

Committee in Session at 8:37 am on Friday, February 16, 1979.

Senator Keith Ashworth in the Chair.

PRESENT: Chairman Keith Ashworth  
Vice-Chairman Joe Neal  
Senator Clifton Young  
Senator Rick Blakemore  
Senator Wilbur Faiss  
Senator Jim Kosinski

GUESTS: Mr. Lew Dodgion, Public Health Engineer, Health Division  
Mr. Ernest Gregory, Administrator, Division of Environmental Protection  
Mr. Peter G. Morros, Assistant Director, Department of Conservation and Natural Resources  
Mr. Jack Kenney, Southern Nevada Homebuilders  
Mr. Robert Sullivan, Douglas, Carson, Storey, Lyon and Churchill Counties

Chairman Ashworth opened the meeting with the hearing on S.B. 184.

Mr. Lew Dodgion, Public Health Engineer, Health Division, stated S.B. 184 was introduced at the agency's request. The purpose of the bill is to clarify the responsibility and authority of the Nevada Health Division and the Division of Environmental Protection regarding sewage disposal and the certification of condominiums and subdivisions. Mr. Dodgion stated that during the last legislative session, reorganization occurred and this bill is attempting to restore the specific authority for the control of sewage disposal to the Board of Health in conjunction with the water pollution control agency of the Division of Environmental Protection. In addition, after the reorganization, the certification of subdivision and condominium plans was left with the Health Division concerning water pollution and sewage disposal; however, the authority to regulate water pollution and sewage disposal was transferred to the Division of Environmental Protection.

On Page 2, Section 2, Lines 13 and 14, Chairman Ashworth questioned the wording, "Shall cooperate insofar as possible." Mr. Dodgion stated that was not the wording requested by the agency but was the wording used by the Legislative Counsel Bureau. Chairman Ashworth questioned language that would mandate a builder to deal with three agencies who "shall cooperate insofar as possible." Mr. Dodgion stated that it was his understanding the three agencies would coordinate regulations eliminating an overlap or conflict. Chairman Ashworth asked if an applicant would be required to go to all three agencies. Mr. Dodgion stated that they would; presently, an applicant is only required to go to two.

Senator Young questioned the advisability of adding another agency.

Senator Neal questioned what the three agencies would be reviewing upon presentation of the plans or maps. Mr. Dodgion replied that the State Engineer would be reviewing water quantity, the State Health Division would reviewing water quality, and the Division of Environmental Protection would be reviewing water pollution.

On Page 2, Section 3, subsection 3 (a), Senator Blakemore asked the meaning of the term, "where applicable." Mr. Dodgion responded that a subdivision or condominium could tie into an existing municipal treatment plant which would not be applicable for the Health Division review. Senator Blakemore asked if this would apply to an individual. Mr. Dodgion responded that this applies to subdivisions.

Chairman Ashworth asked if there were any time restraints on replies by agencies. He expressed concern as to adding another agency and thereby increasing the time for final disposition of plans or maps. Mr. Dodgion stated that Chapter 278 contains cooperation for the development of regulations. He stated that on Page 4, Section 6, subsection 5, Line 36, a time limit of 15 days is placed on reviewing agencies.

Senator Kosinski asked where the authority for the Division of Environmental Protection is found in the NRS statutes. Mr. Dodgion responded that it is under the Water Pollution Control Act and declares they are the supreme authority on water pollution. Senator Kosinski asked if the Division of Environmental Protection is, in fact, approving subdivision applications. Mr. Dodgion stated they are, as a matter of cooperation with the State Health Division.

Mr. Dodgion stated that on Page 6, Lines 1 and 2, the proposed change should be deleted and the language remain as it is presently in the law.

Chairman Ashworth concurred with Senator Young regarding adding another agency and the increase of time in plan approval for the applicant.

Senator Young questioned why the issues pertaining to water quality, etc., are not handled by one agency rather than three separate agencies.

Chairman Ashworth asked if the legislation would require a person from another part of the state to travel to Carson City for the additional level of approval. Mr. Dodgion stated that Mr. Gregory of the Division of Environmental Protection would have to address that question.

