

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Eighth Session
May 4, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 9:07 a.m. on Monday, May 4, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ellison, Chairman
Assemblyman John Moore, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Shelly M. Shelton
Assemblyman Stephen H. Silberkraus
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senate District No. 7

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Lori McCleary, Committee Secretary
Aubrie Bates, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jordan Ross, Constable, Office of the Constable, Laughlin Township
Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada
Shelley Blotter, Deputy Administrator, Employee Management Services,
Division of Human Resource Management, Department of
Administration

Chairman Ellison:

We have two bills on the agenda today. I welcome Senator Parks to the table to present Senate Bill 285 (1st Reprint).

Senate Bill 285 (1st Reprint): Revises provisions relating to local law enforcement agencies. (BDR 20-208)

Senator David R. Parks, Senate District No. 7:

Senate Bill 285 (1st Reprint) is a clean-up bill. It revises provisions relating to the powers and duties of constables and deputy constables, which is found in *Nevada Revised Statutes* (NRS) Chapter 258.

Senate Bill 285 (1st Reprint) involves the efforts of constables in Clark County, as well as Clark County administration and the Las Vegas Metropolitan Police Department (Las Vegas Metro). As I am sure you are aware, the Clark County Commission disbanded the office of the Las Vegas constable two years ago and reassigned the duties of that office to the Las Vegas Metro effective January 1, 2015.

In other action, a lawsuit seeking class-action status was filed in federal court against the Las Vegas constable's office. While the class-action was dismissed,

potentially saving several millions of dollars in restitution, the problem in statute still needs to be addressed.

Senate Bill 285 (1st Reprint) also adjusts certain fees to which constables are entitled for their services, and a board of county commissioners is authorized to provide, by ordinance, for the fee to which a constable is entitled for providing a service authorized by law for which no fee is established by statute. In addition, a constable is authorized to accept payment of fees by credit card, debit card, or the electronic transfer of money, and to charge and collect a convenience fee for the acceptance of such forms of payment under certain circumstances.

Finally, the bill exempts from licensure requirements in state law relevant to intoxicating liquors, a sheriff or constable who sells, or offers for sale, liquor at a sale under execution, and further allows a person licensed under state law to purchase liquor at such a sale under execution.

This concludes my prepared remarks. I am happy to answer any questions. I urge your support for S.B. 285 (R1). There are other people present who will testify in support of the measure. There is also a mock-up of a proposed amendment ([Exhibit C](#)) for your consideration.

Chairman Ellison:

The mock-up amendment is now on the Nevada Electronic Legislative Information System (NELIS). I am not sure if the Committee has had an opportunity to read the amendments. Senator Parks, are you going to introduce the amendment ([Exhibit C](#))?

Senator Parks:

I believe we tried to put the amendment onto NELIS on Friday, but were unable to do so. I will assume responsibility for the mock-up. The purpose of the amendment is to clarify that a constable has the powers of a peace officer under certain circumstances relative to whether the jurisdiction is in incorporated cities or under the county.

In Las Vegas, we have Constable Jordan Ross, who has also worked on the amendment and has been in consultation with the Legal Division of the Legislative Counsel Bureau (LCB). With your permission, Constable Ross can give you further information on the bill and the need for the various provisions of the bill. Unfortunately, the bill is a catchall due to a number of instances and situations.

Jordan Ross, Constable, Office of the Constable, Laughlin Township:

I am speaking today as chairman of the Southern Nevada Rural Constable's Alliance. I would like to thank Senator Parks for the enormous amount of time and effort he has put in to help us draft S.B. 285 (R1) and for carrying amendments forward as well.

The mock-up amendment ([Exhibit C](#)) was originally due to a request made by our organization for a last minute clarification to potentially avoid any future litigation. I would like to extend my appreciation for the attorneys at LCB. Our amendment was flawed and it did require work by the LCB Legal Division to correct those flaws. That is why this amendment has come to the Committee so late. My organization does support the amendment and, of course, we support S.B. 285 (R1).

