

Committee in Session at 8:34 am on Monday, February 26, 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. Ernest Gregory, Administrator, Division of
Environmental Protection
Mr. Wendell McCurry, Division of Environmental
Protection
Mr. Al Edmundson, Consumer Health Protection,
Division of Health
Mr. Twain Walker, Legislative Counsel Bureau, Audit
Division
Mr. Robert E. Warren, Executive Secretary, Nevada
Mining Association, Inc.
Mr. Robert Watts, Secretary-Treasurer, Placer Amex
Inc.
Mr. Jack Kenney, Southern Nevada Homebuilders
Mr. Del Frost, Administrator, Rehabilitation Division,
Department of Human Resources

Chairman Ashworth opened the meeting by requesting a motion for approval of the minutes from January 31, 1979 to February 16, 1979.

Senator Blakemore moved to approve the minutes of the Human Resources and Facilities Committee from January 31-February 16, 1979.

Seconded by Senator Kosinski.

Yeas -- 5
Nays -- None
Absent -- Vice-Chairman Neal

S.B. 184 (Exhibit "A")

Chairman Ashworth submitted an amendment to S.B. 184 received from the City of Las Vegas (see Exhibit "B"). In addition, the amendment received from the Division of Health (see Exhibit "A" in Minutes of February 23, 1979) was reiterated for the committee's information.

Chairman Ashworth stated the amendment received from the City of Las Vegas made provision for the appeal procedure as discussed on February 23, 1979. Senator Young asked if this appeal procedure may present an administrative problem. Mr. Gregory, Administrator, Division of Environmental Protection, stated that the amendment may possibly cause some administrative problems.

Senator Kosinski asked if Mr. Gregory had studied the proposed amendment presented by the City of Las Vegas. Mr. Gregory stated that he had not but that it was the same language found in Chapter 445. He stated he had no objection to the amendment.

Senator Kosinski moved to "Amend" and "Do Pass" with the suggested amendments by the Division of Health and the amendment submitted by the City of Las Vegas.

Seconded by Senator Faiss.

Discussion: Senator Young stated that he would like to have input from the Environmental Commission prior to a vote. Senator Young questioned Mr. Gregory as to the number of denials, issuances, renewals, suspensions, etc., of permits per year. Mr. Gregory replied that there were approximately 25 per year that could be appealed. Senator Young asked how often the Commission presently meets. Mr. Gregory responded that they meet approximately once a month.

Motion carried.

Yeas -- 4

Nays -- Senators Young and Neal

Chairman Ashworth questioned if Senators Young and Neal wished to make a minority report. They responded negatively.

Chairman Ashworth presented S.B. 147 for administrative action; however, as the amendments received from the Legislative Counsel Bureau pertained to S.B. 136, Chairman Ashworth tabled any action until further notice.

Chairman Ashworth opened the hearing on S.B. 227.

Mr. Wendell McCurry, Division of Environmental Protection, stated that S.B. 227 was to clarify authority for all municipalities that provide sewage services. He stated that subsection 1 refers to the industrial cost recovery that is required under the federal act and gives the authority to recover construction costs attributable to the treatment of industrial wastes. He further stated that subsection 2 refers to the authority by municipalities to refuse to receive wastes from another municipality that is not in compliance with the approved '208' Plan.

Chairman Ashworth questioned if the basis of the law was to comply with the federal Water Pollution Control Act. Mr. McCurry responded affirmatively. Mr. McCurry stated that the Division of Environmental Protection administers approximately \$20 million in grant funds per year and they want to be assured there is no question regarding the legality of any municipality receiving those funds.

There being no further testimony, Chairman Ashworth closed the hearing on S.B. 227.

Chairman Ashworth opened the hearing on S.B. 237. He brought the letter from the Legislative Counsel Bureau (Exhibit "C") regarding S.B. 237 to the attention of the committee.

Mr. Al Edmundson, Consumer Health Protection, Division of Health, stated that his agency was the originator of S.B. 237. He stated that several large firms were interested in the mining of uranium in Nevada; however, Nevada does not, at the present time, have any regulations governing the mining and milling of uranium. He stated that long-term fees for the care and maintenance of mill tailings would also be established under this bill. Mr. Edmundson believed it would be necessary to go before the Finance Committee for the necessary funding to begin this program. He further stated the Division may wish to amend the bill to request this funding as the demand has increased since the original bill was drafted.

