

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Seventh Session
March 28, 2013**

The Senate Committee on Health and Human Services was called to order by Chair Justin C. Jones at 3:30 p.m. on Thursday, March 28, 2013, in Room 2149 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 Justin C. Jones, Chair
Senator Debbie Smith, Vice Chair
Senator Tick Segerblom
Senator Joseph P. Hardy
Senator Ben Kieckhefer

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Senate District No. 8
Senator Moises (Mo) Denis, Senate District No. 2

STAFF MEMBERS PRESENT:

Risa Lang, Counsel
Joyce Hinton, Committee Secretary

OTHERS PRESENT:

Doug Dobyne
Mary Beth Scow, Board of Commissioners, Clark County
Alex Ortiz, Clark County
Javier Trujillo, City Manager's Office, City of Henderson
Kristina Swallow, Engineering Program Manager, Department of Public Works,
City of Las Vegas

John Middaugh, M.D., Interim Chief Health Officer, Southern Nevada Health District

Morgan Baumgartner, Nevada Resort Association

Edward Guthrie, Executive Director, Opportunity Village

Sam Lieberman, Easter Seals Nevada

Bruce Arkell, Nevada Senior Corps Association; Nevada Senior Advocates

Donna Marie Shibovich, National Alliance on Mental Illness

Joe Tyler, National Alliance on Mental Illness

Kathy Rusco, National Alliance on Mental Illness

Michael J. Willden, Director, Department of Health and Human Services

Chair Jones:

We will start the meeting on Senate Bill (S.B.) 274. I will present the work session document ([Exhibit C](#)).

SENATE BILL 274: Revises provisions relating to contracts and agreements of the Department of Health and Human Services. (BDR 39-1082)

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 274.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Jones:

We will open the hearing on S.B. 315.

SENATE BILL 315: Revises provisions relating to health districts. (BDR 40-1066)

Senator Moises (Mo) Denis (Senatorial District No. 2):

Senate Bill 315 revises provisions relating to health districts by simplifying the appointment process and including representatives from specialty areas that have not been fully represented in the past. Nevada has three county health districts with the remainder of the State covered by the Division of Health. The county health districts are Southern Nevada Health District (SNHD), Washoe County Health District and Carson City Health and Human Services.

I will walk you through S.B. 315, and then a representative from Clark County will present the amendment ([Exhibit D](#)).

This bill was written because in my previous employment I saw how the SNHD, Board of Health worked, especially in the area of recycling. A study we conducted indicated 60 percent of all the issues that the Board handled were related to solid waste, yet there was not a solid waste representative on the Board. People who appeared before the Board voiced their concerns regarding representation.

These changes will strengthen the board within each health district by making them more representative of the citizens and industries they are there to protect. There is some concern about the size of the boards, and the amendment will address this issue.

Chair Jones:

Are you agreeable to Clark County's amendment, [Exhibit D](#)?

Senator Denis:

I have looked at the amendment and think it could work. It gives the ability to have the correct representation without making the board larger. The challenges I saw in the past were that the Board had a representative from the largest business and industry, hotels and gaming. The second business representative was to have been a non-gaming person. However, the second person who sat on the board was from a hotel. This did not give the rest of the businesses representation.

Clark County's amendment is proposing the creation of a planning commission or city council type entity. This entity would look at the policies and then make recommendations to the board. The amendment allows one of the members of the advising entity to serve on the board. My concern is that the board may not listen to the advising entity. The advising entity may need to have additional authority. I would also recommend an uneven number on the board. I am amenable to considering the amendment.

Senator Hardy:

I served on the SNHD. I enjoyed there being a mix of elected and nonelected members. We all listened to each other, and I do not recall that there was ever a split between the elected and nonelected members regarding budget policy.

What are you trying to fix?

Senator Denis:

There has been a lot of change in the last 10 years. There was an interim recycling committee. I attended the board meeting during the interim and there were many discussions about recycling issues, yet there was not a representative of recycling on the board. There are also other businesses in the community that need representation. All the different entities regulated by the board need to be represented.

The bill is written to increase the board by two members. It also changes the number of people who are elected and nonelected. That is why the concept of the advisory entity was suggested. There was concern that the nonelected members would have more voting authority than the elected.

