

**MINUTES OF THE SUBCOMMITTEE OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
May 9, 2005**

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair Maggie Carlton at 9:05 a.m. on Monday, May 9, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maggie Carlton, Chair
Senator Sandra J. Tiffany
Senator Joe Heck

GUEST LEGISLATORS PRESENT:

Assemblywoman Francis Allen, Assembly District No. 4

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Shirley Parks, Committee Secretary

OTHERS PRESENT:

Peter S. Allen, R.E.H.S., Chairman, Board of Registered Environmental Health Specialists
Daniel J. Maxson, R.E.H.S., Secretary, Board of Registered Environmental Health Specialists
Robert O. Sack, Division Director, Environmental Health Services Division, Washoe County District Health Department
Patrick T. Sanderson, Laborers Local No. 872
Paula Berkley, Service Employees International Union Local No. 1107
Dan Musgrove, Clark County
Alexis Miller, Nevada Mining Association

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CHAIR CARLTON:

The meeting of the subcommittee hearing on Assembly Bill (A.B.) 260 is open. I have reviewed the bill and it is my understanding the Board of Registered Environmental Health Specialists (REHS) wants to substantially expand their responsibility, creating new positions. I have concerns with this bill. Why would we allow an expansion when the current board has had some problems meeting report deadlines? Would you please tell me why this is necessary?

ASSEMBLY BILL 260 (2nd Reprint): Revises provisions relating to environmental health specialists. (BDR 54-855)

PETER S. ALLEN, R.E.H.S. (Chairman, Board of Registered Environmental Health Specialists):

Those are very good questions. I am not sure to which reports you may have referred; however, we do know during the 1990s there was a dearth of biennial reports which are required by the *Nevada Revised Statutes* (NRS). You have made a correct observation. When the REHS called the Office of the Governor the first time, they did not know who we were. Since that time, Secretary Daniel Maxson of REHS and I have been diligent with the reports and audits and have turned this around the last three years. We can understand your line of questions and concern.

CHAIR CARLTON:

One example I have here is the report required by the NRS 622.110 which went into effect in 2001. There were no reports pursuant to that date. Specifically, this would be the disciplinary report. Mr. Young is this correct?

SCOTT YOUNG (Committee Policy Analyst):

Yes. That is correct. These reports are required every two years. They went into effect in July 2001. According to the Legislative Council Bureau's (LCB) Director's Office, we have not received those reports.

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DANIEL J. MAXSON, R.E.H.S. (Secretary, Board of Registered Environmental Health Specialists):

I joined the REHS in late 2001 and there were issues with record preparation from the previous secretary. This is entirely our oversight. We have had some catching up to do and we may have missed these reports as well as other things. I have computerized the accounting books from a simple checkbook register to a software program. If this bill moves forward, we plan to introduce it into the *Nevada Administrative Code*. We are streamlining the process for continuing-education units. We realize a small board could have difficulty with this process. We will model our system based on the principles of the Nevada State Board of Accountancy and will do audits instead of financial reviews. We have hired, on an hourly basis, a part-time secretary who is working on the minutes. Having this person in place is an important part of the report preparation. We are in the process of developing standard operating procedures to ensure all these issues are handled in a routine manner. I have handed out a detailed, projected 2006 budget for the record ([Exhibit C](#)).

CHAIR CARLTON:

The REHS received a letter dated February 18, 2005, with requests from the Senate Committee on Commerce and Labor. Another follow-up letter was sent regarding the question about members of the Board who may have served simultaneously as officers. There has been no response to these letters.

MR. MAXSON:

I have not seen those letters.

CHAIR CARLTON:

Do we have the correct mailing address for the Board?

MR. MAXSON:

It is possible that you do not have the correct address. We moved the offices about two years ago. There could be a transition issue. This may be the reason we have missed other communications.

CHAIR CARLTON:

With respect to protecting the public, how many disciplinary proceedings did the Board accomplish?

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MR. ALLEN:

We have never disciplined anyone. We are currently an optional registration and we have had no reason or complaint requiring any disciplinary action.