Senator Blakemore questioned if the Consumer Health Protection, Division of Health, had proper jurisdiction to administer and regulate matters of this nature. Mr. Edmundson stated that under Chapter 459, the Division of Health and the Board of Health has sole authority over radioactive materials. Senator Blakemore asked if the Division did not feel they have proper authority now under existing law. Mr. Edmundson stated that they have the authority to promulgate the regulations but do not have the authority to request fees. Chairman Ashworth questioned the amount of the fees. Mr. Edmundson stated that the purpose of the fees would be for the purchase of monitoring equipment, at a cost of approximately \$39,000. He stated that the fees would be divided according to the number of applicants. Chairman Ashworth expressed concern for the small operation which may find a high fee would not allow them to operate. Senator Kosinski questioned the need for additional staff and expertise. Mr. Edmundson stated that two people, proposed in the Division's budget, would be sufficient.

Senator Faiss asked if other states involved in the mining of uranium have policies established similar to that being proposed in S.B. 237. Mr. Edmundson stated that this legislation is patterned after those states already involved in the mining of uranium. Mr. Edmundson stated that should the federal government handle the licensing of these operations, it would cost approximately \$200,000 per license. The state license would cost

approximately \$100,000. Senator Blakemore questioned if any other department in the State of Nevada has any regulations or monitoring procedures. Mr. Edmundson said there was not any other department handling this matter at the present time.

Senator Young expressed concern as to the amount of the bond and the time length imposed on the bonding procedure. Mr. Edmundson stated that during the processing of the material, a perpetual-care fund would be growing. He stated that as the fund increases, the bond would no longer need to be active. Senator Young questioned an estimation as to the amount of the bond. Mr. Edmundson stated that until further study occurs, the amount is as yet uncertain; however, he estimated from \$200,000 to \$500,000.

Senator Blakemore asked the point at which the bond would be required. Mr. Edmundson responded that it would be at the point of issuing the license to the milling operation or at any point where the uranium is being processed by water. He stated the Nuclear Regulatory Commission (NRC) is licensing at the mill operation level.

Chairman Ashworth questioned the possibility of placing limits on the amount of the bonds. He expressed concern that in the future, mining could be halted by economic sanctions; such as, imposing a large bond that would make operation impossible.

Senator Kosinski expressed concern as to the amount of research that has gone into what is potentially an important piece of legislation. He questioned if the State has sufficient staff and expertise to effectively monitor a matter of this nature. He requested the Department of Human Resources study the legislation more thoroughly and submit to the committee a Fiscal Note and more information as to the size of the bonds.

Senator Young requested testimony from individuals skilled in radiological effect. He stated he would also like further information as to the financial implications.

Chairman Ashworth stated that it was the concurrence of the committee they receive further information, and requested that Mr. Edmundson confer with the Department as to the matters discussed.

Mr. Twain Walker, Legislative Counsel Bureau, Audit Division, commented upon his letter regarding S.B. 237 (Exhibit "C"). He stated there is some confusion as to the title of the fund to be established. Chairman Ashworth requested that Mr. Walker make the appropriate determination and advise the committee by letter of the outcome.

Mr. Robert Warren, Executive Secretary, Nevada Mining Association, requested the opportunity to bring major mining industry repre-

sentatives together for the purpose of answering questions raised in the hearing today. The committee concurred. Chairman Ashworth stated he would confer with the like Assembly committee and schedule a joint hearing for testimony.

Mr. Robert Watts, Secretary-Treasurer, Placer Amex Inc., stated his concern was with the portion of the bill concerning "reasonable surety bonds." He stated this was already addressed in the Uranium Mill Tailing Act of November 8, 1978 and suggested similar wording be incorporated into S.B. 237. The Act allows the bonding to be placed by the mining company near or at the end of the mining operations prior to issuance of the license to terminate operations. The Act also provides that a mining company can provide a bond, surety or any other financial arrangement. He stated he had contacted Placer Amex Inc.'s insurance company as to what would be required in the event they wished to obtain a surety bond for the State of Nevada with an unknown number of years duration. They replied that the full amount of the bond would have to be submitted to the bonding company and would charge \$6,500 per year as a premium charge.