Senator Hardy:

Are you trying to get more expertise on recycling on the board and not overwhelm the elected who have the fiduciary responsibility?

Senator Denis:

Correct. The fiduciary responsibility was not as big an issue as policy. Other people need representation on the board, not just those representing recycling. We are trying to make it a more diverse board.

Senator Hardy:

Do we need an advisory committee that does not have a voting right? We are getting all the representatives on the advisory committee when we need them on the board for recycling and renewables. There should be one person from recycling on the board. This would keep the number of elected representatives at eight and the number of nonelected representatives at seven. The elected vote would then not be overwhelmed when voting on contracts.

Senator Denis:

The reason we added two people to the board was by adding the contractor for residential solid waste and everybody else who handles recycling, we wanted to be fair and have both of these interests represented. They have different needs.

If we do more with the recycling industry, we can create more businesses and jobs in Nevada.

Senator Hardy:

The recycling industry that does not contract for residential solid waste could require an advisory committee by itself.

Senator Denis:

Yes, there could be a separate advisory committee just for that area of the industry. The board does have some subcommittees. Two positions of the board were too many, which is why we are considering the advisory board.

Senator Hardy:

You discussed appointing representatives. Does that mean there would no longer be elected representatives?

Senator Denis:

No. The city councils appoint one of their elected officials to the board.

Senator Hardy:

Would the advisory committee have only appointed members?

Senator Denis:

Correct. That would be in the amendment.

Senator Kieckhefer:

Are you advocating support of the amendment submitted by Alex Ortiz from Clark County?

Senator Denis:

Yes, I think that could work. One of the challenges with the bill was how to deal with a board that is larger. The other issue is there would be more nonelected members than elected members.

Senator Kieckhefer:

I was also concerned about turning over that much authority to individuals who are not accountable to the public.

Doug Dobyne:

I am in support of S.B. 315. I have been sitting in the audience during the board meetings for 2 years. I think changes need to be made. Senator Denis is right. We need a recycling person on the board. In southern Nevada, there are

possibly four to five new recycling companies a month. In the valley, there are over 100 recycling businesses. It is important that we put more focus on those companies, and the board is the governing authority.

We need to limit the number of gaming representatives on the board. They have one guaranteed member on the board, but for the past several terms a second gaming person has been on the board. No other industry regulated by the SNHD has been represented.

Senator Denis indicated about 60 percent of the board's business was about recycling. Over the past year, 68 percent of the business was about environmental health issues, specifically recycling. In southern Nevada, recycling is a big issue.

I agree with the proposed term limits. The idea of getting new ideas and new representation on a regular basis is helpful with a growing industry like recycling. In Nevada, we are behind the curve, and there is more we can do to improve recycling. The SNHD, as the governing body, should be at the forefront of those issues.

Mary Beth Scow (Board of Commissioners, Clark County):

Clark County developed the amendment, [Exhibit D](#), with input from the Cities of Las Vegas, North Las Vegas and Henderson. The amendment intends to accomplish several things. It first changes the composition of the board to include only elected officials. This structure replicates other regional boards, such as the Regional Transportation Commissions. We believe it is important to change the board to include only elected officials because they have significant responsibility both in the expenditure of taxpayer dollars and in setting policies that regulate business from restaurants to resorts to pools. This responsibility should be vested in a board that is responsible to the voters. The voters do not have recourse with nonelected appointed members who make decisions regarding public funds and public policy. The bill as written would tip the balance of the positions on the board in favor of nonelected appointees rather than elected board members who are answerable to the public.

Second, the amendment shifts the nonelected members to an advisory committee in order to preserve the ability of the board to receive information from the business and medical communities. It also expands the advisory

committee to include the members suggested in the original language and allows the board to add other members to the advisory committee as necessary.

We believe this is important as formal input from health experts. The business community is a necessary component to effective decision making for the board.

I understand the desire to make sure the advisory committee has some authority beyond the advisory role. While the board needs to be comprised of elected officials, there are other possibilities that will make a good compromise. We are willing to explore those possibilities going forward.

Finally as proposed, the amendment would change the district health officer to a district administrative officer along with changing the requirements for the position.

I would like to strike this section from the amendment in favor of the changes contained in S.B. 450. Senate Bill 450 contains a better solution to the issue of qualifications for the district health officer.

