

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

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

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II, at 2:01 p.m. on Wednesday, March 9, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Warren B. Hardy II, Chair  
Senator William J. Raggio  
Senator Randolph J. Townsend  
Senator Dina Titus  
Senator Terry Care  
Senator John Lee

**COMMITTEE MEMBERS ABSENT:**

Senator Sandra J. Tiffany, Vice Chair (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Valerie Wiener, Clark County Senatorial District No. 3

**STAFF MEMBERS PRESENT:**

Kim Marsh Guinasso, Committee Counsel  
Michael Stewart, Committee Policy Analyst  
Olivia Lodato, Committee Secretary

**OTHERS PRESENT:**

Lisa Foster, Deputy Chief of Staff, Office of the Governor  
John P. Sande III, Airport Authority of Washoe County  
Krys T. Bart, Executive Director, Airport Authority of Washoe County

Senate Committee on Government Affairs  
March 9, 2005  
Page 2

John Swendseid, Swendseid & Stern  
Russell Rowe, American Council of Engineering Companies of Nevada  
John Madole, The Associated General Contractors of America, Inc., Nevada Chapter  
Gary E. Milliken, The Associated General Contractors of America, Inc., Las Vegas Chapter  
Richard Daly, Laborers' International Union of North America, Local 169

Chair Hardy stated, for the record, the meeting would open as a subcommittee with Senator Care, Senator Townsend and Chair Hardy present. He said he would open the meeting with Senate Bill (S.B.) 157. Chair Hardy said Senator Wiener would present the bill.

**SENATE BILL 157**: Requires Director of Office for Consumer Health Assistance to establish and maintain Internet website and toll-free telephone number to provide certain information to consumers concerning prescription drugs and pharmaceutical services. (BDR 18-627)

Senator Valerie Wiener, Clark County Senatorial District No. 3, opened the discussion on S.B. 157. She stated the bill would provide central prescription drug information on the Internet for Nevada consumers. She said the current bill codified legislation passed in A.B. No. 236 of the 72nd Session. She said the legislation dealt with the dissemination of information about free drug programs. She said the bill codified information from the Governors' Office for Consumer Health Assistance that was provided to people in Nevada ([Exhibit C](#)). Senator Wiener said her intent was to utilize a Web site that provided information about the most commonly sold drugs in the State. She said the information would be provided voluntarily by pharmacies and would be a market-driven location for information.

Senator Wiener stated she had an amendment to S.B. 157 ([Exhibit D](#)). She said the amendment indicated the State Board of Pharmacy would contact the pharmacies on a quarterly basis to inform them of the opportunity to participate on the Web site.

Senator Wiener also introduced a letter from the office of the Attorney General of New Mexico ([Exhibit E](#)). She said she had modeled her program after the Web site maintained by the New Mexico Attorney General's office. She said the letter, which reported New Mexico's success with such a program, had been written by Chief Deputy Attorney General Stuart M. Bluestone.

Senate Committee on Government Affairs  
March 9, 2005  
Page 3

Senator Wiener urged the support of the Committee for S.B. 157. She said it would be an extraordinary tool for the people of the State of Nevada.

Senator Raggio asked Senator Wiener what the estimated cost would be to establish and maintain the Internet Web site and a toll-free number for use by consumers.

Senator Wiener replied a Web site had already been established, based on A.B. No. 236 of the 72nd Session, to provide information about a free drug program. She congratulated the Governor's Office for providing a Web site for the information and said it had not been prescribed in law. Senate Bill 157 would make the Web site statutory. She said there would be an additional expense, but she did not have an actual fiscal note at this time.

Senator Raggio said the idea for the bill was an excellent one. He said he was concerned about passing bills that provide a service and are funded from gifts, grants or donations. He said often the donations or gifts did not come in to fund a program. He said, frequently, the program would die or there would be complaints because the program had not been funded. He reiterated he wanted to know the anticipated costs and what funding was available outside of State assistance.

Lisa Foster, Deputy Chief of Staff, Office of the Governor, said some of the information she and Senator Wiener had been working with was recent information. She said her office did not have any firm figures concerning the costs involved in the proposed bill. She said the Governor's Office staff had discussed the possibility of contracting the service out. She said if the Office for Consumer Health Assistance did the Web site, the office would need to utilize staff time. She said Senator Wiener had investigated the possibility of making the Web site information a voluntary program.