I will not go into excessive detail, but in general, S.B. 285 (R1) is designed to help restore the public's confidence in the constable system here in Nevada. I would like to point out that constables also exist in three counties in northern Nevada. As part of that, there are provisions in the bill that will lay down restrictions on peace officer powers of constables and their deputies. We feel this is important. We believe it helps focus us as a Category II law enforcement agency on our specific specialized tasks. We also feel placing these restrictions on our agencies will help restore the public's confidence.

I would be more than happy to answer any questions regarding this bill. As Senator Parks mentioned, this bill contains many miscellaneous provisions throughout.

Chairman Ellison:

I did get some information regarding the bill last night, but I could not access the amendment on NELIS. We do have a few questions from Committee members.

Assemblyman Carrillo:

Section 20, subsection 1, is regarding the sale and purchase of liquor. I am under the assumption this liquor is from seizures. What is the purpose of this, and why is it needed in statute?

Jordan Ross:

This was actually the only question we had from the Senate Committee on Government Affairs. This relates to an actual case in which alcoholic beverages were seized under a writ of execution. We were advised by the Civil Division of the Clark County District Attorney's office that while we could sell it, we could not sell it to anyone who held any kind of privileged liquor license. What this

meant was all we could do was sell it to individual consumers. There were thousands of bottles of liquor, and they would need to be auctioned; they could not be sold at a fixed price under state law. In order to do that, the expense of conducting an auction would have chewed up whatever revenue there would have been. Since the primary purpose in such a seizure is to deliver as much of the judgment debt to the creditor as possible, it would have been self-defeating. In the long term, the claimant's attorney had to negotiate a sellback of the liquor to the debtor at an amount considerably less than it would have been if we had been able to auction it publicly.

My agency dealt with the execution of this writ. Unlike the gentleman who used to administer the Las Vegas constable's office, we are very risk-averse. If the Civil Division of the Clark County District Attorney's office tells us we cannot do something, we do not do it. This particular part of the bill is to allow any sheriff or constable who has alcoholic beverages to be able to sell it to the logical customers, who would be retailers, wholesalers, hotels, taverns, et cetera.

Assemblyman Carrillo:

How often have you had thousands of bottles of liquor seized where it is necessary to sell them? Does this happen on a regular basis? Are you looking for leverage in order to do this?

Jordan Ross:

We have had the one instance. However, because we live in a state where the hospitality industry is significant and we are now trying to bring the ability to conduct these more complex civil enforcement operations to bear, I can imagine this situation would come about at least once every year or two. I do not expect it to come up much more often than that. We do not really want to conduct an auction because it ends up costing people more money. We simply want to satisfy the judgment debt as the court has ordered. The implied consequence of selling property, such as alcoholic beverages, can sometimes lead to an early resolution of the debt. When this situation occurs, we simply need to be able to execute the order of the court.

There has been some discussion that the court order would provide us the authority to do this. When we auction real estate, we do not need a real estate license. However, the district attorney did not see it that way, and I was not inclined to argue with him.

Assemblyman Wheeler:

Senator Parks, there are two amendments on NELIS. Which amendment are we speaking about?

Senator Parks:

The amendment is a mock-up, dated May 1, 2015, and entitled Proposed Amendment 6930 ([Exhibit C](#)).

Assemblyman Stewart:

Part of this bill is reducing the powers of constables. Mr. Ross, is that agreeable to the Southern Nevada Rural Constable's Alliance.

Jordan Ross:

The Southern Nevada Rural Constable's Alliance consists of all the rural constables and Clark County. There was one dissent vote from the constable of Goodsprings. All the other constables, including myself, Searchlight, Moapa, Moapa Valley, Bunkerville, and Mesquite were in agreement. I have also worked in consultation with the constables in northern Nevada, including Incline Village, Douglas County, and Mineral County. They are all on board with this bill and amendment.