SENATE BILL 450: Revises the qualifications for certain district health officers.
(BDR 40-1081)

For years the district health officer, who was the chief executive officer for the health district, was required to be a licensed doctor, have a master's degree and at least 10 years of managerial experience in a governmental setting. This has led to significant difficulties in recruiting for this position. Adjusting these qualifications will preserve the requirement for medical and public health experience in the position while opening up possibilities for more candidates who are competitive.

These changes are important to improve the functioning of the SNHD and provide more accountability for the policies and expenditures of funds.

Senator Hardy:

In your institutional memory, have the elected members ever been outvoted by the nonelected?

Ms. Scow:

In my two years of serving, I have not seen that.

Senator Hardy:

I do not have the language in S.B. 450 which changes the qualification of the district health officer.

Chair Jones:

It would be preferable to leave the discussion of S.B. 450 until it is introduced. Let us finish the discussion of S.B. 315.

Senator Hardy:

I have strong feelings that it is necessary to have a medical physician in charge of the SNHD. I will leave the discussion for later.

Senator Segerblom:

Would the elected officials be paid separately for sitting on the board?

Ms. Scow:

No, that is not included in the amendment. We do not expect that to occur. There is not extra pay in the models such as the Regional Transportation Commission of Southern Nevada and Southern Nevada Water Authority.

Alex Ortiz (Clark County):

Clark County is opposed to S.B. 315 as written and proposes the amendment as presented by Commissioner Scow.

Javier Trujillo (City Manager's Office, City of Henderson):

The City of Henderson is opposed to S.B. 315. We are in favor of the amendment presented by Commissioner Scow.

Kristina Swallow (Engineering Program Manager, Department of Public Works, City of Las Vegas):

The City of Las Vegas is opposed to S.B. 315 as written. Our position is similar to Clark County's and the City of Henderson's. However, we would like to see the advisory committee have representation on the board. This is not included in the Clark County amendment.

John Middaugh, M.D. (Interim Chief Health Officer, Southern Nevada Health District):

I am opposed to S.B. 315 and S.B. 450. Please see my prepared testimony ([Exhibit E](#)).

Chair Jones:

Before you talk about S.B. 315, could you address the amendment, since it appears that is the direction we may be going? Do you have a specific objection to having an advisory council as opposed to the current composition of the board?

Dr. Middaugh:

Working with the advisory council would be difficult. If the council is created and the board is made up of only elected officials, it will result in less effective input to the board members.

Chair Jones:

Are you here at the direction of the board or on your own behalf?

Dr. Middaugh:

We did have a board meeting this morning, and my board specifically supported me coming here to provide this testimony.

Chair Jones:

Did your board have the ability to consider the amendment proposed by Clark County?

Dr. Middaugh:

No, it did not.

Morgan Baumgartner (Nevada Resort Association):

The Nevada Resort Association just saw the amendment this afternoon, so we have not received official input from our membership. We do have some initial objections to the amendment, but we understand it is a work in progress. We would like to participate in those discussions. We believe the public-private partnership of this board is an appropriate structure, and it has been working well. It allows the technical experts and highly regulated entities to participate in the process and lend their expertise to the district. We would appreciate being able to continue in that participatory role.

Chair Jones:

We will close the hearing on S.B. 315 and open the hearing on S.B. 276.

SENATE BILL 276: Directs the Legislative Committee on Health Care to conduct an interim study of the delivery of supported living services to recipients of Medicaid. (BDR S-891)

Senator Barbara K. Cegavske (Senatorial District No. 8):

I will walk you through S.B. 276.

Current Law requires the Department of Health and Human Services (DHHS) to establish and administer a program to provide services, including supportive living services, to Medicaid recipients with physical disabilities. There have been questions related to the quality and quantity of service delivered to eligible recipients. Senate Bill 276 is an opportunity to gather important information so discussions and decisions related to supported living services can be based on accurate information. The type of study provided in this bill will gather and analyze facts.

My primary concern is the quality of care provided to each patient. At the same time, health care cost consumes a growing amount of state and national budgets. Analyzing our systems of care to make them as effective and efficient as possible is important for their continued viability. I hope you will see the benefit of this type of analysis and will support S.B. 276.

