

We have attempted to place the proposal into the IRP process with the modification that when the PUCN decides there is a need to add capacity, the first 550 megawatts would be constructed or acquired and owned by the company.

Senator Hardy:

I have some concerns about which I would like assurance from NV Energy. Can you provide assurance that we will not have brownouts and will be able to produce power as we are retiring coal-fired plants? Are the words "contract" and "good faith" included in this plan to provide assurance to private power producers as we acquire, construct or contract new power generation? Do the large power users with lots of light bulbs in Las Vegas have some assurances they will be able to meet all their obligations and either support or be neutral on the bill?

Mr. Elicegui:

We have had discussions with a number of stakeholders. I am reluctant to speak for them. We have designed these provisions to address concerns by those stakeholders. The renewable RFP section directly provides for contracting with entities that own renewable facilities. For nonrenewable facilities, there is a significant amount of resource planning to do to meet the needs of the State over the next 10 years. That planning will go through the IRP process with full supervision of the PUCN. It will be the same for independent power producers.

Senator Settlemeyer:

This is a better bill than the original proposal. Will reducing the amount of construction decrease the rate impact so it will be less than 4 percent? Will the PUCN have the ability to decide when capacity should be built?

Mr. Elicegui:

Yes. We project the rate impact will be less than 4 percent. The company-owned 550 megawatts of capacity is dependent upon the PUCN finding a need for that capacity. To the extent the PUCN authorizes additional capacity, the first 550 megawatts will be constructed or acquired and owned by the company. That entails a temporal analysis indicating a need to add or replace capacity. When the PUCN makes that finding, the first 550 megawatts would be constructed or acquired and owned by the company.

Senator Settlemeyer:

I appreciate the additional oversight this adds to the PUCN.

Senator Hutchison:

For residential customers, if a power bill is \$100 today, what will it be in 20 years under the proposed amended version of the bill? What would it be if S.B. 123 did not go into effect? If you have numbers for commercial customers, I would like those as well.

Mr. Elicegui:

I have no specific number for residential or commercial. I have an average rate because the distribution of the revenue requirement between and among classes is a very complex process and can change in each general rate case. If S.B. 123 is not enacted and the company were to pursue the course of action in the most recent IRP filing, a \$100 bill would increase at 1.5 percent each year and be approximately \$132 in 20 years. It is hard to analyze the effects of this legislation with specific rates because when we plan for 20 years, we plan to meet the capacity needs of our customers. When we reduced the 750 megawatts of capacity that would have been constructed under the first reprint version of S.B. 123 to 550 megawatts under this proposal, we still perceived a need for the 200 megawatts of capacity from a planning perspective. When we do our analysis, we calculate the cost of serving that need. The proposed amendment today would have a reduced rate impact for three reasons. First, we have reduced the required company-owned renewable build out from 150 megawatts to 50 megawatts. That has an anticipated cost of \$400 million that is no longer required. Second, reducing the required capacity from 750 megawatts to 550 megawatts, reduces the planned capital expenditures. That has an anticipated effect of approximately \$350 million. Third, the elimination of RFPs for 150 megawatts of renewable energy will lower the rate impact. We have not calculated the cost of that change. The RFPs may be issued later if the PUCN sees a need to meet the RPS.

Senator Hutchison:

Under the current IRP, in 20 years a \$100 power bill will be \$132. There will be a 1.5 percent increase per year. Previously, you gave us an expected marginal increase with the NVision plan. Are you not able to do that, but you think it will be less than what it was before?

Mr. Elicegui:

Yes. We anticipate it will be less than last time we testified based on the specific rate impact of this proposed amendment.

Senator Hutchison:

What was the marginal difference from your previous testimony?

Mr. Elicegui:

Mr. Ernaut testified there is a projected 1.65 percent annual compounding growth rate under NVision. That would mean a \$100 power bill in 20 years would be approximately \$136. It is a \$4 increase from the plan we proposed to the PUCN in our most recent IRP filing.

Senator Hutchison:

A \$100 power bill in 20 years without S.B. 123 would be approximately \$132. If S.B. 123 were enacted with the proposed amendment today, the same power bill would be not more than \$136. Correct?

Mr. Elicegui:

Based on our current projections and analysis, yes.

Chair Atkinson:

Would it be a rate increase of approximately 3.68 percent under this proposal?