This bill is nothing unreasonable and is based on research I did on provisions in the California Penal Code that are designed to apply to specialized law enforcement agencies, what we refer to in Nevada as Category II law enforcement agencies. The idea being if you are not a municipal police officer, a county deputy sheriff, or a Nevada Highway Patrol trooper, your job is not to go out and play policeman. As I said earlier, we believe these are certainly reasonable requests in light of some of the abuses that happened in the previous administration in the Las Vegas constable's office. That agency is currently in extremely capable hands. Nonetheless, the public needs to be reassured, and we simply need to take steps to prevent that from happening again. It is not the job of a deputy constable to knock on his neighbor's door to tell him to turn down the music or be arrested for disturbing the peace, or for a constable to go off half-cocked on all kinds of criminal investigations that are not his responsibility. We are very comfortable with this bill, and we believe it is probably long overdue.

Assemblyman Stewart:

Could there possibly be cases where the constable is available in a remote area where a needed law enforcement activity occurs but there is no deputy sheriff or other law enforcement officer in the area? Would this preclude the constable from acting in an emergency?

Jordan Ross:

Amendment 3690 ([Exhibit C](#)) actually does clarify that issue. First of all, it allows constables and deputy constables to exercise peace officer powers in carrying out whatever legal duties they may have. Secondly, it allows them to

exercise peace officer powers in the event there is any situation where harm may come to a person, or prevent a suspect who may have caused harm to a person from escaping. The last two provisions allow a constable or a deputy constable to exercise peace officer powers with the permission of the chief of police or sheriff as appropriate, whether it is an incorporated city or an unincorporated area.

Grants of power are typically delegated to watch commanders. The best example I could give would be Incline Village in Washoe County. That office performs a wide variety of miscellaneous support services for the Washoe County Sheriff, including a marine law enforcement patrol on Lake Tahoe. This would certainly allow for any emergency situation to be covered. There is already a provision for anything regarding harm to a person, and there is also a provision to allow a sheriff or a police department to call on a constable or deputy constable to provide assistance.

Assemblywoman Neal:

Mr. Ross, my question is about section 9, subsection 1, where it talks about constables entering into contracts with issuers of credit cards or debit cards. There are several different constable offices listed on the Internet in terms of their authority to garnish. What has been happening where you need to now enter into contracts with the issuer of the credit card and the additional fees? Current language in NRS 258.170 states, "No other fees shall be charged by constables than those specifically set forth in this chapter...." Why are we now getting in the business of extending our relationship with the credit card holders? In section 9, subsection 2, concerning fees charged by credit card issuers, I need to understand why you need this additional authority.

Jordan Ross:

Regarding the credit card issue, we can take credit cards. However, the constable's offices operate under extremely thin profit margins. If we were to accept credit cards or debit cards, we would essentially end up in the red because of the merchant fees. The specific language in the original bill was simpler, and it was drafted by LCB. Basically, it is saying we can recover the expense of accepting credit cards or debit cards only to the extent of the merchant fees, which is usually about 1.5 to 2.5 percent. That provision is to allow us to recover the expense of accepting credit cards or debit cards, which is currently not something we can do.

As far as the increase in the fees, that is something that has been discussed for a number of years. I will defer to Senator Parks because he has a little more history on this than I do. It is simply changing the fees so the fees charged by constables are the same as the fees charged by sheriffs.

Assemblywoman Neal:

My next question is about the language in the amendment in section 13, subsection 3, about carrying a firearm and making sure each constable and each deputy constable has received training regarding the policy. Do constables currently carry weapons, and who would be doing the training?

Jordan Ross:

This is part of the desire to restore the public's confidence in constables. What this does is lay out certain training requirements. The training requirements must be Peace Officers' Standards and Training (POST), and in order to meet those standards, the training must be done by POST-certified instructors. Some constable offices have those and some do not. Those who do not will have to use a POST-certified instructor from another agency. That is not a major issue; however, we felt it was important to be emphasized and clarified that all constables and their deputies, if they choose to carry firearms, must receive training approved by the Peace Officers' Standards and Training Commission.

