

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

**Seventy-Ninth Session
March 21, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:33 a.m. on Tuesday, March 21, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblyman Jim Marchant (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Patricia Keyes, Committee Secretary
Cheryl Williams, Committee Assistant

Minutes ID: 534



OTHERS PRESENT:

Chris Chimits, R.A., Deputy Administrator, Public Works - Professional Services
Section, State Public Works Division, Department of Administration
Gustavo Nuñez, P.E., Administrator, State Public Works Division, Department of
Administration

Chairman Flores:

[Roll was called. Committee rules and protocol were explained.] We have two bills we will be hearing this morning, Senate Bill 44 and Senate Bill 45. I would like to open the hearing on S.B. 44. Will the presenters please come up.

**Senate Bill 44: Authorizes the State Public Works Division to issue certain permits.
(BDR 28-238)**

**Chris Chimits, R.A., Deputy Administrator, Public Works - Professional Services
Section, State Public Works Division, Department of Administration:**

I appreciate the opportunity to come before you and talk about Senate Bill 44. It is a bill that would authorize the building official of the Public Works - Compliance and Code Enforcement Section of the State Public Works Division, Department of Administration, to issue permits to a person for the construction of buildings and structures on state property. Currently, *Nevada Revised Statutes* (NRS) 341.1407 does not give the building official the authority to issue a permit to a person. Instead, the permit can only be issued to a state agency. This is inconsistent with building departments at city and county levels throughout the state that issue permits to the contractor who is building the project and who is responsible for calling in the code inspections. The state agency has no expertise or knowledge of when or how to approach the building department to request building inspections that follow once a permit has been issued. Senate Bill 44 will allow our building official to issue permits to the person or company that is directly responsible for construction in accordance with the terms and conditions of the permit that is issued. This statute modification would also be applied in the same manner to Nevada System of Higher Education (NSHE) projects in accordance with NRS 341.1407.

Assemblyman Ellison:

I have never seen where we did not go through the building department for inspections. Could you give us an idea of a situation where city or county building departments are not being used? Is it in the libraries or the federal buildings? Where are you talking about?

Chris Chimits:

We are talking about projects that we have been involved with. One project we did was through the Department of Veterans Services. This state agency did not have any personnel who were qualified to deal with construction, but because of this law, we were required to issue the permit to the state agency instead of to the building contractor. The building contractor is the person or company who is imminently qualified to interact with the building department and the building official. They can best respond to issues or concerns that the

building department has as it relates to the permit that was issued. At city or county levels, permits are issued to the building contractor. The building contractor is the person who is qualified and responsible for ensuring any construction is done in accordance with the permit. The interaction is direct instead of indirect through the building agency.

Assemblyman Brooks:

Would the permit that you issue to the contractor follow all the same guidelines that the other building departments in Nevada follow? For example, it has to be a Nevada-licensed contractor, in the proper designation, with the proper bonding, et cetera.

Chris Chimits:

Yes, sir.

Assemblyman Brooks:

Over the years, I have done some work with both of you on construction projects, and it seems as if you had to manage the permitting process all the way through. I did not even realize this was your process because you were always there from the beginning to the end of the project. Do you see that this adds any kind of infrastructure to your office?

Chris Chimits:

No, sir.

Assemblyman Daly:

Right now you can issue permits but only to the public agency. I am not seeing where you are changing that in the law. You are just adding a new section to NRS Chapter 341 that allows you to also issue a permit to a person.

Chris Chimits:

The section of the statute you are referring to is NRS 341.1407. We would like the capability to be able to issue the permits to a person or to a construction firm, not just to a state agency.

Assemblyman Daly:

You would continue to be the building official for all the projects and for NSHE depending on how the NSHE project is funded.