MR. MAXSON:

When people register with the Board, usually the reason is because of personal pride. These are people who are typically interested in doing the very best they can. This is why they register and they do receive the Board initials behind their name. This is why there has been no disciplinary action. With the mandatory registration, the expectation is that there will be more disciplinary actions. We have observed what is happening in other states around us in this regard and the Board anticipates some of the same issues.

CHAIR CARLTON:

Based on some of the discussion, at times, I feel like I am talking to an association, not a board. An association takes professional pride and wants to raise the standard. The REHS proposal is asking for an expansion into other areas of classification bringing these people under the authority of the Board. I have concerns about this. Participation will become mandatory and in order for people to keep their livelihood, they will have to participate. I have some concerns about the level of the Board's mandatory participation.

SENATOR HECK:

I have worked with Mr. Maxson in his professional capacity and I have learned the vital role of environmental health specialists, specifically in Clark County, and the interaction they have on a wide range of activities. They serve a critical function in public-health protection. I commend you for raising the status of the environmental-health specialist. As I went through the bill, the largest provision that was brought to my attention was the change from voluntary to mandatory action and creating the new classifications of trainee and the basic certificate. I have several questions to clarify my understanding of the intent behind the draft. Are these your amendments ([Exhibit D](#))? I appreciate the change you made to the practice act. At first, it seemed the intent was to require an environmental-health specialist for any of the activities, including those in the private sector. If the work is in the public-sector business, then the governmental agency would be the REHS. The amendment clarifies this. It will alleviate the concerns some people may have had because it defines the REHS. Those in the private sector may decide for themselves if they want to utilize your services. Is this correct?

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MR. ALLEN:

Yes, that is correct and we did make those changes in response to the building industry. We took the list of functions from the National Environmental Health Association (NEHA) and the state of California.

SENATOR HECK:

This clarifies my question on intent.

MR. MAXSON:

I want to make this clear. This is not a mandatory requirement. These companies may choose to bring in a consultant. The consultant would be registered but not a mandatory part of any environmental impact statement.

SENATOR HECK:

Another question I have concerns the qualification statements. On page 8, subsection 1, section 19, the requirements for the REHS are defined. Is this all that is required now? Am I correct, an additional two years of in the field of public-health experience? Other avenues to becoming a certified environmental-health specialist are added. I have a specific question regarding the language of the amendment to qualify based on the military training and experience. The last line states: " ... to whom a basic certificate must be issued" Yet, this refers to someone who is not under the basic certificate. This is in the section referring to the REHS. This needs clarification.

MR. ALLEN:

Originally, this language was provisional and was a concession to environmental-health specialists who wanted recognition that they had met the full requirements and had taken the NEHA exam. There are people who had been working in the discipline for some time and they had been trained by the military. We wanted to include them. This particular paragraph was a concession that was made to the Service Employees International Union (SEIU).

SENATOR HECK:

In this section, it states the person qualifies for the basic certificate but yet they are given full registered status. That is how I read paragraph (c) subsection 4, section 19. Am I correct on this?

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MR. MAXSON:

No, this is not the intent of the language. My understanding is that they would be registered with a basic certificate.

SENATOR HECK:

They would have a basic certificate. I would suggest this section be moved to the next section which deals with the basic certificate of registration. In subsection 2 of section 19, I would prefer the language use the word "may" instead of "shall" because the board should have discretion as to whom they issue a registration. Under the basic certificate, what is the scope of practice? Under the grandfather provision, do these people receive a basic certificate?

MR. ALLEN:

That is correct. The board reviewed blanket grandfathering. This is the status in Oregon, California, Arizona and Utah. When these states switched from an optional to mandatory board, they blanket grandfathered everyone. After three regulatory meetings, the REHS made a decision to not do this.

MR. MAXSON:

There are letters from Clark County Health District ([Exhibit E](#)), Washoe County Health District ([Exhibit F](#)), and the Health Division, Department of Human Resources ([Exhibit G](#)). They have all expressed a concern for their staff to be grandfathered into the bill. There are a group of trainees with less than two years' experience who are included in the language of the amendment. These amendments provide for the trainees to be covered during the time gap. The significance being to not blanket register someone who is still on probation with their current employer while in training. We want to avoid legal complications.

