

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-ninth Session
February 15, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 9:05 a.m. on Wednesday, February 15, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Kelvin Atkinson, Chair
Senator Pat Spearman, Vice Chair
Senator Yvanna D. Cancela
Senator Nicole J. Cannizzaro
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi S. Gansert

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Bryan Fernley, Counsel
Daniel Putney, Committee Secretary

OTHERS PRESENT:

Brett Kandt, Chief Deputy Attorney General, Boards and Open Government
Division, Office of the Attorney General
Keith L. Lee, Board of Medical Examiners
Justin Harrison, Las Vegas Metro Chamber of Commerce

CHAIR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 55.

SENATE BILL 55: Authorizes certain regulatory bodies to invalidate an occupational or professional license, certificate, registration or permit that is issued in error. (BDR 54-391)

BRETT KANDT (Chief Deputy Attorney General, Boards and Open Government Division, Office of the Attorney General):

The Office of the Attorney General has submitted a letter in support of S.B. 55 ([Exhibit C](#)).

Senate Bill 55 proposes to enact a statutory procedure for the invalidation of a license issued by a regulatory body in error. Senate Bill 55 deals with the occupational boards contained within Title 54 of the *Nevada Revised Statutes* (NRS). These boards' primary statutory responsibilities are to regulate occupations for the protection and benefit of the people of Nevada. Each board operates within the scope of its particular practice act and chapter. Additionally, each board is subject to the general provisions of NRS 622.

There are instances where a board inadvertently issues a license in error. What do these boards do when that happens and the situation becomes apparent to them? The Real Estate Division of the Department of Business and Industry, which licenses and regulates the real estate industry, has within its practice act a provision for how to invalidate a license issued in error. This provision is contained within NRS 645.420. Our Office thought it prudent to include such a provision as a standard in NRS 622 for all Title 54 boards. Per the language of the bill, if a license were to be issued in error, and the error related to the qualification or fitness of the licensee, then that license could be invalidated.

Our Office also recognizes, however, that the individual granted the license, even though it was issued in error, is entitled to some level of due process. Senate Bill 55 accords the individual such due process.

Our Office's advice to a board that issues a license in error is to follow the proposed procedure. We want to ensure consistency among all Title 54 boards.

SENATOR HARDY:

The Real Estate Division's process will be mimicked by other boards.

Concerning the hearing, will it take place within a particular time frame, such as that of the Real Estate Division? Also, which boards are covered under Title 54?

MR. KANDT:

The Real Estate Division already has this procedure within its practice act. Our Office is proposing to codify this procedure in NRS 622 so that it is the standard followed by all boards if they do not already have such a procedure in place. Our goal is consistency. If an individual has his or her license invalidated because it was granted in error and that individual wants a hearing, he or she is entitled to one within a set period of time.

SENATOR HARDY:

What is the set period of time?

MR. KANDT:

I believe the Legislative Counsel Bureau provided a set period of time in S.B. 55.

Instead of specifying a time in statute, each board subject to S.B. 55 would adopt by regulation a provision that sets a definite time frame within which the licensee would be entitled to a hearing in regard to the invalidation of his or her license issued in error.

SENATOR HARDY:

If the license is issued in error because of an administrative reason, could the board then invalidate the license and schedule a hearing in, say, two years? Or would there be an umbrella expectation as to when the hearing would take place? I need some parameters. Also, is every professional board in Title 54 affected?

MR. KANDT:

As the proposal indicates in subsection 1, the error must be related to the qualification or fitness of the licensee. The invalidation parameters depend on the profession itself and the qualifications that have been established for the profession in its practice act. If the invalidation is based upon a requirement not established in the profession's practice act, such reasoning would need to be clearly articulated to the individual who received the license in error. At a hearing in such a situation, the board's staff would need to demonstrate this reasoning as the basis for the invalidation.

The Title 54 boards, about three dozen of them, regulate and license most of the professions in our State except gaming.

SENATOR HARDY:

Would doctors, dentists, hygienists, massage therapists, beauticians, carpenters, etc., be affected by S.B. 55?

MR. KANDT:

Yes.

SENATOR HARDY:

Do we want a time frame for the hearing process?

MR. KANDT:

It is the Committee's prerogative as to whether it wants to establish a certain time frame in statute, or as proposed in S.B. 55, allow each board by regulation to establish the time within which it would hold a hearing. I am concerned that if you establish a general time frame in NRS 622, some boards that already have this invalidation provision within their respective practice acts would be disrupted.

SENATOR HARDY:

Does the Office of the Attorney General want each board to establish its own time frame? I would feel comfortable with some parameters.

MR. KANDT:

Our Office is comfortable with the proposal to have each board establish its own time frame.

SENATOR SETTELMAYER:

Would any board that came up with a regulation setting forth a time frame have to go through the Legislative Commission for approval?

