

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eighty-Second Session
May 19, 2023**

The Committee on Growth and Infrastructure was called to order by Chair Howard Watts at 4:28 p.m. on Friday, May 19, 2023, in Room 3143 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/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblyman Howard Watts, Chair
Assemblywoman Tracy Brown-May, Vice Chair
Assemblyman Max Carter
Assemblywoman Jill Dickman
Assemblywoman Danielle Gallant
Assemblyman Bert Gurr
Assemblywoman Heidi Kasama
Assemblywoman Elaine Marzola
Assemblywoman Brittney Miller
Assemblyman Cameron (C.H.) Miller
Assemblywoman Sarah Peters
Assemblywoman Shondra Summers-Armstrong

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jann Stinnesbeck, Committee Policy Analyst
Jessica Dummer, Committee Counsel
Connie Barlow, Committee Manager

Minutes ID: 1101



Kathy Biagi, Committee Secretary
Garrett Kingen, Committee Assistant

OTHERS PRESENT:

Mark J. Krueger, Chief Deputy Attorney General, Consumer Counsel, Bureau of Consumer Protection, Office of the Attorney General

Chair Watts:

[Roll was called and rules and protocol were reviewed.] Good afternoon, everyone. Welcome to today's meeting of the Assembly Committee on Growth and Infrastructure. We have all members present. Since we are doing only a work session today, I am going to dispatch with the housekeeping, and we are going to get right into it. We are going to go through our work session documents, and we are going to take items out of order. So we are going to begin with Senate Bill 338 (1st Reprint), go to Senate Bill 424 (1st Reprint), and then finally Senate Bill 293 (1st Reprint). With that, I will turn things over to our policy analyst, Mr. Stinnesbeck, to lead us through the work session document for S.B. 338 (R1).

Senate Bill 338 (1st Reprint): Revises provisions relating to off-highway vehicles. (BDR 43-678)

Jann Stinnesbeck, Committee Policy Analyst:

Thank you, Chair Watts. For the record, as nonpartisan staff for the Research Division of the Legislative Counsel Bureau, I cannot advocate for or against any measure that comes before this Committee.

Senate Bill 338 (1st Reprint) was sponsored by Senator Flores and heard in this Committee on May 4, 2023. It revises the definition of "large all-terrain vehicle" to mean any all-terrain vehicle that includes seating capacity for at least two people abreast [[Exhibit C](#)]. There are no proposed amendments for the measure.

Chair Watts:

Members, are there any questions on S.B. 338 (R1)? Seeing none, I would accept a motion to do pass.

ASSEMBLYMAN GURR MOVED TO DO PASS SENATE BILL 338 (1ST REPRINT).

ASSEMBLYWOMAN DICKMAN SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN CARTER AND SUMMERS-ARMSTRONG VOTED NO.)

I will assign that floor statement to Assemblyman Gurr. We will move on to Senate Bill 424 (1st Reprint).

Senate Bill 424 (1st Reprint): Revises provisions relating to the Nevada Transportation Authority. (BDR 58-860)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 424 (1st Reprint) was sponsored by the Senate Committee on Government Affairs and heard in this Committee on May 4, 2023. It prohibits the Nevada Transportation Authority from accepting any petition to intervene on behalf of a person who has filed a protest against the granting of a certificate of public convenience and necessity or a permit as a contract motor carrier [[Exhibit D](#)]. If, after reviewing certain information provided by the applicant and inspecting the operations of the applicant, the Authority cannot determine whether an applicant has complied with the applicable requirements, the Authority is authorized to hold a hearing on the application. The Authority is required to approve or deny an application within nine months, and any application which is not approved or denied within the time period will be deemed approved. There are no proposed amendments to this measure.

Chair Watts:

Before we open it up to additional questions on the bill, I do want to ask one. There was some testimony provided at the hearing and discussion, I think, after the hearing, and questions with regard to the applicability of section 1. I want to ask our Legal Counsel if the reading is correct, that these restrictions that are proposed for petitions to intervene would include both Certificates of Public Convenience and Necessity as well as permits for contract motor carriers issued by the Nevada Transportation Authority.