There is also Proposed Amendment 7764 (Exhibit F) This amendment will add job and day training services. I appreciate the hard work that has gone into this from our different community leaders.

Edward Guthrie, Executive Director (Opportunity Village):

I support S.B. 276 and the proposed amendment to the bill as introduced by Senator Cegavske. I have submitted a written testimony (Exhibit G) and will quickly highlight the important items. We are a community training program that last year served 1,700 people. I chaired the committee 12 years ago that did the study by the Division of Mental Health and Developmental Services. Also, it is important to note that we use State money for direct services and care.

Sam Lieberman (Easter Seals Nevada):

Easter Seals Nevada supports S.B. 276 and the proposed amendment. We look forward to seeing the results of the needed study.

Bruce Arkell (Nevada Senior Corps Association; Nevada Senior Advocates):

We have been working hard to see more community-based services established. This bill is an excellent way to get that process started. Since 2009, there has been legislation that set up these programs. We look forward to working with the committee to help move the programs forward.

Donna Marie Shibovich (National Alliance on Mental Illness):

I support S.B. 276. It is important that housing be provided for people with disabilities. Job training is also important.

Joe Tyler (National Alliance on Mental Illness):

I support S.B. 276.

Kathy Rusco (National Alliance on Mental Illness):

I support S.B. 276. There is a need for supportive living for disabled people.

Chair Jones:

The Committee members did not have the opportunity to look at the amendment, so we will put this bill on a work session for next week. We will close the hearing on S.B. 276.

Senator Smith:

I will open the hearing for S.B. 450.

Senator Justin C. Jones (Senatorial District No. 9):

In Nevada, Clark County, Washoe County and Carson City are designated health districts. These districts consist of a district health officer and a district board of health. The district board of health in each county appoints a district health officer and establishes the qualifications. Senate Bill 450 revises the qualifications of the district health officer making them the same as the state health officer.

The district health officer is critical as the primary consultant on matters relating to public health in the respective health district. Over the years, recruitment challenges have plagued these positions, first at the State level and now at the

county level. Senate Bill 450 is similar to S.B. No. 54 of the 75th Session, which revised the provisions for the state health officer in 2009. This will enhance each health district's ability to recruit and retain qualified health professionals for this key position.

Representatives from the SNHD recruitment committee, namely Las Vegas City Councilman Bob Beers, shared some of these challenges with me and asked that I work with them to revise these provisions. The revised provisions are before you in S.B. 450. I appreciate the consideration of this Committee and ask for the passage of S.B. 450.

Senator Hardy:

Does this mirror the state health officer qualifications, or does it add the population-based health care definition?

Chair Jones:

It is exactly as *Nevada Revised Statute* (NRS) 439.090.

Senator Hardy:

Do the state health officer and district health officers have these qualifications?

Chair Jones:

Do you mean the revised language or the existing language?

Senator Hardy:

The revised language.

Chair Jones:

Yes.

Senator Hardy:

No one will be kicked out of his or her position?

Chair Jones:

No. This came about as the SNHD paid a company to conduct a nationwide search for a district health officer. The district was presented with narrow options because of some of the qualification requirements. These required the person to have a master's degree in public health and have 10 years of

management experience in an administrative position. The ability of the SNHD to seek qualified applicants for the position was limited by these requirements.

Senator Hardy:

Is one of the differences in the purposed qualifications that the person does not need a master's degree in public health?

Chair Jones:

That is one of the differences. The other difference is that the person had to be licensed to practice medicine in Nevada. Under the new standing in section 1, subsection 2 paragraph (c), he or she must be licensed in good standing or eligible for a license as a physician or administrative physician in Nevada. This allows us to recruit people who are not currently licensed in Nevada but could be licensed in this State.

Senator Hardy:

Did we define physician under NRS 630 and NRS 633.

Senator Smith:

We have staff that is obtaining that information.

Mr. Ortiz:

Clark County is in support of S.B. 450.

Mr. Trujillo:

The City of Henderson supports S.B. 450.

Dr. Middaugh:

I am opposed to S.B. 450. The proposed changes significantly weaken the qualification of the Southern Nevada District Health Officer. If the bill passes in its current form, it will harm the Southern Nevada Health District and public health practice in southern Nevada.