Senator Townsend had some questions for Ms. Foster. His first question concerned liability for the pharmacy if prices changed. Secondly, he asked what would be the consequence if the price went up during the quarterly period. He said the pharmacy could have made the change in the store, but would be unable to update the cost on the Web site.

Ms. Foster stated there could be a disclaimer on the Web site stating the prices were subject to change. She said the quarterly update would help protect the

pharmacies, but there would need to be disclaimer information about prices being subject to change.

Senator Townsend said he did not want to take a good idea, such as this bill, and have it become a big problem. He had questions about people shopping on the Internet. He asked if there was a mechanism for users to find out more information about a particular drug.

Senator Wiener said she had not gone so far as to explain a particular drug. She said her idea was for the person to look at a Web site for the best price for a prescribed drug. She said in New Mexico, some pharmacies posted a notice on the Web site that said they would match the lowest price posted. Senator Wiener said she had not intended the bill to describe drugs available, but rather to make prices of a prescribed drug available to the consumer.

Senator Townsend said he was not a proponent for expanding the bill. He suggested there might be a disclaimer directing the consumer to a location where they could learn more about a particular drug.

Senator Wiener stated there was already a toll-free number available from the earlier bill that offered more information and assistance in pursuing additional information about specific drugs. She said there were also links to other Web sites available.

Senator Raggio said the bill, as presented, would establish a Web site and it would be mandated to establish and provide information concerning prescription drug programs. He said the amendment would change section 2 of the bill. He said the effect of the amendment would make it permissible for the pharmacies to provide the information on a voluntary basis. He asked Senator Wiener what the use of the bill was if the information was strictly voluntary. He said there was no assurance the information would be available or complete.

Senator Wiener said the bill, itself, codified what was being done already. She said the amendment addressed the most commonly sold drugs, as determined by the Pharmacy Board. She said her amendment was based on the history from the New Mexico program. Senator Wiener said she anticipated substantial participation by retail pharmacies, as it was a marketing tool for them to provide information to consumers. She said the pharmacies who wanted to participate in a free marketplace would want to utilize the program.

Senator Care asked Ms. Foster if there had been any discussion about whether the pharmacy or the Pharmacy Board verified the accuracy of the information being provided. He said he did not mean the quarterly changes in price, but rather inaccurate information that had been provided, perhaps by a company that was not even a pharmacy.

Ms. Foster said she had not seen the amendment until yesterday. She stated a number of questions had arisen, and she did not yet have the answers. She said they could put a disclaimer on the Web site as proposed by Senator Wiener.

Chair Hardy said it was worthwhile to have a policy discussion concerning the funding of the program. He said he cosponsored the bill, so he believed in the program. He asked if there was a necessity to make the program voluntary. He said there was nothing in law at this time that prohibited the program from being voluntary.

Ms. Foster responded the Governor's Office was concerned about the cost. She said they wanted to know what the cost would be to add to the existing Web site. She said she did not know if there needed to be a change in statute for the new program.

Chair Hardy said he would like to take the concept and make sure the program was done correctly. He said if there was a cost associated with the program, then the Legislature needed to make the decision to re-refer the bill to the Senate Committee on Finance.

Senator Townsend said he understood the Governor's Office was already providing some of the information covered in S.B. 157. He asked Ms. Foster what percentage of pharmacies had volunteered to be on the Web site.

Ms. Foster said the Governor's Office had not yet asked any pharmacies if they wished to volunteer to be on the Web site. She said Senator Wiener had asked the State Board of Pharmacy if it would support her efforts and the Board's response was that it would. She said they had not gone to individual pharmacies, as of yet.

Senator Wiener said the new bill would expand the purview of the work done by the Governor's Office in response to the bill from last Session. She said the proposed bill would expand information about the most available and cost-effective drugs. She said it codified current practice.

Chair Hardy said it was one of the most important areas with which the Committee would be dealing. He said the subject could put consumers in harm's way. He said the Committee needed to explore all of the issues involved.

Senator Titus said the bill complimented past legislation concerning generic drugs. She said it provided some checks on the pharmaceutical interests.

Chair Hardy asked if there was any further testimony for or against S.B. 157. He closed the hearing on S.B. 157 and opened the hearing on Senate Bill 110.

**SENATE BILL 110**: Makes various changes concerning Airport Authority of Washoe County. (BDR S-545)

Chair Hardy said S.B. 110 came from the Senate Finance Committee. He said the bill proposed to change the name of the Airport Authority of Washoe County.