Whether a constable carries firearms or not is a personal decision. Some constables and their deputies do carry firearms, and others do not. For example, Incline Village, Douglas County, Las Vegas, North Las Vegas, Henderson, and Laughlin carry firearms. Others, such as Mineral County, Moapa, Moapa Valley, and Mesquite, choose not to. There are a few other constables who, depending on the circumstances of what they are doing, carry firearms. They typically do not carry firearms for a summons or complaint, but some may choose to do so for an eviction. The purpose behind this is to clarify and make absolutely certain that the constables understand they and their deputies must have the firearms training, and they must be recertified. We have gone a step further regarding specific requirements for use of the deadly force policy. The original bill requires that the deadly force policy be registered with the county recorder so it can be viewed by the public.

Assemblywoman Neal:

Senator Parks, I do not know if you are adopting the amendment sent by the Southern Nevada Rural Constable's Alliance ([Exhibit D](#)), but the registration of the policy with the county recorder is struck out in section 13, subsection 3(b). Who is paying for this training, what is the cost of the interagency relationship, and if they adopt a policy, who reviews whether or not the policy is accurate or fits the needs of statute? You mentioned at the beginning of your testimony that the constable's duties have been reduced and the Las Vegas Metro has oversight. Is the policy going to rest with the Las Vegas Metro if you adopt the amendment of the policy not being registered with the county recorder?

Senator Parks:

The request to strike that language did come through the Civil Division of the Las Vegas Metro. It seemed it was simply unnecessary language. With regard to training, all constables are required to have training in order for them to perform their respective duties. With that, the training comes as part of the operation of an office. When Constable Ross recruits the services of a deputy constable, that constable has to have had a certain level of training.

Chairman Ellison:

There are two amendments in NELIS. Which amendment is friendly and which one is not?

Senator Parks:

We went to LCB Legal Division, and on Friday they completed the mock-up of the proposed amendment, number 6930 ([Exhibit C](#)). The changes that we are requesting are in that mock-up. In place of that mock-up, we would ask you to ignore the requested changes in the amendment submitted by Constable Ross ([Exhibit D](#)).

Chairman Ellison:

Are there any further questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

For the reasons stated by Senator Parks and Mr. Ross, we support the bill with the amendment.

Chairman Ellison:

Is there any further testimony in support? [There was none.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there any neutral testimony? [There was none.] Senator Parks, do you have any closing comments? [He did not.] Constable Ross, do you have anything you would like to add to the record?

Jordan Ross:

It is not too often that a public agency, let alone a law enforcement agency, requests some restrictions to be placed on them. We believe this is the right thing to do. There is a lot of clean-up language in this bill, and we feel we need to come forward and do our part to help restore public confidence. I appreciate all of the participation and questions. It shows an interest in the constable system, which we feel delivers a high quality level of civil enforcement to the

people of the state of Nevada, and does so at very minimal cost to the taxpayer.

Chairman Ellison:

I will close the hearing on Senate Bill 285 (1st Reprint). I will open the hearing on Senate Bill 62 (1st Reprint).

Senate Bill 62 (1st Reprint): Revises provisions governing the employment, promotion, dismissal, demotion and suspension of state employees. (BDR 23-285)

Shelley Blotter, Deputy Administrator, Employee Management Services, Division of Human Resource Management, Department of Administration:

The purpose of this bill is to allow the Personnel Commission of the Division of Human Resource Management, Department of Administration to adopt regulations regarding the rights of promotional employees who fail to attain permanent status in the position the employee had been promoted to, for the noncompetitive appointment of a current employee with a disability to a position at or below his/her grade level, the method for providing notification to state employees of certain personnel actions, and medical marijuana. It would also allow employees to be tested for drugs and/or alcohol following a work-related accident or injury, and for the Division and its delegated agencies to receive the results of applicants' positive screening tests for controlled substances.

Section 1 of the bill amends *Nevada Revised Statutes* (NRS) 284.300, allowing the Personnel Commission to adopt regulations setting forth the circumstances under which promotional classified employees who fail to pass the probationary period are dismissed for cause other than misconduct or delinquency on the classified employee's part. The employee may be; (a) restored to the position from which the employee was promoted; (b) placed in a position other than the position from which the employee was promoted; or (c) appointed to a vacant position at or below the position from which the employee was promoted or placed on an appropriate reemployment list.