Senator Kosinski also expressed concern regarding the addition of another agency and concurred with Senator Young as to the exploration of one central agency with overall responsibility for matters of this nature. Mr. Dodgion agreed that this could be a workable solution.

On the top of Page 2, Section 1, subsection 3, Senator Young asked if this language was necessary as the Secretary of State's Office is requesting local regulations and documents no longer be filed with them. Senator Kosinski stated that the language is in the process of being amended under S.B. 69. Mr. Dodgion said that the language was inserted by the Legislative Counsel Bureau.

Mr. Ernest Gregory, Administrator, Division of Environmental Protection, and Mr. Peter Morros, Assistant Director, Department of Conservation and Natural Resources, spoke regarding S.B. 184. Mr. Gregory stated that they support the concept of the bill. He noted, however, that the Division of Environmental Protection does not operate as does the Health Division. He stated that federal regulations force permit conditions that communities cannot meet. The Division issued permits, found them in violation of permit conditions and placed them on a compliance schedule to meet these conditions within a certain length of time. He stated action could be taken against communities but they would not take action against subdivisions. He expressed concern about the pollution of underground waters as affected by subdivisions and would like to have some provision made in this regard. Mr. Gregory concurred with the concept of one agency having overall responsibility. Mr. Gregory stated that the only office for the Division of Environmental Protection is located in Carson City which would necessitate a trip to Carson City by applicants. On Page 2, Section 2, Lines 13-17 and Page 3, Section 4, Lines 3-6 as to agencies "shall cooperate insofar as possible...", Mr. Gregory stated his agency had some concern with the language. He stated the Division of Environmental Protection would not want to have the State Environmental Commission establishing administrative regulations on permit programs. Mr. Gregory stated the new language in both sections was unnecessary.

Senator Kosinski stated that he did not believe the language was a grant of authority expanding the authority of the Environmental Commission more than is currently under the law. Mr. Gregory concurred but stated that the language only adds to existing confusion.

Mr. Dodgion stated the wording in those sections was placed within the bill by the Legislative Counsel Bureau. Chairman Ashworth asked if there would be any problem in eliminating these sections and regulations adopted within the agencies. Mr. Dodgion stated that there would be no problem with that.

Mr. Gregory concurred with Mr. Dodgion's recommendation to ignore the proposed change on Page 6, Lines 1 and 2.

Senator Kosinski asked Mr. Gregory if he felt the jurisdiction of the Division of Environmental Protection was sufficiently delineated to eradicate any overlap with the Health Division or the State Engineer. Mr. Gregory stated he believed his jurisdiction was sufficiently delineated.

Mr. Jack Kenney, representing the Southern Nevada Homebuilders, spoke in opposition to S.B. 184. He stated that on Page 2, Section 2, Lines 13-17 were responsible for allowing input by the homebuilders into regulations established by the agencies. On Page 2, Line 36 as to "individual systems," Mr. Kenney stated this procedure was already occurring in Clark County and questioned the need for it to become a part of the NRS. Senator Kosinski stated this would be limiting the power of the Health Division by including this in the statute. Mr. Kenney also expressed concern as to the need for applicants to travel to Carson City to finalize plans and maps. He requested further hearings on S.B. 184.


Mr. Robert Sullivan, representing Douglas, Carson, Storey, Lyon and Churchill Counties, expressed concern that the three functions considered in this bill are not deleted. He stated that due to lack of funds to the small counties, his concern was not with who enacts the regulations; rather, that the State will continue to have overall responsibility.

Senator Kosinski requested that Mr. Jack Kenney confer with the Division of Environmental Protection and the Health Division to try to eliminate the confusion. Chairman Ashworth also requested that the three agencies confer as to the concept of an umbrella organization to accomplish the intent of the bill without necessitating that an applicant go through three separate agencies.

Chairman Ashworth closed the hearing on S.B. 184 and stated that another hearing on the bill would be scheduled.

Chairman Ashworth adjourned the meeting at 9:58 am.

Respectfully submitted,

  
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Roni Ronemus, Committee Secretary

Approved:

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Chairman  
Senator Keith Ashworth