Gustavo Nuñez, P.E., Administrator, State Public Works Division, Department of Administration:

Yes, we are currently the building official, and we will continue to be the building official. The Deputy Administrator of the Public Works - Compliance and Code Enforcement Section is the building official for code only. This is in accordance with NRS 341.100 subsection 9, paragraph (a). As Deputy Administrator of the Public Works - Professional Services Section, Chris' job is more aligned with contract administration and complete oversight of a project with respect to scope, budget, and schedule. Currently, on our Capital Improvement Program (CIP) projects, we have a process where the permit from the State Public Works Division is issued by our building official. We do a plan check of the building project and issue a set of

approved drawings. This is the official set of drawings that is given to the contractor and used in the field. We will complete inspections based on these sets of drawings. Just like you do on any project. There are some projects with NSHE and other agencies where we are not managing the project. They are managing the project. It is in those instances that this change to the statutes will apply.

Recently, we had a veterans group that wanted to build and then donate a project. The project was the Nevada Veterans Memorial at the Grant Sawyer State Office Building in Las Vegas. As the statute currently stands, we could not issue a permit to the contractor who actually built the project or collect fees from that contractor for plan checking or inspection. We had to get a sponsoring agent. The Department of Veterans Services (DVS) became the sponsoring agent. We issued the permit to DVS and collected the fees from them.

The contractor in the field is the one who is calling for inspections. This bill will allow us to issue the permit directly to the contractor and then have a relationship where the contractor is responsible directly to our building official. We will continue to manage CIP projects in the same fashion as any other building department in the state. I hope that that explanation will help you make sense of the bill.

Assemblyman Daly:

Thank you, Mr. Nuñez. It does. With CIP projects, the normal process is you are the building official. You issue the permits to the state agency and you also do the inspections. In the situation you just described, where someone gets the building built and it is donated, you do not have that relationship. This bill will allow you to have that relationship.

Assemblyman Carrillo:

Can you give me some specifics as to why you are bringing forward this bill? Is it simply to clean up language? Were there situations that occurred that prompted this bill?

Gus Nuñez:

What this bill will do is streamline our process and allow us to operate in the same manner as other building departments throughout the state and country. We will be able to issue a permit to the contractor instead of to a state agency. This will allow us to have a direct relationship with the contractor rather than an indirect relationship that is filtered through the state agency. The contractor will be responsible directly to our building official who manages the project.

Assemblywoman Neal:

When I was looking through the legislative history, I found you have come every session since 1967 and added to this section of the statute. What has changed between 2013 and 2015 in regards to you giving the permit to the agency or the person? Would the agency not have more knowledge over what needed to be done in the building versus the person to whom you would issue the permit? I am trying to figure out why the policy change is needed. There is a long history of changing NRS 341.100. I do not understand the need. It is not clear in the legislative history at all.

Chris Chimits:

That is a good question, and I appreciate the opportunity to talk it through. The using agency is the most familiar with what they need. They know why they are doing the project. The contractor is the most familiar with the building code and the requirements of the building code as it relates to what he is going to build for that agency. Most likely, the using agency has never seen the building code. They are familiar with what they need and want done. The Public Works Division listens carefully to what the agency needs and the design we complete responds to their need. It is our business to know the building code. We have full knowledge of the building code, as does the contractor who is constructing the project. The permit is not about the needs of the using agency.

A permit is normally issued by a building department directly to a contractor. It is a relationship that is based upon understanding of the code and the code's requirements. These are the minimum requirements for construction. They are not what the building owner needs or wants, but they are what is required from the contractor. Our building official is the expert on the building code. We would like to have a direct relationship between our building official and contractors so that there can be an efficient exchange of information. If there is a situation where what is being built does not meet the building code, or there is some other issue, we would be able to work directly with the person who was issued the permit. There is no third party that has a chance to cloud or confuse the situation. When it comes to construction, the issue has always been about code. It is not what the agency wants or needs but what the code requires in specific instances. This bill would allow for a direct relationship between the people who are concerned with the code issues.

Assemblywoman Neal:

Which leads me to the original question. What problems were being created by your not being able to work directly with the contractor? It is not clear what problems were occurring. If we were trying to be efficient, why did we not do it in 2015 or 2013 or 2009? The efficiency issue seems to be constant. Why did you decide to bring the bill in 2017 if it is for efficiency and for the ability to speak to somebody who is much more knowledgeable on the code process? Can you give us examples of confusion or delays that occurred when you were trying to get something created?