That is fairly complicated sounding, so I will give you the reasons why. Currently, employees who accept a promotion and do not pass the probationary period may be rejected back to their previous position. If that position had been filled by another employee, then the new employee will be displaced out of the position. Through no fault of his own, the new employee is bounced out of the position. Frequently, that employee does not know the position is subject to someone else not passing a probationary period. This would set up provisions to allow the Personnel Commission to adopt regulations so neither employee is harmed.

Section 2 amends NRS 284.305 to allow the Personnel Commission to adopt regulations which provide for filling a position at or below the grade level of his or her position if the employee has successfully completed the probationary period and for any position he or she has held during continuous classified service or becomes unable to perform the essential functions of the position.

What this will do is allow the Personnel Commission to ensure an accommodation is made for employees who are currently part of the classified service and are permanent employees. We could look throughout our system to find a position at or below the employee's current grade level and try to accommodate that person to be able to remain employed. This would allow for the regulation-making process, and it would allow all the stakeholders to come together in that regulation-making process.

Chairman Ellison:

If there were an upper management position available and an employee is promoted to that position and that employee's position is filled by another employee, but the employee who was promoted is unable to perform the duties of the new position for whatever reason, that employee can move back to his former position. What happens to the new employee? What if that employee left a job in the private sector and cannot return to it?

Shelley Blotter:

That scenario is in section 1 of the bill. Currently, that employee has to leave the position for which he or she was hired. If the promotional employee is not successful in his position, he is rejected back to his previous position. The person who had filled that position is typically out of a job. We do everything we can to find another position so the person is not harmed. However, we find it unreasonable that the new employee would lose his job. We feel if the position happens to be vacant, then the person who is rejected could go back to the position. If the position is filled, the promotional employee may be placed in another position with a similar job duty he feels comfortable performing. There are several different ways it could be handled, but ultimately, both employees would come out with a job in the end.

Chairman Ellison:

Would you be creating a position you do not need? Are the new employees told prior to their employment that there is a possibility they could lose their positions?

Shelley Blotter:

We would never be creating positions. The position would already have to be an existing position that either employee would go into. As far as whether

agencies let the new employees know, I am concerned they do not. If a person is unaware he is filling a position of someone who was promoted and could possibly lose his job, it seems unfair to me. This sets up a different system so the new employee would not automatically be rejected.

Section 3 amends NRS 284.379 to clarify that continued efforts must be made to provide reasonable accommodation to enable employees to perform the essential functions of their current positions. Separation of service is to be considered if an employee can no longer perform the essential functions of the position, and the employee cannot be promoted to a position at or below the grade level of the employee's current position. The definition of an undue hardship is provided on our exhibit page ([Exhibit E](#)), which is on the Nevada Electronic Legislative Information System (NELIS).

Section 3 is a companion amendment to section 2. The intent is that we have exhausted every possibility of trying to accommodate this person before we consider terminating employment. The employee would also be able to return. For example, if the employee was unable to be employed within the first two years, he could come back and be reemployed.

Assemblywoman Spiegel:

Have you ever tried to keep the replacement person by trying to accommodate the person who was promoted and not able to pass probation in the new job? It seems we are penalizing an innocent person, and the person who was not performing the way he should is receiving all of the accommodations. I am wondering why the policy is not that the replacement employee keeps the job and accommodations be made for the person who had been promoted from the position by trying to find him a different, suitable job.

Shelley Blotter:

Section 1 has to do with the rejection of probationary employees back to their former positions. We agree with you, but current statute requires us to put that person back into his former position, affecting the new employee. We find that unreasonable as well. This bill would set up the process to allow the Personnel Commission to make regulations so both employees come out unharmed at the end of the day. Sections 2 and 3 have to do with disabled employees and making sure they are accommodated.