Mr. Elicegui:

That was our testimony last time.

Senator Jones:

This has been a difficult process, but this is a much better bill than before. Many of my concerns have been addressed. It appears that section 11 has been rewritten completely. The previous version allowed the utility to recover up to 5 percent each year in rate mitigation proposals. However, previous versions directed the PUCN to allow the utility to begin recovering any amounts deferred in a regulatory asset pursuant to the section after January 2022. It was capped at 5 percent but allowed for a balloon payment in 2022. As I read this version of section 11, has that proposal been removed and the scheme is left to the PUCN?

Mr. Elicegui:

Yes. Under section 11, the company is required to propose rate mitigation plans and the PUCN has the discretion to accept or reject those plans. If the PUCN orders rate mitigation and that mitigation involves a deferral, the company would calculate carrying charges that would accrue until recovery begins.

Senator Jones:

Do the carrying charges have to be approved by the PUCN?

Mr. Elicegui:

Yes.

Senator Denis:

Are we replacing 800 megawatts of power with 550 megawatts of capacity and 50 megawatts of renewable energy?

Mr. Elicegui:

The 550 megawatts is a planning capacity. The company would replace, at first need, retired capacity up to 550 megawatts of constructed or acquired generation capacity. The 50 megawatts of renewable capacity is a nameplate capacity. For planning purposes, the company calculates the actual capacity would be approximately 38 percent of the nameplate capacity. The 50-megawatt renewable facility would have a planning capacity as low as 22 megawatts. All decisions beyond that capacity would be processed through the IRP process supervised by the PUCN.

Senator Denis:

What are the differences in the procedures you follow today with the PUCN and what you would do under this proposal?

Mr. Elicegui:

An emission reduction and capacity replacement plan filing would look similar to an IRP filing. It would be filed either as an amendment to an IRP or in a triennial filing. It would contain the same type of information and analysis. The PUCN would review that plan and, if the PUCN found there was a need to replace the retired coal capacity or add capacity for another reason, the PUCN would authorize the company to construct up to 550 megawatts to address the capacity needs of its customers. The fundamental difference between this and any other IRP is the PUCN will review the plan, and if the PUCN finds there is

a need to add capacity, the first capacity that will be authorized by the PUCN to be added is up to 550 megawatts in increments needed to meet customers' demand.

Stacey Crowley (Director, Office of Energy, Office of the Governor):

I am here today on behalf of Governor Brian Sandoval in support of the most recent amended version of S.B. 123. We have been following, with interest, the progress of the bill being made by Legislators, the utility and stakeholders.

The State has a broad, long-term energy policy that sets out to encourage a reliable and economic supply of energy that is consistent with environmental quality and the wellbeing of Nevadans. Our role is to work with the Legislature to understand how bills like this, along with others being considered by the Legislature, are consistent with these policies, or if they require us to reexamine some of those policies.

The State encourages a thoughtful and robust RPS achieving 25 percent of our total energy portfolio with renewable energy resources. This policy is being reflected in ongoing revisions to S.B. 252.

SENATE BILL 252 (1st Reprint): Revises provisions relating to the portfolio standard for providers of electric service. (BDR 58-775)

We want to see a market for increased distributed generation, such as rooftop solar, small hydropower and wind technology. This is being addressed as the Legislature considers A.B. 428.

ASSEMBLY BILL 428: Revises provisions relating to energy. (BDR 58-797)

The State should encourage innovative energy efficiency and conservation, which we are attempting to do through A.B. 33, a bill from the Office of the Governor supporting incentives for high performance building retrofits.

ASSEMBLY BILL 33 (1st Reprint): Revises provisions governing the partial abatement of certain taxes for certain energy-efficient buildings. (BDR 58-280)

Concerning S.B. 123 in its amended form, the impetus and the core concepts of the bill remain intact. The State will accelerate the retirement of aging plants and replace them with more efficient power generation.

We are also supportive of the development of Nevada's renewable energy resources in a predictable and sustainable way that provides the best value to Nevadans. Senate Bill 123 and S.B. 252 should work together to provide that opportunity.

The State has the responsibility to encourage our utilities to maintain a diverse portfolio of energy resources, and it appears this bill will support that balance and provide flexibility to respond reasonably to market conditions.