Jessica Dummer, Committee Counsel:

Reading the full statutory scheme together, yes, I think that is the more natural interpretation.

Chair Watts:

Thank you very much. I want to get that on the record. Members, are there additional questions? Seeing none, I would accept a motion to do pass.

ASSEMBLYMAN GURR MOVED TO DO PASS SENATE BILL 424 (1ST REPRINT).

ASSEMBLYWOMAN GALLANT SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Dickman:

Is this the proper place to say that I will vote to get this out of Committee, but I would like to reserve my right to change my vote on the floor if I so choose?

Chair Watts:

Yes, it is, and I will note if members wish to make similar statements, they may. You do not have to put that on the record. All members may reserve their right to change their vote. I know there are some questions and concerns about this bill. If anyone, based on those concerns, wishes to change their vote before the measure reaches the floor, please do let me and the sponsor, in this case Senator Flores, know in advance.

Members, is there any additional discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN BROWN-MAY, CARTER, KASAMA, AND SUMMERS-ARMSTRONG VOTED NO.)

I will assign the floor statement to Assemblywoman Gallant. With that, we will go back to Senate Bill 293 (1st Reprint).

Senate Bill 293 (1st Reprint): Revises provisions relating to distributed generation systems. (BDR 52-459)

Jann Stinnesbeck, Committee Policy Analyst:

Senate Bill 293 (1st Reprint) was sponsored by Senator Doñate and others and heard in this Committee on May 4, 2023. The bill requires the solar installation company that enters into an agreement for the lease or purchase of a residential distributed generation system to be licensed by the State Contractors' Board and to comply with certain requirements relating to work offered and performed [[Exhibit E](#)]. There is one proposed amendment by the Office of the Attorney General which revises provisions relating to installation of residential solar systems. The proposed amendment is attached to the work session document.

Chair Watts:

I would like to ask the Attorney General's Office to come up because I know, first of all, the amendment was reformatted. Second, I know there have been some additional changes made since the bill was heard. I would ask you to keep the overview at a bit higher level. Then just so members are aware, I want to make sure everyone understands the changes that have been made since the bill was heard. We are not going to rehear the bill, so any questions I want to be on clarifying their understanding of the policy before us, not on assessing the merits of it. With that, please, Mr. Krueger, whenever you are ready.

Mark J. Krueger, Chief Deputy Attorney General, Consumer Counsel, Bureau of Consumer Protection, Office of the Attorney General:

I will keep it a very high-level overview. We cleaned up the initial part a little bit from the last time you probably saw it. There are a couple of definitional sections here. The one I want to highlight is section 2. We took some language to ensure that there is licensing by the

State Contractors' Board and that the solar companies need to be licensed if they are going to advertise. We did have a carve-out for the lead generators because there was some confusion about whether or not they could actually have solar companies' names on print media. So, we gave that carve-out to half the advertising print media with the understanding that the misrepresentations we are getting at are generally verbal in nature.

We then made a couple of slight edits to clean up some language, including the term "offset," which is a term of art in the industry. We have that included in the several different noticing provisions that we have. That will take you right through sections 7 and 8, and then we get to section 9. In section 9, we made sure there was a carve-out for solar companies to hire private attorneys, graphic artists, and anything that provides a service directly to the solar company and is not geared towards the solar company trying to make sales to individual consumers. We also provided some language in there to ensure that we are not overbroad, but that there is some sort of a "knowingly" element which is very common in our Deceptive Trade Practices Act to make sure there is not something like incidental or minor error that is actually an intentional act. That pretty much covers all of the changes we made with the final exception of the Act becoming effective January 1, 2024, to allow the solar industry to make changes that are necessary under the bill.