Senator Young questioned the necessity of a state law in view of the federal law. Senator Kosinski requested an opinion from the deputy attorney general for Consumer Health Protection enumerating the differences between the federal and the proposed state law.

Mr. Edmundson stated that Nevada is an agreement state and if Nevada chooses to adopt legislation, the federal government will not regulate Nevada.

Chairman Ashworth closed the hearing on S.B. 237.

The hearing was reopened on S.B. 227.

Mr. Jack Kenney, representing the Southern Nevada Homebuilders, expressed concern regarding an "approved plan" in view of the existing controversy over the '208' Plan. He also expressed concern as to one sewage system hooking into another; if one municipality refused to accept sewage, they may possibly be "frozen out." Chairman Ashworth stated that under existing law, that is a possibility without an inter-governmental agreement. Mr. Kenney stated that the Homebuilders desired to have some checks and balances within the law. Senator Kosinski stated that under the legislation, there were three occasions where input could be provided by the Homebuilders. Mr. Kenney expressed concern as to approval of a plan on three separate levels, local, state and federal, and felt the legislation was too broad. Chairman Ashworth requested amendments be submitted to address this problem. Mr. Kenney stated they would supply amendments.

Mr. Wendell McCurry, Division of Environmental Protection, addressed Mr. Kenney's question regarding "approved plans." He stated the "approved plan" referred to approval by the Environmental Protection Agency. Mr. Kenney expressed concern as to the time involved in obtaining the approval from the federal government. Senator Blakemore stated that the legislation was for the purpose of conforming to federal regulations and eliminate ambiguity in the existing law.

Chairman Ashworth closed the hearing on S.B. 227 and opened the hearing on S.B. 24.

Senator Kosinski presented Exhibit "D" to the committee. He stated that the amendment answered most of the objections to the increased availability of patient records for purposes of program evaluation, yet still permitted the state to perform evaluations on programs conducted by the Division of Mental Hygiene/Mental Retardation.

Mr. Del Frost, Administrator, Rehabilitation Division, Department of Human Resources, stated that the amendment does address a concern of the Division with the bill. He further said that he was uncertain as to whether or not it would stand up under a test by the federal government. He asked the committee to take into consideration the fact that the bill does not include the requirement for informed consent. He stated a letter would be received from Dr. Donald Molde (Exhibit "E") addressing this problem. Dr. Molde is President of the Washoe County Medical Society and a practicing psychiatrist in Reno. He said that the Rehabilitation Division works with other agencies regarding handicapped people and shares its files with other appropriate agencies; should this legislation pass as amended, they would no longer be able to share the files. Mr. Frost stated that he believed this would impede the Division's ability to work with those programs. Mr. Frost submitted Exhibit "F" to the committee which is a letter received from the Social Security Administration. He stated they could not take a position on proposed legislation but strongly indicated action they would take after the bill is passed. He further stated that the Division has an instrument used to evaluate a case file; if an individual reviewing the files is not trained in the use of the instrument, the case files would not be decipherable. He stated that it was his belief that there should not be any more people than absolutely necessary reviewing this private information.

Senator Kosinski stated that the federal regulations as to confidentiality of records provide two exceptions; one is for research, the other is for purposes of administration. He stated that a program evaluation would be for purposes of administration. Senator Kosinski questioned Mr. Frost as to the number of times the files in the Division of Mental Hygiene/Mental Retardation have been reviewed in violation of the law.

Mr. Frost stated his agreement with Senator Kosinski as to the need for review but stressed the necessity of informed consent on an individual basis.

Senator Kosinski submitted Exhibit "G" to the committee as to the statement by the Legislative Counsel Bureau regarding the Joint Commission on the Accreditation of Hospitals (JCAH). The memo states that without full access to patient records, the JCAH will not conduct any reviews of the state thereby resulting in a possible loss of funds.

Senator Kosinski stated that the existing law has been breached repeatedly by the Division of Mental Hygiene/Mental Retardation. He said that this legislation would be a compromise with a strict policy relating to client confidentiality and governmental evaluation of programs. Mr. Frost reiterated the need to protect the privacy of the people involved.