Finally, the State has the responsibility to support resource planning that balances our economic development and environmental goals with ratepayer impacts. The proposal allows the PUCN to determine appropriate methods by which to advance these goals.

The Governor continues to encourage the clean energy industry, and strives to make Nevada a national leader in renewable energy development. Renewable energy development is one of the seven key sectors within our economic development initiatives. We recognize and appreciate the efforts of all involved on these important policies and to continue to move the State forward.

Senator Hutchison:

Is the Governor's Office comfortable with the rate estimates and the models used for the rate assumptions?

Ms. Crowley:

The amended bill provides more oversight and the ability to look at the assumption in the rate-making process. It is an important process. The amended bill also reduces the rate impact from the previous amendment.

Senator Hutchison:

Do you have any reason to believe, based on the Governor's involvement, that the models or assumptions used to provide the rate estimates are flawed or inaccurate in any way?

Ms. Crowley:

I am not knowledgeable about the technical aspects of how the rate assumptions were established. It is my understanding the rate assumptions for this effort were based on the rate assumptions made during the utility's last IRP. I am not sure if they are flawed. We did look to see that they were consistent.

Senator Hutchison:

Has anything been brought to the Governor's attention to suggest there is something wrong with the models used?

Ms. Crowley:

We have been aware of the comments about some of the rate assumptions made by the PUCN. We did ask for responses to those concerns by the utility, and we believe the utility supplied adequate responses.

Senator Hutchison:

Are you happy with the PUCN's oversight ability in this amended bill?

Ms. Crowley:

It is an improvement. The stakeholders who have worked on this amended language feel it is an improvement as well.

Senator Hutchison:

Do you support the amended version?

Ms. Crowley:

Yes.

Chair Atkinson:

We received a letter from Las Vegas Sands Corp. ([Exhibit P](#)) in support of the compromise between NV Energy and the Nevada Resort Association and the Southern Nevada Hotel Group. I will read an email from Virginia Valentine, President of the Nevada Resort Association. "The Nevada Resort Association members have reviewed the amended bill and feel that our primary concerns have been addressed. We are comfortable with the proposed language."

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Richard Perkins (Wynn Las Vegas):

Wynn Las Vegas supports the amendment to S.B. 123. We have spent countless hours working with NV Energy to create a better product for the Committee and the State.

Lesley Pittman (Station Casinos, LLC):

Station Casinos is in full support of S.B. 123 with the proposed amendment.

Josh Griffin (MGM Resorts International):

MGM Resorts supports S.B. 123 with the proposed amendment.

Danny Thompson (Nevada State AFL-CIO):

We support the compromise and proposed amendment to S.B. 123. NV Energy is a good company that strives to hire Nevada workers. NV Energy probably has the best record of hiring in-State.

Senator Denis:

Could the PUCN representatives please give some insight into the procedure and the discussion around this bill?

Alaina Burtenshaw (Chair, Public Utilities Commission of Nevada):

The PUCN has not had a discussion on this. We do not have a position on the amendment.

Senator Denis:

From what we have been discussing on this topic, is it similar to current procedures? Are we breaking new regulatory ground?

Ms. Burtenshaw:

This is new to some extent. We will be looking at plans from a different standard. The least-cost issues we typically consider would be different, especially mandating the company build the first 500 megawatts.

Senator Denis:

Do you have any concerns regarding regulating this?

Ms. Burtenshaw:

I have some concerns with the rate mitigation proposals. Since 2006, all general rate case increases have been over 5 percent except Sierra Pacific's last rate

case, which was about 4.52 percent. It was always based on what the company requested and what was included in the rate. Over the last 10 years, there has been an increase in building generation, so a significant amount of megawatts have been included in general rate cases. In the proposal, if the PUCN accepts a proposal, the utility will record it into revenue and assets accounts and calculate carrying charges. If the utility is overearning and is able to calculate carrying charges, it is similar to receiving interest on interest. The PUCN should have the discretion to identify if carrying charges are appropriate based on the earnings level.

Chair Atkinson:

One major concern since the beginning of this process has been the PUCN's oversight involvement. Is this better than when we started?

Anne-Marie Cuneo (Director of Regulatory Operations, Public Utilities Commission of Nevada):

On behalf of staff, not the PUCN, it is better than previous versions. The PUCN is more engaged; it is not totally engaged. This is still a slight departure from what has happened in the past, but it is better.