SENATOR HECK:

I agree with your trainee status regarding the timing of on-the-job training. I would suggest the grandfather clause should give a timeline or concluding date. If the intent is to grandfather in everyone who is currently practicing, there would be no need to start issuing basic certificates or meet the requirements of the REHS.

MR. MAXSON:

This language is in the bill. I am not sure where it is covered in the bill. It is in the original bill draft request. It has been amended slightly.

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SENATOR HECK:

This needs to be made clear in the bill.

SENATOR TIFFANY:

My question has to do with a policy decision. When I look at what is to be accomplished here, it looks like an optional board is expanding to a permanent board, developing credibility and receiving new groups of people who may not fit the requirements. The board is in its infancy. The next step may be a huge one for which the board may not be ready. I am not sure all the details have been worked out. How many people would be added with this legislation?

MR. ALLEN:

The board membership is currently 45 to 50 people. We would add possibly another 200 people. These are legitimate concerns. We were in our infancy until three years ago. The board was actually losing people because we were not moving forward on the mandatory issue. We have since reenergized the board. We have some very capable people and we have provided for our own succession. Our biennial reports, audits and balance sheets have been submitted on time. The Governor's office told us we are ahead of many boards with respect to our biennial report. There has been great improvement.

SENATOR TIFFANY:

If we did not approve the bill now and gave the board and staff some succinct things to do before the next Legislative Session, could the REHS continue to organize internal policies and prepare the potential membership for this to happen? Taking smaller steps towards the REHS expansion makes a gradual growth transition that would be easier for the new members to accept.

MR. ALLEN:

One of the reasons we reconstituted the board was to move the expansion forward. The other members of the board were involved with the planning and have been encouraged by the process. As I stated in my personal testimony ([Exhibit H](#)), we have been taking deliberate steps and we are on course.

MR. MAXSON:

The NEHA registers environmental-health specialists. The REHS has used their state credentialing examination and plans to continue the program ([Exhibit I](#)). The NEHA has no oversight on anything in this State with regard to discipline. This is really what the REHS will bridge over. We have competed directly with

them. This is an operational concern for us. We cannot go beyond the NEHA without a mandatory policy. It is a difficult proposition. Some of our potential members have joined the NEHA.

SENATOR CARLTON:

Possibly, Mr. Young can advise us. I do not believe I have heard of an optional board where there is a choice on the part of those regulated to be licensed in this State. This gives me great concern. Another of my concerns is that you are reaching out to a group of people who are already doing their jobs and you, with the help of A.B. 260, will scoop them up into a board. They may be offended and ask the question, "Why are you doing this to me"? There have been no problems, and the public has had no complaints. Why do this if there are no problems? It has been an optional board. What is the public purpose? Have you had surveys, have you held town hall meetings; how have you determined this is a need?

MR. ALLEN:

We have had two large meetings. Communication is a strong point for the board. We have key people whom we keep informed. We have been in close contact with these people, and when they attended the hearings, they have almost unanimously been in favor of the mandatory registration. They want professionalism.

CHAIR CARLTON:

These are people who have an option to membership at this time. They fit the requirements the board has now. The bill, if it is approved, will make it a mandatory membership.

ROBERT O. SACK (Division Director, Environmental Health Services Division
Washoe County District Health Department):

Our district board of health has voted to support this bill. Mr. Allen and his Board worked with our division and others to assist us in our understanding of the mandatory registration and educational requirements. In addition, we have been involved with outreach to our staff, making sure all the issues are covered. To my knowledge, there are no surprises related to this bill. The industry wants credentials. Many of these people are credentialed and they expect the same standard from the divisions and boards.

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CHAIR CARLTON:

The Washoe County District Health Department has hiring procedures requiring certain educational credentials. It would not be necessary to belong to the REHS.

MR. SACK:

There are many advantages, from my perspective as a division director, to move this bill forward. We have to work hand-in-hand with the REHS. This will clean up the promotional process, building consistency and a progressive, professional status. Mandatory registration will work for our division.

CHAIR CARLTON:

Are there any opposed to A.B. 260?