MR. KANDT:

Yes.

SENATOR SETTELMAYER:

If we felt the time frame were inadequate, the members of the Legislative Commission would be able to weigh in.

SENATOR GANSERT:

How do you define fitness?

MR. KANDT:

Fitness is determined by each board itself based upon the standards of practice and care of the profession the board oversees and regulates.

SENATOR GANSERT:

Senate Bill 55 mentions a hearing, but the language is not written to compel individuals with invalidated licenses to pursue a hearing within a certain time frame. If we recognize regulations or a defined time frame, the individuals would be compelled to take action. There also needs to be a definition for fitness.

SENATOR CANNIZZARO:

Under NRS 645.420, which refers to NRS 645.440, the Real Estate Division has a procedure in place for hearings if there is a denial of a license. Do all these Title 54 boards have similar procedures in place? There is no language in S.B. 55 that compels a board to adopt the proposed regulations. Do we assume the boards will adopt regulations?

MR. KANDT:

It depends on the particular board and its practice act. It is a good idea to compel the adoption of regulations regarding the time frame within which a hearing must be held to ensure the timeliness of each board.

SENATOR CANNIZZARO:

Are you aware if the Title 54 boards have these types of procedures already in place?

MR. KANDT:

No. Each board is different and operates under a different practice act. Chapter 622 of the NRS is the only general application for the Title 54 boards, so our Office wanted to ensure there was a consistent procedure in place across all boards. Invalidation of a license does not occur often, but when it does occur, an appropriate level of due process and an opportunity to be heard before the board must be accorded to the licensee.

SENATOR CANCELA:

It seems that there should be some sort of training or process by which boards are almost never invalidating licenses. To the licensee, the burden this process creates is probably a big deal. How do we get to a place where there is no need for this sort of process?

MR. KANDT:

Training is a big issue for all the State's boards. Our Office strives to provide the appropriate level of education and technical assistance to the boards, their staff and the board members themselves when it comes to all the areas of law that govern the board's operations and the requirements of the board's particular practice act. Nevertheless, well-trained and well-staffed boards occasionally issue a license in error. Our Office simply wants a statutory procedure addressing how to handle the invalidation process and according the licensee an appropriate level of due process.

SENATOR HARDY:

Does S.B. 55 relate to somebody who has had his or her license, not given in error, invalidated because he or she becomes unqualified?

MR. KANDT:

No. This does not address that situation.

KEITH L. LEE (Board of Medical Examiners):

The Board of Medical Examiners supports S.B. 55. We are one of the boards governed by NRS 630. We already have a process in place—under NRS 630.160, subsection 4—that allows us to void a license issued in error. This subsection sets forth a number of things we can do, and if the circumstances warrant, we can declare the license void. One of the circumstances is that the licensee lied on his or her application. Our application process also requires the submission of fingerprints. Because of the delay in processing the fingerprints, we will issue a license subject to the return of favorable fingerprint results. If there is an issue with the fingerprints that warrants the invalidation of the license, we can void the license.

JUSTIN HARRISON (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce believes bringing forth a standardized process to invalidate licenses issued in error is in the best interests of each board, each profession, the public and the licensees. This is a standardized procedure that has worked for select boards.

CHAIR ATKINSON:

I will close the hearing on S.B. 55.

Senate Committee on Commerce, Labor and Energy
February 15, 2017
Page 7

Pursuant to Joint Standing Rule No. 14, the Senate Committee on Commerce, Labor and Energy would like to draft a couple of legislative measures. The first addresses discriminatory health insurance benefits with rising out-of-pocket costs.

SENATOR SPEARMAN MOVED TO INITIATE A BILL DRAFT REQUEST ADDRESSING DISCRIMINATORY HEALTH INSURANCE BENEFITS.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

The second measure relates to collaborative practice.

SENATOR SPEARMAN MOVED TO INITIATE A BILL DRAFT REQUEST RELATING TO COLLABORATIVE PRACTICE.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

The Subcommittee on Energy has agreed to meet on Fridays at 1:00 p.m. in Room 2144. The Subcommittee will begin meeting on Friday, February 24. I encourage this Committee's members to monitor the proceedings of the Subcommittee meetings. We have already received some energy bills: S.B. 65, S.B. 145, S.B. 146 and S.B. 150. I am assigning these bills to the Subcommittee.

SENATOR HARDY:

Would we as Committee members be able to observe the Subcommittee meetings?

Senate Committee on Commerce, Labor and Energy
February 15, 2017
Page 8

CHAIR ATKINSON:

I have no problem with that, but you will not be able to ask questions or participate.

I adjourn the meeting at 9:36 a.m.

RESPECTFULLY SUBMITTED:

Daniel Putney,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 55	C	1	Brett Kandt	Testimony