John P. Sande III, Airport Authority of Washoe County, said he was present to represent the Airport Authority. He said John Swendseid would address the technical aspects of the bill. Mr. Sande introduced Krys Bart and said she would explain the reasons for the bill.

Senator Raggio disclosed he was a shareholder in the law firm in which John P. Sande III was a member. Senator Raggio said he would abstain from any vote on any measure involving the Airport Authority of Washoe County.

Krys T. Bart, Executive Director, Airport Authority of Washoe County, stated the name change was the first issue she wanted to address. She said the airport was working internationally for air service for northern Nevada. She said the Airport Authority of Washoe County was not as recognizable a name as the desired name, Reno-Tahoe Airport Authority. She said the change would be consistent with the name of the airport: Reno/Tahoe International Airport, and most people around the country related to the Tahoe portion of the name.

Ms. Bart addressed the second part of the proposed bill, which would allow the Airport Authority to use a design-build process. She said the Airport Authority had very specific circumstances for which they wanted to use the design-build process. There had been missed economic development opportunities at the airport. The airport owned vacant land surrounding the existing airport, and if

the land were developed by the airport, it was likely the cost of the development would be backed by airport revenue bonds. She said the Airport Authority was interested in developing hangars or office buildings on some of the property; all the development uses would be private sector, not public sector. She said airport revenue bonds were not backed by tax dollars, but by revenues generated by the users of the airport. If bonds were used to construct a facility at the airport, those private sector entities that would occupy the facility would then pay a lease rate that would include the debt service on the bonds. She said the Airport Authority had missed earlier development opportunities because they could not guarantee they could deliver a product in a specified amount of time. She said the Airport Authority did not intend to abdicate the process. She said they would do an initial process in terms of choosing or selecting the builder or developer, and they would continue to honor the current 5-percent preferences given to Nevada contractors. Ms. Bart stated the process would only be used for development backed by revenue bonds. She said the design-build process would not be used for construction of a new terminal or for airfield projects, which are federally funded. She stated other airports across the country, Portland International Airport, Tampa International Airport and Chicago's O'Hare International Airport were using the design-build process.

Senator Care asked Ms. Bart what projects the Airport Authority anticipated completing in the next ten years with the design-build process, if S.B. 110 were enacted.

Ms. Bart responded Reno/Tahoe International Airport had a substantial amount of vacant land in a high-demand area for offices and industrial development. She said the Airport Authority had been pursuing opportunities with various airlines for the construction of maintenance bases. FedEx Corporation had recently built a building and leased the land from the Airport Authority, and there was the possibility for office buildings construction between the terminal building and U.S. 395. These are only revenue bond projects.

Senator Titus asked Ms. Bart if private use would be a problem with federal regulations concerning flight space, noise and pollution. Ms. Bart said vacant property at an airport that might have been acquired with federal funds must be turned into revenue-generating property as soon as possible. She said all projects at the airport would comply with federal regulations.

Senator Titus asked Ms. Bart if the Airport Authority had things in place to avoid the sort of scandals that had occurred in southern Nevada. Ms. Bart responded she had an astute board and a great legal firm, and there had not been any issues to date.

John Swendseid, Swendseid & Stern, said he wanted to explain the technical aspects of S.B. 110. He said the bill only applied to improvements at the airport that were constructed with a particular type of financing, such as revenue bonds or installment purchase obligations, but if other monies were being used to construct the project, the bill would not apply. The bill would allow the airport to construct a project without complying with some provisions of *Nevada Revised Statutes* (NRS) that the Legislature has generally required public bodies to comply with when they construct public works projects. He said the Airport Authority of Washoe County was requesting exemptions from NRS chapter 332, Purchasing: Local Governments; NRS chapter 338, Public Works; and NRS chapter 339, Contractors' Bonds on Public Works. He said the Airport Authority had an exception to the exception for a portion of NRS chapter 338, specifically for the new section 9.5 of the Airport Authority Act for Washoe County relating to prevailing wage. Mr. Swendseid said the prevailing wage standard would apply to projects built under the exemption. He said the airport was seeking exemptions from the procedural aspects of the award of public construction and public procurement processes. He said the bill defined an installment obligation. He stated they were obligations similar to lease-purchase obligations which had been authorized for the State by the Legislature in the 71st Session. The Airport Authority would like to enter into those types of obligations without the public bidding statutes.