The proposed changes would allow a physician to be hired as a district health officer without ever obtaining a medical license and without training or experience in public health.

The requirement to have not less than 5 years of experience in population-based health care would not ensure the physician has had training or experience in

public health. Population-based health care does not define public health practice.

I have developed a modern description of appropriate minimum criteria for the SNHD's future Chief Health Officer. I would be happy to work with the Committee and share that information. We do have a few candidates who have applied and who meet these more stringent criteria. That recruitment period is over.

I would urge the Committee not to weaken the existing qualifications of the district health officer.

Senator Hardy:

Are you saying that an administrative physician would not be considered as a licensed physician?

Dr. Middaugh:

In the language of the proposed legislation, a physician would not have to get a license to be appointed to the position. Any physician could claim to have analyzed the population of his or her own patient practice and fulfill the definition of population-based health care, but that physician may not have any training or experience in public health. I have prepared a detailed description of what those qualifications could be.

The proposed language stating the district health officer must be "Licensed in good standing or eligible for a license ..." is good. During recruitment, physicians wanted to apply but were not licensed at the time. It takes months for a person who is eminently qualified and does not have a blemish on his or her record to get licensed through the medical board licensure process. The proposed language should not only state that a person is eligible to be licensed but must obtain a medical license within 12 months of hire.

I would be happy to submit the work I have completed on this issue to the Committee. This provides specific information about the qualifications and experience.

Senator Smith:

Have you reached out to the sponsor of this bill to provide the information before the hearing?

Dr. Middaugh:

Unfortunately, I only became aware of this bill night before last. I apologize for coming to the hearing without providing this information to Senator Jones ahead of time. I hope the Committee might be willing to allow me to work with Senator Jones and his staff to provide this additional language.

I urge the Committee not to weaken the standards for the position of chief health officer for the district. This person is responsible for 2 million people and 40 million visitors a year. The increasing complexity of the public health world demands high credentials. We have identified candidates who meet these credentials. They are under review by our board.

Senator Smith:

I can say this Committee is not intending to weaken standards. The goal is to recruit the best candidates by not tying hands of a search committee. We appreciate you working with Senator Jones to make your suggestions and decide if there is different language the Committee could consider. Please make contact as soon as possible.

Dr. Middaugh:

I will do that.

Senator Smith:

Director Willden, you helped us with the state health officer position. We considered the issue of eligibility regarding licenses. Can you recall why we do not have the requirement to make sure a person is licensed within a certain period?

Michael Willden (Director, Department of Health and Human Services):

We used this same language for the state health officer position. When we asked for this legislation, we were having a difficult time filling the position. We had a nationally renowned physician who had been a health officer in three large counties and was also a high ranking Centers for Disease Control and Prevention official. We recruited that person to be our state health officer. The problem was this physician was licensed in another state but had a 2-year residency rather than a 3-year residency and so could never be licensed in Nevada. That is why the DHHS pushed forward with a change in language that stated "licensed in another state or eligible for licensing." We did not want the

criteria of having to be licensed in Nevada in 12 months; the physician had the credentials to be a public health officer.

Risa Lang (Counsel):

There is not a definition in NRS 439 for physician, but there is a definition in the preliminary chapter of the NRS. When there is not a definition, we default to the preliminary chapter. In that chapter it states a physician means a person who engages in the practice of medicine including osteopathy and homeopathy.

Chair Jones:

I am happy to discuss changes to the language with Dr. Middaugh and Senator Hardy. I want to note that when we create criteria for the positions we need to make sure the state health officer and the district health officers are the same.

Senator Smith:

I will close the hearing on S.B. 450.

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Chair Jones:

The meeting is adjourned at 4:45 p.m.

RESPECTFULLY SUBMITTED:

Joyce Hinton,
Committee Secretary

APPROVED BY:

Senator Justin C. Jones, Chair

DATE: _____

EXHIBITS				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 274	C	8	Amendment	Work Session Document
S.B. 315	D	4	Alex Ortiz	Clark County Proposed Amendment
S.B. 315	E	2	John Middaugh	Written Testimony
S.B. 276	F	3	Senator Barbara K. Cegavske	Proposed Amendment 7764
S.B. 276	G	2	Edward Guthrie	Written Testimony