Gus Nuñez:

Hopefully, I can give you another example of why it would be good to have this statutory change. First, you asked, Why now? The process is not streamlined. In regard to code issues, we have to communicate the issues to the contractor through a third party. That is our process. In the last few years, having to communicate through a third party has led us to identify a better process. We thought it might be possible to effect the process change in a different way, but we were advised that the best way to streamline our process is through this bill. You asked for an example of some of the problems we have had related to having to issue a permit to the using agency. We had a vendor who wanted to provide a service at the Grant Sawyer State Office Building in Las Vegas. The vendor wanted to come into the building and compete to provide data service. At the time, there was only one data service provider. The vendor needed to put cabling into the building so it would be available and

they could then compete with the other data service provider. The vendor came to us and we told them we could not issue a permit directly to them. We went to the Buildings and Grounds Section of the State Public Works Division to sponsor the construction so that we could issue a permit.

The Buildings and Grounds Section then had to have an agreement with the contractor to ensure that the construction was completed and everything was put back together without causing any damage to the building or the grounds of the building. The project included trenching, backfilling, and the patching of the asphalt. The Buildings and Grounds Section collected fees from the contractor and then we collected the fees from the Buildings and Grounds Section. We performed the work of plan checking and inspection for the project. If our building official could have issued the permit directly to the contractor, it would have been more efficient. This issue is becoming more prevalent, so we decided it was time to take action to streamline the process.

Assemblywoman Neal:

That makes sense. If you issue the building permit directly to the person, then the example that you gave makes the contractor, not the sponsor, liable if anything goes wrong or if something has to be put back together. There must have been a need to have that third party or the sponsorship in place. Whether or not it is ineffective and inefficient. I just wondered if from 1967 forward as this statutory provision has been changing and growing, why that was even put there in the first place. I appreciate the conversation. At least we have a legislative record if you come back in 2019.

Chairman Flores:

Thank you both for the presentation. Is there anybody here or in Las Vegas who wishes to speak in support? [There was no one.] Is there anybody who wishes to speak in opposition? [There was no one.] Is there anybody who wishes to speak in the neutral position? [There was no one.] I would like the sponsors to please give us any closing remarks.

Chris Chimits:

We have no further comments.

Chairman Flores:

It would like to close the hearing on S.B. 44. I will open the hearing on Senate Bill 45.

Senate Bill 45: Revises provisions relating to the State Public Works Division of the Department of Administration. (BDR 28-128)

Chris Chimits, R.A., Deputy Administrator, Public Works - Professional Services Section, State Public Works Division, Department of Administration:

Senate Bill 45 would revise the requirements for performing periodic inspections of state buildings and facilities by the State Public Works Division of the Department of Administration. Currently, under *Nevada Revised Statutes* (NRS) 341.128, the State Public Works Division is required to inspect all state buildings and physical plant facilities at state

institutions including all buildings at the University of Nevada, Reno (UNR) and at the University of Nevada, Las Vegas (UNLV). Both UNR and UNLV have their own personnel who administer this work at their respective campuses with the assistance of a vendor. They have been doing this since 1995. Because of this, The State Public Works Division has not been performing facility condition analysis inspections and reporting on facilities at the two campuses.

We have a team of three people who perform facility condition analysis inspections on state buildings and sites. Those three people get through a complete cycle approximately every six years. If we were to be required to perform the audits of all the buildings on both the UNR and UNLV campuses, we would have to add additional staff.

Assemblyman Daly:

Can you give us a little bit of the history of the relationship between the State Public Works Division and Nevada System of Higher Education (NSHE)? Some of the language that was changed last session was over an issue of the State Public Works Division doing the plan checking. They did not want you to do plan checking. There was an ongoing dispute. Legislative action was taken to change the language in NRS 341.141 [Assembly Bill 332 of the 78th Session]. This proposed legislation seems to be the next step. What is the genesis of the change in the process? You had responsibility for this process before. When did NSHE decide they did not want to work with you anymore? How has that interagency struggle brought us to this point? I would like some history about this issue.