PATRICK T. SANDERSON (Laborers Local No. 872):

Our members work with asbestos, mold and hazardous waste. It is our workers' lives that are put on the line, sometimes with improper equipment. It will be good to have a place to go for some answers. It will be a place to go for possible discipline. This board will be a help with safety, with a professional quality of evaluation and continuing high standards. We are in full support of this bill.

PAULA BERKLEY (Service Employees International Union Local No. 1107):

We proposed a friendly amendment when the Assembly heard the bill. At this time, we have a suggestion to the amendment. In paragraph (c), subsection 2, section 19, we would propose exempting the " ... 2 years of successful experience in this field ..." requirement for current employees. The intent of the bill is to grandfather current employees.

DAN MUSGROVE (Clark County):

We want to add some further clarification of language. In paragraph (a), subsection 2, section 6, regarding the exclusion of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. The Clark County Department of Air Quality and Environmental Management does many of the same things as the State. They do it on behalf of Clark County. The State has actually seceded these duties of air quality and other environmental management to Clark County. We want to ensure they have the same exclusion for those workers on behalf of Clark County. The amendment

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I have handed out addresses these changes ([Exhibit J](#)). We ask for your consideration of this amendment.

ALEXIS MILLER (Nevada Mining Association):
We have an amendment with a language change ([Exhibit K](#)). Thank you for this consideration.

CHAIR CARLTON:
There are other issues to consider with this bill. There are a number of terms with which I am not familiar. Why do we have such a long laundry list? The scope of practice is repetitive. It includes a long list of people as well. Could you explain the reason behind these lists?

MR. ALLEN:
We sought out other entities when we were drafting this bill. We used examples from California and the NEHA exam.

CHAIR CARLTON:
I want to know why you think it is necessary to have the list. Why do you as a board, include the list in your bill?

MR. MAXSON:
Food protection, most of us would realize, is an important issue because of restaurant inspections. Other issues on the list are housing with lead abatement, West Nile virus and animal-feces problems in homes and yards. Public nuisance laws are addressed on a daily basis.

CHAIR CARLTON:
I will go through and ask you about some of the listed items that I am concerned about such as land use and community noise control.

SENATOR HECK:
As I look at the list, no other practice act has a list of activities. It would allay many concerns if you deleted the list and basically in subsection 1, section 6, placed a period at the end of "protection and public health and environment." This would accomplish, in a paragraph, what environmental health is all about.

CHAIR CARLTON:
Would this then mean everything could be included?

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MR. MAXSON:

This is why we have been so specific. There may be many exclusionary amendments coming before the Committee. We have tried to accommodate everyone as much as possible.

SENATOR HECK:

In other professions, there are no lists and yet there are definite job descriptions. Some of this can be accomplished through regulation if necessary.

As you have testified earlier, the Governor's office was not aware of you. Environmental-health specialists protect public health. They are significant to our safety. It is important to our tourist trade and the public in general to have these people in place. They have progressed and deserve the professional recognition and the credential they are seeking.

ASSEMBLYWOMAN FRANCIS ALLEN (Assembly District No. 4):

I have a question as to intent. Ms. Berkley, would you speak to this?

MS. BERKLEY

Our intent is to be grandfathered in and we questioned the word "may".

CHAIR CARLTON:

We usually use the word "may" so that a board is not mandated to license someone with whom they are uncomfortable. They meet all the criteria and yet could have problems or a felony conviction in another area. We would never say anything to push a mandatory action on a board. We give the boards some discretion. This is good public policy.

MS. BERKLEY:

I understand what you are saying. We want to protect the current employees from losing their jobs. I wanted to say that we are not here to rubber stamp the military. If they are qualified, however, we should be hiring them. We want to see standards to improve protection and knowledge of the job.

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CHAIR CARLTON:

We will close the hearing on A.B. 260. The subcommittee of the Senate Committee on Commerce and Labor will adjourn at 9:50 a.m.

RESPECTFULLY SUBMITTED:

Shirley Parks,
Committee Secretary

APPROVED BY:

Senator Maggie Carlton, Chair

DATE: _____