Section 4 amends NRS 284.385 to allow the Personnel Commission to adopt regulations setting forth the procedures for properly notifying an employee of his dismissal, involuntary demotion, or suspension, and any reasons therefore. The current language of *Nevada Administrative Code* (NAC) 284.656, which

details the notice requirements to employees regarding disciplinary action, is on our exhibit page ([Exhibit E](#)).

Currently, we need to notify an employee through the U.S. Postal Service. We are asking for the latitude to be able to notify someone via some other carrier if we cannot provide that notice in person. It is always preferable to have a conversation with employees to let them know they are not performing. We give them a specificity of charges and let them know they are going to be terminated. There is a prior process we follow before getting to this point. In state service, we have progressive discipline, meaning before an employee is dismissed, unless it is something extremely egregious, there would need to be discipline leading up to suspension, demotion, or termination. Typically, the employee has received a letter of instruction, an oral warning, or a written reprimand.

For an oral warning or written reprimand, the Employee-Management Committee of the Division of Human Resource Management would review those actions if the employee wanted them to. For suspension, demotion, or termination, there is notification indicating the employee is going to be served with a particular charge. If the employee wishes to object to the action, a hearing officer will review the charges. Again, there are many stages that lead to this point, and this is the final point. If employees are sensing they are going to be dismissed, sometimes they stop coming to work. If we cannot talk to them in person, we still need to be able to notify them. This section of the bill is saying we can notify them by any carrier, in addition to certified mail.

Assemblywoman Neal:

I have a question on section 4 and the other methods used for notification. What are the other methods? I want to make sure employees are not sent a text message saying they are fired.

Shelley Blotter:

This is allowing the Personnel Commission to adopt regulations. I do not anticipate them allowing for that type of notification.

Section 5 amends NRS 284.4062 to allow the Personnel Commission to adopt regulations setting forth the circumstances under which a person who holds a valid registry identification card to engage in the medical use of marijuana pursuant to NRS Chapter 453A is subject to disciplinary action or must be referred to an employee assistance program. The reason for this amendment is because the possibility of employees who hold a valid registry identification card to engage in the use of medical marijuana is not currently contemplated in

NRS Chapter 284. This would allow the Personnel Commission to adopt regulations, if necessary, to address this if we need to go forward.

Section 6 amends NRS 284.4063 to allow the Personnel Commission to adopt regulations setting forth the circumstances under which a person who holds a valid registry identification card to engage in the use of medical marijuana pursuant to NRS Chapter 453A is subject to disciplinary action. Basically, this is a companion to the previous section.

Section 7 amends NRS 284.4064 to allow an appointing authority to ask employees who he or she reasonably believes are impaired by drugs or alcohol to provide proof that they hold a valid registry identification card to engage in medical marijuana. Previously, marijuana was treated as an illegal controlled substance. This amendment is necessary to allow an appointing authority to determine if an employee is using marijuana for medical purposes. This would distinguish between those employees who are using it casually from those who are using it for medical purposes. Again, this is to allow the regulation-making process should this become an issue for employment purposes.

Section 8 amends NRS 284.4065 to allow an appointing authority to request an employee to submit to a screening test for drugs or alcohol if the employee is involved in a work-related accident or injury. This amendment provides that a work-related accident or injury is sufficient justification for reasonable suspicion testing. If adopted, the state could reduce its workers' compensation liability for such an accident or injury if the employee were to test positive for being under the influence of drugs or alcohol. Again, this is the regulation-making process and we would be able to test an employee who had a work-related accident or injury.

Section 9 amends NRS 284.4066 to require an appointing authority to provide the results of a drug or alcohol screening test to the Division of Human Resource Management Administrator and inform the Administrator if the applicant holds a valid registry identification card to engage in the use of medical marijuana. Additionally, it allows the Personnel Commission to adopt regulations related to an applicant for a position that affects public safety who tests positive for marijuana and holds a valid registry identification card. Similar to sections 5 and 6, this amendment will allow the Executive Branch to manage situations that involve an applicant's use of medical marijuana.