Chair Hardy noted S.B. 110 was not necessary in order to do design-build projects; the ability to utilize the design-build process was already available.

Mr. Swendseid said there was a provision in chapter 338 of NRS that permitted design-build projects. He said it was a deliberative process and not a process which could be accomplished quickly. Mr. Swendseid said the Airport Authority was seeking a process where they could move more quickly than under the current process available.

Chair Hardy said public works projects in Nevada were too burdened and encumbered, and the time would come when no reasonable contractor would want to do public works. He said he had sat in on a hearing in Clark County

where they were changing their prequalification requirements for contractors on public works projects. He said they were proposing using contractors who had not been prequalified. He said the process was so encumbered with the over-regulation of business and industry that it no longer worked.

Senator Care asked if the projects described by the Airport Authority, aircraft hangars and office buildings, were for private use. Ms. Bart replied he was correct. Senator Care asked if the issues with senior golfers and Brookside Golf Course had anything to do with the current proposals. Ms. Bart responded the golf course project was a Federal Aviation Administration project and unrelated to S.B. 110.

Chair Hardy asked if there were other agencies with similar ability to do what the bill was proposing for the Airport Authority. Mr. Swendseid said there were other agencies doing what they were requesting. He said the Legislature, in 2001, had given the State the ability to enter into lease-purchase obligations without going through public bidding. He said the University of Nevada, Reno, and Community Colleges were only obligated to do public bidding on contracts where more than 25 percent of the cost of the project was paid for with State-appropriated funds or federal funds. He also said counties which used a lease-purchase obligation were exempted from public bidding. Special legislation adopted in 2001 also exempted a performing arts center in Reno from public bidding, he noted.

Chair Hardy said the Airport Authority was closely tied to the financing obligations of NRS.

Mr. Swendseid stated the county and State requirements were just installment-purchase obligations. Chair Hardy asked if he was correct in understanding such projects were not being financed with revenue bonds, but with funding with different, but similar, financial limitations. Mr. Swendseid said Chair Hardy was correct.

Senator Lee said it appeared the Airport Authority wanted to "get into the business of business." He said the Airport was a nonprofit agency, and he asked if the Airport Authority was involved in other businesses.

Ms. Bart responded the Airport Authority was a quasi-public entity. She said it operated like a private-sector business. She stated the more revenue generated

from non-airline revenue, through land leases and owning and leasing buildings, the less revenue the airport would need from the airlines. She said the airport was probably the lowest-cost operating airport on the West Coast in a snow environment. She said it was a benefit to maintain low operating costs to the airlines in order to keep air service.

Senator Raggio said in 1977, he was responsible for sponsoring the creation of the Airport Authority. He said at the time, the airport was owned by the City of Reno and there were many problems. The Airport Authority was arrived at as a method of governance and operation. He said airports managed by nonelected officials were less problematic. He said it was not taxpayer funding being discussed. He said the Reno area had major concerns about revenue and loss of flights.

Russell Rowe, American Council of Engineering Companies of Nevada, said his group had been working with Mr. Sande and Mr. Swendseid on the bill, and they supported the bill. Mr. Rowe proposed a change in chapter 338.155 of the NRS. He said it dealt with design professionals and public bodies in design-build contracts. He said the section had provisions that protected both the public body and the design professionals. Mr. Rowe said the Airport Authority agreed to keep the modification within the provisions of the new section 9.5 of the Airport Authority Act for Washoe County as put forward in S.B. 110. Chair Hardy asked if he had a written amendment for the proposed change. Mr. Rowe responded he did not have an amendment, but he would obtain one for the Committee.

John Madole, The Associated General Contractors of America, Inc. (AGC), Nevada Chapter, said his organization had no objection to the name change for the Airport Authority. He said they did object to changing provisions which would exempt the Airport Authority from the bidding statutes. He said Ms. Bart had explained her thoughts on the bill to him. He said he did not believe the requested changes were necessary. He said user fees or landing fees should be considered as taxes. Mr. Madole stated when money was used that had been assessed against users, public bidding statutes should apply. He said they had agreed to pay the prevailing wage rates. He said he had difficulty understanding why the existing statutes were not sufficient. He said design-build contracting was incorporated in NRS. Mr. Madole said the AGC was opposed to exempting the revenue bond expenditures from the public bidding statutes.

Gary E. Milliken, The Associated General Contractors of America, Inc., Las Vegas Chapter, said he agreed with Mr. Madole. His organization was concerned about projects not going out to bid. He stated previous testimony said the 5-percent Nevada preference would be in the bill. He was unable to locate that reference in S.B. 110.