Senator Kosinski stated that Dr. DiSibio, Director, Department of Human Resources and Dr. Oberle, Acting Administrator, Division of Mental Hygiene/Mental Retardation, have indicated that they are in accord with the legislation as amended by Exhibit "D,"

Chairman Ashworth closed the hearing on S.B. 24.

S.B. 227 (Exhibit "H")

Senator Kosinski moved to "Do Pass"
S.B. 227.

Seconded by Senator Young.

Motion carried.

Yeas -- 4

Nays -- None

Absent -- Senators Neal and Faiss

S.B. 24 (Exhibit "I")

Senator Kosinski moved to "Amend" and
"Do Pass" S.B. 24.

Seconded by Senator Young.

Motion carried.

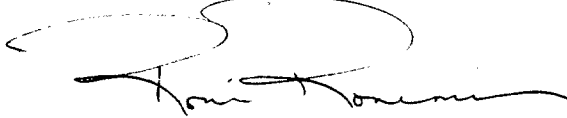
Yeas -- 4

Nays -- Senator Blakemore

Absent -- Senator Faiss

There being no further business, Chairman Ashworth adjourned the meeting at 10:57 am.

Respectfully submitted,



Roni Ronemus
Committee Secretary

Approved:



Chairman
Senator Keith Ashworth

SENATE BILL NO. 184—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

FEBRUARY 5, 1979

Referred to Committee on Human Resources and Facilities

SUMMARY—Clarifies respective powers and duties of health division of department of human resources and state department of conservation and natural resources with respect to control of sewage disposal. (BDR 40-224)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public health; clarifying the authority of the state board of health to adopt regulations for the control of sewage disposal; revising provisions on the respective duties of the health division of the department of human resources and the state department of conservation and natural resources in certifying approval of subdivision and condominium maps; providing for cooperation in preparing regulations governing the granting of such approval; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 439.200 is hereby amended to read as follows:
2 439.200 1. The state board of health may by affirmative vote of a
3 majority of its members adopt, amend and enforce reasonable regulations
4 consistent with law:
5 (a) To define and control dangerous communicable diseases.
6 (b) To prevent and control nuisances.
7 (c) To regulate sanitation and sanitary practices in the interests of
8 the public health.
9 (d) To provide for the sanitary protection of water and food sup-
10 plies [.] *and the control of sewage disposal, but the regulations govern-*
11 *ing sewage disposal must not conflict with the provisions of the Nevada*
12 *Water Pollution Control Law or regulations adopted thereunder.*
13 (e) To govern and define the powers and duties of local boards of
14 health and health officers, except with respect to the provisions of NRS
15 444.440 to 444.620, inclusive, and NRS 445.080 to 445.710, inclusive.
16 (f) To protect and promote the public health generally.
17 (g) To carry out all other purposes of this chapter.
18 2. Such regulations have the effect of law and supersede all local
19 ordinances and regulations inconsistent therewith, except those local

1 ordinances and regulations which are more stringent than the state
2 regulations provided for in this section.

3 3. A copy of every regulation adopted by the state board of health
4 and every regulation of a county, district or city board of health approved
5 by [such board pursuant to NRS 439.350 and 439.460,] the state board
6 of health, showing the date that any such regulations take effect, [shall]
7 must be filed with the secretary of state, and copies of such regulations
8 [shall] must be published immediately after adoption and issued in
9 pamphlet form for distribution to local health officers and the citizens
10 of the state.

11 SEC. 2. Chapter 117 of NRS is hereby amended by adding thereto
12 a new section which shall read as follows:

13 *The state environmental commission, the state board of health and*
14 *the state engineer shall cooperate insofar as possible in preparing for*
15 *adoption their respective regulations necessary to establish the require-*
16 *ments and procedures for obtaining the certifications by their agencies*
17 *required by NRS 117.027 for a condominium map or plan.*

18 SEC. 3. NRS 117.027 is hereby amended to read as follows:

19 117.027 At the time any condominium map or plan is presented to
20 the county recorder for recording the following certificates [shall] must
21 be presented to be recorded immediately [prior to] before the map or
22 plan:

23 1. A subdivision report from a reputable title company showing the
24 names of the parties who may be required to sign the map or plan and
25 guaranteeing that the names of the parties contained therein are the only
26 parties who are required to sign the map or plan.