Section 10 amends NRS 284.4068 to expand who may receive the results of a drug or alcohol screening test to the Division of Human Resource Management and other authorized persons, such as agencies with recruitment delegation agreements, the statewide drug and alcohol testing staff specialist, or others,

subject to the Personnel Commission adopting regulations. Currently, there is not a requirement for the Division of Human Resource Management to be notified of an applicant who tests positive. If the person does test positive to such a screening test, the state regulations indicate he or she is not eligible for hire until one year has passed or that person has successfully completed a rehabilitation program. We need to be notified of that in order to remove them from any employment list for which they are now no longer qualified. This amendment would also allow for the disclosure of a positive test result to staff within the Division. We have staff who assist agencies regarding this process, and if they needed to disclose the name of an employee, they could do that.

Section 11 provides the various effective dates.

Most of this bill allows for the regulation-making process. Ultimately, the regulations would be back before this body for legislative approval.

Assemblywoman Neal:

My question is regarding section 9, subsection 5. Why do you want the ability to adopt regulations after the results of the screening indicate the presence of a controlled substance? Section 9, subsection 4 states, "If the results of a screening test indicate the presence of a controlled substance, the appointing authority shall...." Then subsection 5 states, "...may adopt regulations relating to an applicant for a position which affects the public safety who tests positive for marijuana and holds a valid registry identification card to engage in the medical use of marijuana...." Are you creating the regulation after you determine there is presence of a controlled substance?

Shelley Blotter:

No. I believe we would create the regulations and then it would cover those issues. That just happens to be the order in the statute.

Assemblyman Moore:

My question is more for Eileen O'Grady, our Committee Counsel. How, in this bill, are we adding into statute provisions for medical marijuana when it is not federally legal? Are we not creating problems we do not need to be?

Eileen O'Grady, Committee Counsel:

These provisions relate to NRS Chapter 453A, which address medical marijuana, so there are existing provisions in NRS.

Assemblyman Moore:

I will speak more to you about this issue off-line.

Chairman Ellison:

Are there any further questions from the Committee? [There were none.]
Is there anyone wishing to testify in favor of the bill?

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

We are in support of Senate Bill 62 (1st Reprint) for the reasons Ms. Blotter stated. When you look at the fact that the state is being progressive in nature with what they have done, the due process sections of this bill, providing notice, providing the ability for employees who do not successfully complete probation to go back to their previous position, and then to take care of the person who filled that position, are all good things. Many members of the Peace Officers Research Association of Nevada are state employees.

As far as looking at the other sections dealing with medical marijuana, having joined the group that went to Denver and regarding other discussions I have had with some Senators and Assemblymen, this is a very progressive bill. We are looking into the future and looking at these issues. One of the questions we raised is what will we do when employees have a drug screen positive for marijuana and they have a valid registry identification card for medical marijuana? The Division of Human Resource Management should be applauded for being futuristic with this issue.

Looking at this from a collective bargaining position, it is something we will have to do. We thank the Division of Human Resource Management and Ms. Blotter for looking forward.

On behalf of Kevin Ranft, I do not have his blessing to speak on behalf of the American Federation of State, County and Municipal Employees (AFSCME), but I did notice they, too, are supporting the bill.

Chairman Ellison:

Is there any further testimony in support? [There was none.] Is there anyone wishing to testify in opposition? [There was no one.] Is there any testimony neutral to the bill? [There was none.] Ms. Blotter, do you have any closing comments?

Shelley Blotter:

We appreciate your hearing this bill. It will give us the flexibility to operate in the future.

Chairman Ellison:

I will close the hearing on Senate Bill 62 (1st Reprint). Is there anyone here for public comment? [There was no one.]

This meeting is adjourned [at 10:06 a.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Government Affairs

Date: May 4, 2015

Time of Meeting: 9:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 285 (R1)	C	Senator Parks	Mock-up amendment
S.B. 285 (R1)	D	Jordan Ross, Southern Nevada Rural Constable's Alliance	Amendment
S.B. 62 (R1)	E	Lee-Ann Easton, Division of Human Resource Management	NAC 284.656, Notice for Employee Disciplinary Action