Chair Hardy asked Mr. Swendseid if the mention of the 5-percent Nevada preference was in the amendment being proposed or in the section of chapter 338 of NRS that was not being exempted by the bill.

Richard Daly, Laborers' International Union of North America, Local 169, said his organization did not mind the name change of the Airport Authority. He said his organization was concerned with the bidding process. He said there were alternative procurement processes which were already in place. Mr. Daly said the process had been designed to help people and would now, with S.B. 110, be a process that would not help people at all. He said if the Airport Authority wanted to be private sector, let them. He said if they were taking any tax money at all, they were no longer private sector. He said a quasi-State agency cannot be sued to the limits a private sector agency can be. He said the public had a right to a safeguard as to how their money was being spent.

Chair Hardy asked Mr. Daly what he meant by public dollars. He asked if landing fees were being considered public dollars. Mr. Daly said he does not volunteer to pay landing fees.

Senator Raggio said there was no tax money involved in the operation of the Airport. He said landing fees were the primary revenues and were paid by the airlines. He said one of the reasons for the establishment of the Airport Authority was to ensure no tax dollars were being spent in the operation of the airport.

Chair Hardy said he thought there was a serious problem with the way public works processes had been encumbered. He said if public money was being expended on a project, there had to be an opportunity for everybody to compete equally for the job. He said everyone should be able to compete for tax dollars to which they helped contribute. He said the problem was systemic and getting worse instead of better.

Senator Care said he needed additional background. He said the airport was a public place through which the public travels, usually on privately owned carriers that generally fall under regulation by the federal government. He asked who owned the airport.

Ms. Bart said the airport was wholly owned and operated by the Airport Authority of Washoe County as created by legislative action.

Senator Care asked if it was a quasi-governmental agency. He said the landing fees were fees and not taxes and needed to be established as such. Ms. Bart said the operating revenue at the airport is generated solely by the users of the airport. She said the revenue was approximately \$38 million this year. She said approximately 30 percent of the revenue came from the airlines; the remainder of the revenue came from concessions. She mentioned the Airport Authority received 100 percent of the auto parking fees; books or food purchased at the airport generated funds at a smaller percentage for the Airport Authority. The revenue at the airport operates the airport on a day-to-day basis. The difference was that money paid on a ticket tax went to the federal government. The government then allocated the money to specific projects at the airport. She said runways and taxiways were funded with the federal government money. Terminals or hangars at the airport were not funded with those federal monies. She said those were capital projects. Ms. Bart stated there was no local tax money that came in to operate the airport.

Ms. Bart said when the airport received a bond rating, the rating was backed by the revenue generated at the airport. She said a city or county bond rating was backed by tax dollars. She said the airport bond rating was not tied into the bond rating of Washoe County or the City of Reno.

Mr. Swendseid stated, for the record, his clients were in agreement with an amendment to the bill to specifically state that contracts with design professionals would be subject to chapter 338.155 of NRS, as stated by Mr. Rowe. Mr. Swendseid added they would be pleased to add an amendment specifically stating in any procurement process, the airport authority would use the 5-percent preference for Nevada contractors.

Chair Hardy asked if there was any further testimony for or against S.B. 110. He closed the hearing on S.B. 110 and opened a work session document that had not yet been processed. He stated Assembly Bill (A.B.) 29 had been

Senate Committee on Government Affairs  
March 9, 2005  
Page 13

introduced by the Buildings and Grounds Division, Department of Administration, concerning buildings that were owned-leased by licensing boards and handled through an enterprise-fee concept. Chair Hardy asked for a motion on the bill.

**ASSEMBLY BILL 29**: Revises jurisdiction and duties of Buildings and Grounds Division of Department of Administration. (BDR 27-411)

SENATOR TOWNSEND MOVED TO DO PASS A.B. 29.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TIFFANY WAS ABSENT FOR THE VOTE.)

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Senate Committee on Government Affairs  
March 9, 2005  
Page 14

Chair Hardy thanked the Committee for their work. He stated there would be no Committee meeting on Friday or Monday. Chair Hardy adjourned the meeting at 3:01 p.m.

RESPECTFULLY SUBMITTED:

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Olivia Lodato,  
Committee Secretary

APPROVED BY:

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Senator Warren B. Hardy II, Chair

DATE \_\_\_\_\_