27 2. A certificate from a reputable title company showing that there
28 are no liens against the condominium or any part thereof for delinquent
29 state, county, municipal, federal or local taxes or assessments collected
30 as taxes or special assessments.

31 3. A certificate from:

32 (a) The health division of the department of human resources, or
33 the local agency acting pursuant to NRS 278.335, showing that the map
34 or plan is approved concerning [sewage disposal, water pollution,]
35 water quality, [and] water supply facilities [.] and, where applicable,
36 individual systems for sewage disposal.

37 (b) The division of water resources of the state department of con-
38 servation and natural resources, showing that the [final] map or plan
39 is approved concerning water quantity.

40 (c) *The division of environmental protection of the state department*
41 *of conservation and natural resources showing that the map or plan is*
42 *approved concerning water pollution and community or public sewage*
43 *disposal.*

44 4. A copy of the certificate from the division of water resources
45 required by subsection 3 [shall] must be furnished to the condominium
46 subdivider who in turn shall provide a copy of such certificate to each
47 purchaser of a condominium unit [prior to] before the time the sale is
48 completed. [No] A statement of approval as required in subsection 3
49 is not a warranty or representation in favor of any person as to the
50 safety or quantity of such water.

1 SEC. 4. Chapter 278 of NRS is hereby amended by adding thereto
2 a new section which shall read as follows:

3 *The state environmental commission, the state board of health and*
4 *the state engineer shall cooperate insofar as possible in preparing for*
5 *adoption their respective regulations necessary to establish the require-*
6 *ments and procedures for obtaining the certifications required by NRS*
7 *278.377 for a final map.*

8 SEC. 5. NRS 278.010 is hereby amended to read as follows:

9 278.010 For the purpose of NRS 278.010 to 278.630, inclu-
10 sive [:], and section 4 of this act:

11 1. "Building code" means ordinances, plans, regulations, or rulings
12 adopted by the governing body for the purpose of regulating and specify-
13 ing the soundness of construction of structures.

14 2. "Cities and counties" means all counties and cities located in
15 counties. Carson City is considered as a county.

16 3. "Commission" means the planning commission of the city, the
17 county or the region, as established by ordinance.

18 4. "County surveyor" means a person appointed as such or a person
19 designated by a board of county commissioners or the board of super-
20 visors of Carson City to perform the duties of a county surveyor under
21 this chapter.

22 5. "Final map" means a map prepared in accordance with the pro-
23 visions of NRS 278.010 to 278.630, inclusive, and section 4 of this act,
24 and those of any applicable local ordinance, which is designed to be
25 placed on record in the office of the county recorder of the county in
26 which any part of the subdivision is located or the recorder of Carson
27 City.

28 6. "Forty nominal acres" means an area of land not less than 1/16
29 of a section as described by a government land office survey or 40 acres
30 calculated by another actual survey.

31 7. "Governing body" means the city council or other legislative
32 body of the city or the board of county commissioners or, in the case
33 of Carson City, the board of supervisors.

34 8. "Improvement" means such street work and utilities to be
35 installed on land dedicated or to be dedicated for streets and easements
36 as are necessary for general use of property owners in the subdivision
37 and local neighborhood traffic and drainage needs.

38 9. "Local ordinance" means an ordinance enacted by the governing
39 body of any city or county, under the powers granted in NRS 278.010
40 to 278.630, inclusive, and section 4 of this act, and within the limita-
41 tions therein set forth, regulating the design and improvement of land
42 subdivisions. A certified copy of the ordinance and amendments thereto
43 [shall] must be recorded in the office of the county recorder or the
44 recorder of Carson City.

45 10. "Parcel map" means a map as provided in NRS 278.461, 278.-
46 462 and 278.464 to 278.467, inclusive.

47 11. "Right-of-way" includes all public and private rights-of-way
48 and shall include all areas required for public use in accordance with
49 any master plan or parts thereof.