Chris Chimits:

There are two separate issues. The larger issue is NSHE being interested in managing their own construction projects on their properties apart from the State Public Works Division. There have been discussions and a desire by NSHE in the past to have autonomy over their projects. They do not want to have to provide the status reports and other documentation we need to fulfill our responsibilities under NRS Chapter 341. The statute requires the State Public Works Division to only provide building permits and code inspections when the project is on NSHE property and they have provided 100 percent of the funding for the project. It does not require us to manage the project. Currently, when 25 percent or more of the funding for a project on NSHE property is from the state, the State Public Works Division must manage the project.

Senate Bill 45 relates to performing inspections of existing facilities at UNR and UNLV. It is an issue that has been with us for 10 to 15 years. Since 1995, NSHE has completed the periodic inspections of their facilities. The State Public Works Division has not participated in the process. We have been performing the inspections for all the other state agencies except for the Department of Transportation. The provisions in this bill allow us to continue with the staff size we now have and allow NSHE to continue using the inspection process they already have in place.

Gustavo Nuñez, P.E., Administrator, State Public Works Division, Department of Administration:

I want to add one more piece since Assemblyman Daly asked for a little bit of history. One of things that is important to keep in mind, the current law only requires us to do these types of inspections at UNR and UNLV, none of the other NSHE facilities. As a matter of necessity, NSHE had to do the inspections for their community colleges. Since they had to take on that responsibility for all of their other campuses, they started to also do the inspections for UNR and UNLV. Based on where we are at today in our relationship with NSHE, and past history of the way we have been operating, what this bill does is affirm what we have been doing for a number of years. The State Public Works Division does the inspections for state facilities, and NSHE does the inspections for their facilities.

Assemblyman Daly:

That was the historical information I was looking for. I was aware of the situation from last session of NSHE wanting to manage their own projects, regardless of the funding source. They were saying they did not need you. Assembly Bill 332 of the 78th Session gave NSHE autonomy over their projects when less than 25 percent of funding for any project was from state or federal money. In that situation, the State Public Works Division would continue to provide code inspections and supply certificates of occupancy. You continue to administer the plans and manage the project if at least 25 percent of the funding is state or federal money.

I was curious if this bill related to the project management issue. You are telling me it is a different issue and not NSHE wanting to do what they want regardless of what the requirement is. This is just cleaning up language to bring the statute in line with a practice that was instituted for the sake of efficiency

Assemblyman Carrillo:

You have indicated NSHE already does the required periodic inspections. The current statute requires reports from all inspections be submitted to the appropriate state agencies. Does NSHE comply with this requirement?

Chris Chimits:

Yes, they do. Nothing in the inspection and reporting process would change if this bill is passed. They would continue to complete the required periodic inspections and report their findings to the Board of Regents, Nevada System of Higher Education.

Chairman Flores:

Is there anybody here or in Las Vegas who wishes to speak in support? [There was no one.] Is there anybody who wishes to speak in opposition? [There was no one.] Is there anybody who wishes to speak in the neutral position? [There was no one.] I would like the sponsors to please give us any closing remarks.

Chris Chimits:

We do not have any further comments.

Chairman Flores:

At this time, I will close the hearing on S.B. 45. Is there anybody here to speak during public comment? [There was no one.] I want to make one quick announcement. Members, sometimes it is easy for us to chat with one another, and I do it all the time with my Vice Chairwoman. I ask that we refrain from doing that and instead send the messages via instant messaging or a written message. I put myself on that. I know I have done it multiple times, but members of the audience have pointed it out and it is not a good look for the Committee. I am requesting that we please refrain from doing that moving forward. For any conversations that we want to have, send either a personal message or a quick note. The meeting is adjourned [at 9:09 a.m.].

RESPECTFULLY SUBMITTED:

Patricia Keyes
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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