Senator Hutchison:

Can you identify the top two or three changes between what you currently do as a regulatory body and what you would do under S.B. 123?

Ms. Cuneo:

Section 9 of the proposed amendment requires a utility to begin recording carrying charges in a regulatory asset. Currently, that is left to the PUCN's discretion. This would remove that discretion from the PUCN.

Donald J. Lomoljo (Utilities Hearing Officer, Public Utilities Commission of Nevada):

Another departure from normal resource planning is the standard by which the emission reduction and replacement plan would be judged by the PUCN in section 16, subsection 8. It requires the PUCN to accept or modify the plan if the elements in section 7 of the act are present. That is a departure from the normal IRP process. The normal standard is to accept or reject. There is no option to reject the plan under this proposal. Additionally, the elements included in the plan for review are prescribed in section 7, subsection 2. That has not ever been present in the IRP process.

Senator Hutchison:

Modify is broad language in a legal sense. You can modify a plan close to rejection. Correct?

Mr. Lomoljo:

You can. However, the utility would then have the option of withdrawing the application and refiling. You could get into a vicious cycle. Any modification would have to be consistent with section 2, subsection 7.

Senator Hutchison:

Based on the proposal presented today, are you comfortable with “accept or modify” allowing the PUCN, as a regulatory body, to do what needs to be done when a plan is presented?

Ms. Burtenshaw:

I love the word “modify.” I would like to include “modify” within the normal IRP process. The PUCN disagrees with me. Each company and the PUCN invest significant resources in the process. The only option the PUCN has is to accept or reject. It wastes a lot of time. I would like to have the word “modify” in the IRP process.

Senator Hardy:

Is there a preclusion of reapplying if something is modified or rejected by the PUCN? Is something rejected with prejudice so the utility can never ask the same thing again?

Mr. Yu:

You know, I think, that is an excellent question, Senator [Hardy]. I don't believe based on my reading and understanding of that chapter that the review “preclusion,” kind of looking out to the audience to the PUC[N] to see if they would nod in agreement It looks like they are in agreement with me. There is no provision precluding that, so I guess to answer your question, they could refile it per se as many times as they would like.

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Chair Atkinson:

I will read a statement from United States Senate Majority Leader Harry Reid and Governor Brian Sandoval ([Exhibit Q](#)) calling for the passage of S.B. 123.

Senator Hutchison:

There was a big bipartisan effort to get this issue resolved. I am proud to support the measure.

Senator Jones:

This will benefit our environment. It is good for consumers. It is good for Nevadans. I am proud to support it too.

Chair Atkinson:

This has been a huge undertaking for this Committee. I will close the work session on S.B. 123.

SENATOR HUTCHISON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 123 WITH THE AMENDMENT PROPOSED BY NV ENERGY INCLUDED IN THE WORK SESSION DOCUMENT, [EXHIBIT O](#).

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Atkinson:

The meeting is adjourned at 3:52 p.m.

RESPECTFULLY SUBMITTED:

Caitlin Brady,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBITS				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	5		Attendance Roster
A.B. 284	C	7	Marji Paslov Thomas	Work session document
A.B. 326	D	1	Marji Paslov Thomas	Work session document
A.B. 225	E	1	Marji Paslov Thomas	Work session document
A.B. 73	F	1	Marji Paslov Thomas	Work session document
A.B. 170	G	1	Marji Paslov Thomas	Work session document
A.B. 170	H	4	Senator Justin C. Jones	Proposed amendment
A.B. 95	I	1	Marji Paslov Thomas	Work session document
A.B. 391	J	1	Marji Paslov Thomas	Work session document
A.B. 349	K	18	Marji Paslov Thomas	Work session document
A.B. 324	L	7	Marji Paslov Thomas	Work session document
A.B. 341	M	1	Marji Paslov Thomas	Work session document
A.B. 456	N	5	Marji Paslov Thomas	Work session document
S.B. 123	O	18	Marji Paslov Thomas	Work session document
S.B. 123	P	1	Senator Kelvin Atkinson	Letter, Las Vegas Sands Corp
S.B. 123	Q	1	Senator Kelvin Atkinson	Statement, U.S. Senate Majority Leader Harry Reid and Governor Brian Sandoval