1 12. "Streets" includes streets, avenues, boulevards, roads, lanes,
2 alleys, viaducts, public easements and rights-of-way, and other ways.

3 13. "Subdivider" means a person, firm, corporation, partnership or
4 association who causes land to be divided into a subdivision for himself
5 or for others.

6 14. "Subdivision" is defined in NRS 278.320.

7 15. "Tentative map" means a map made for the purpose of showing
8 the design of a proposed subdivision and the existing conditions in and
9 around it.

10 SEC. 6. NRS 278.335 is hereby amended to read as follows:

11 278.335 1. A copy of the tentative map [shall] *must* be forwarded
12 by the local government to [the division of water resources of] the
13 state department of conservation and natural resources and the health
14 division of the department of human resources, or the local representa-
15 tive acting for the health division, for review.

16 2. The authority of the health division to review and certify pro-
17 posed subdivisions and conduct construction or installation inspections
18 [shall] *must* be exercised by the district board of health or, where there
19 is no district board of health, then by the incorporated city within whose
20 limits, or the county in whose unincorporated area, the subdivision is to
21 be situated if:

22 (a) The district board of health or the city or county requests such
23 authority of the health division; and

24 (b) The health division determines that the district board of health
25 or the city or county is adequately staffed to conduct the subdivision
26 review and inspections.

27 3. A district board of health or a city or county which conducts
28 reviews and inspections under this section shall certify to the health
29 division within 10 days after filing its recommendations concerning the
30 tentative map and after approving the final map that the subdivision
31 meets all the requirements of the law concerning [sewage disposal,
32 water pollution,] water quality, [and] water supply facilities [.] *and,*
33 *where applicable, individual systems for sewage disposal.*

34 4. The state is not chargeable with any expense incurred by a district
35 board of health or a city or county acting pursuant to this section.

36 5. Each reviewing agency shall within 15 days from the receipt of
37 the tentative map file its written comments with the planning commission
38 or the governing body recommending approval, conditional approval or
39 disapproval and stating the reasons therefor.

40 SEC. 7. NRS 278.349 is hereby amended to read as follows:

41 278.349 1. Except as provided in subsection 2, the governing body
42 shall, by a majority vote of the members present, approve, conditionally
43 approve, or disapprove a tentative map filed with it pursuant to NRS
44 278.330 within 30 days after receipt of the planning commission's
45 recommendations.

46 2. If there is no planning commission, the governing body shall
47 approve, conditionally approve or disapprove a tentative map within 45
48 days after the map is filed with the governing body.

49 3. The governing body shall consider:

1 (a) Environmental *and health* laws and regulations concerning water
2 and air pollution, [and] solid waste disposal, [;

3 (b) Health laws and regulations concerning] water supply [and]
4 *facilities, community or public sewage disposal* and, [the availability]
5 *where applicable, individual systems for sewage disposal*;

6 (b) *Availability* of water which meets applicable health standards and
7 is sufficient for the reasonably foreseeable needs of the subdivision;

8 (c) Availability and accessibility of utilities;

9 (d) Availability and accessibility of public services such as schools,
10 police and fire protection, transportation, recreation and parks;

11 (e) General conformity with the zoning ordinances and master plan,
12 except that if any existing zoning ordinance is inconsistent with the
13 master plan, the zoning ordinance takes precedence;

14 (f) General conformity with the governing body's master plan of
15 streets and highways;

16 (g) Effect of the proposed subdivision on existing public streets and
17 the need for new streets or highways to serve the subdivision;

18 (h) Physical land characteristics such as flood plain, slope, soil; and

19 (i) Recommendations and comments of those entities reviewing the
20 tentative map pursuant to NRS 278.330 and 278.335.

21 4. When the board of trustees of a school district develops a plan
22 for the future construction of one or more schools, it shall notify each
23 city, county or regional planning commission any part of whose territory
24 will be served by a proposed school. The notice [shall] *must* include the
25 grades to be taught, the number of pupils to be accommodated, and the
26 area to be served. The board shall notify each commission of any change
27 in or abandonment of its plan.

28 5. The governing body shall not approve a tentative map if the
29 taxes are delinquent on any of the land to be subdivided. The subdivider
30 shall prove that no tax is delinquent by submitting to the governing body
31 a certificate of the county treasurer to this effect.