Chair Watts:

Thank you very much for that overview. I know there have been some conversations about the definitions, and it looks like all the definitions have now been incorporated, including those that were suggested by the industry. As you noted, there was the inclusion of that "knowingly" language so that it has to be more deliberate or substantial and not a minor oversight, to trigger some of those repercussions. I appreciate your going over that. This was, I believe, in the first version of the amendment and is in this as well, but I know the initial timeline was 10 years for the maintenance of those recordings, and that is moved down to four years under this proposed amendment in alignment with other similar record retention requirements. Is that correct?

Mark Krueger:

That is correct.

Chair Watts:

Members, are there additional questions on the amendment to Senate Bill 293 (1st Reprint)?

Assemblywoman Brown-May:

I do have one clarifying question. In the previous presentation, there was a restriction on 1099 employees as being considered an employee. Is there any definition in this new amendment that would determine whether you are a W-2 employee or a 1099 employee, or is there any exclusion to that?

Mark Krueger:

There was a lot of discussion about that. The specific language has not changed necessarily, with the exception of providing a little bit more latitude to lead generators. Other than that, the persons who are conducting the sale where we are finding that the misrepresentations are occurring must be licensed by the State Contractors' Board or work for a company that is licensed by the State Contractors' Board. But the lead generators can be 1099 employees, or not employees because you are not really an employee if you are 1099.

Chair Watts:

I want to follow up on that. Again, since I know there has been some moving around, I believe section 10 was where a lot of those provisions were originally. Now that section, in relation to contracting, just focuses on providing the proposal or bid or executing the contract. The other provisions are now in section 5.5, and there is, essentially, subsection 1, which has these limitations. Subsection 2 is kind of the exemption for lead generators. It mentions some of those activities, including serving as a referral source for a licensee, providing contact information of licensees to prospective buyers, setting up appointments for licensees, and now recently added was advertising through print media. So, any sort of print, digital, et cetera, type of advertising that is not a person-to-person interaction would not need to be conducted by an employee of a contractor. That could be conducted by a 1099 contractor. Is that correct?

Mark Krueger:

That is correct. It was to give some leeway to the industry to allow them to conduct, not sales, but lead generation type contact at, for example, a store where they might set up a booth or provide some material to individuals, or make appointments—things like that.

Chair Watts:

Thank you. That would also cover, for example, hiring somebody to put up billboards or do other types of advertisements so that would not have to be on an employee relationship basis. I think that helped explain where things have moved around and changed with those provisions. Thank you very much, Vice Chair, for the question and Mr. Krueger for the clarification. Members, are there additional questions?

Assemblywoman Summers-Armstrong:

If I am understanding how this has been shifted, it is okay to hire a contractor to go out and actually make the contact. But the responsibility for the accuracy of everything lies with the licensed contractor they are working for. So, that first business is still responsible for what that contractor tells someone, offers someone, and they must maintain the recordings to back it up. Am I understanding that properly?

Mark Krueger:

That is correct.

Chair Watts:

Additional questions? Seeing none, I would accept a motion to amend and do pass Senate Bill 293 (1st Reprint).

ASSEMBLYWOMAN PETERS MOVED TO AMEND AND DO PASS
SENATE BILL 293 (1ST REPRINT).

ASSEMBLYWOMAN BROWN-MAY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN, GALLANT,
GURR, KASAMA, AND BRITTNEY MILLER VOTED NO.)

The motion carries and I will handle the floor statement. Members, that concludes our business at this time. The last item on our agenda is public comment. Is there anyone wishing to make public comment? [There was no one.] Thank you, members. While I do not see any additional business before us, we will be in recess [at 4:45 p.m.]. [The meeting was adjourned on the floor of the Assembly at 7:36 p.m.]

RESPECTFULLY SUBMITTED:

Kathy Biagi
Committee Secretary

APPROVED BY:

Assemblyman Howard Watts, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Senate Bill 338 \(1st Reprint\)](#), submitted and presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Senate Bill 424 \(1st Reprint\)](#), submitted and presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Senate Bill 293 \(1st Reprint\)](#), submitted and presented by Jann Stinnesbeck, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.