32 6. Final disposition of the tentative map [shall] *must* be by a vote
33 of the majority of the governing body and any disapproval or conditional
34 approval [shall] *must* include a statement of the reason for such action.

35 SEC. 8. NRS 278.377 is hereby amended to read as follows:

36 278.377 1. A final map presented for filing [shall] *must* include a
37 certificate by:

38 (a) The health division of the department of human resources, or the
39 local agency acting pursuant to NRS 278.335, indicating that the final
40 map is approved concerning [sewage disposal, water pollution,] water
41 quality, [and] water supply facilities [.] *and, where applicable,*
42 *individual systems for sewage disposal.*

43 (b) The division of water resources of the state department of con-
44 servation and natural resources, showing that the final map is approved
45 concerning water quantity.

46 (c) *The division of environmental protection of the state department*
47 *of conservation and natural resources showing that the final map is*
48 *approved concerning water pollution and community or public sewage*
49 *disposal.*

50 2. A copy of the certificate by the [division of water resources

1 required by subsection 1 shall] *state department of conservation and*
2 *natural resources concerning water quantity must* be furnished to the
3 subdivider who in turn shall provide a copy of such certificate to each
4 purchaser of land [prior to] *before* the time the sale is completed. Any
5 statement of approval as required in subsection 1 is not a warranty or
6 representation in favor of any person as to the safety or quantity of such
7 water.

SUMMARY--Revises and clarifies respective powers and duties of the State Environmental Commission and State Department of Conservation and Natural Resources with respect to water pollution control.
(BDR)

Fiscal Note: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

AN ACT relating to public health and safety; revising provisions on the authority of the State Department of Conservation and Natural Resources; providing for authority of the State Environmental Commission; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS. 445.274 is hereby amended to read as follows:

445.274 1. A [party] person aggrieved may file notice of appeal with the Commission within 10 days after the date of notice of action of the department, except as otherwise provided by Law.

2. Any person aggrieved by:

(a) The issuance, denial, renewal, suspension or revocation of a permit; or

(b) The issuance, modification or rescission of any other order, by the director may appeal to the Commission.

3. The Commission shall affirm, modify or reverse any action taken by the director which is the subject of the appeal.

4. The Commission shall provide by rule for the time and manner in which appeals are to be taken to the Commission.

Section 2. 445.344 is hereby amended to read as follows:

445.344 The department has final authority in the administration of water pollution prevention, abatement and control, except with respect to the provisions of NRS 445.131 to 445.354, inclusive. No other department or agency of the state and no municipal corporation, county or other political subdivision having jurisdiction over water pollution prevention, abatement and control may permit, under authority of such jurisdiction, the discharge of wastes into the waters of the state which would result in the pollution of any such waters in excess of any water quality standard promulgated by the commission, except with respect to the provisions of NRS 445.131 to 445.354, inclusive.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



ARTHUR J. PALMER, Director
(702) 885-5627

EXHIBIT "C"

LEGISLATIVE COMMISSION (702) 885-5627

DONALD R. MELLO, Assemblyman, Chairman
Arthur J. Palmer, Director, Secretary

INTERIM FINANCE COMMITTEE (702) 885-5640

FLOYD R. LAMB, Senator, Chairman
Ronald W. Sparks, Senate Fiscal Analyst
William A. Bible, Assembly Fiscal Analyst

FRANK W. DAYKIN, Legislative Counsel (702) 885-5627
JOHN R. CROSSLEY, Legislative Auditor (702) 885-5620
ANDREW P. GROSE, Research Director (702) 885-5637

February 22, 1979

Senator Keith Ashworth, Chairman
Human Resources and Facilities
Legislative Building - Room 323
Carson City, Nevada 89710

Dear Senator Ashworth:

SB 237 is currently before your committee. Section 1(2) provides for the creation of a special revenue fund and for the deposit of money thereto. It is our feeling that the fund should be entitled, in law, and that the language providing for deposit of money should be clarified. In accordance with the above, we would like to suggest that lines 4 and 5 of page 2 of this bill be amended as follows:

"2. The money collected pursuant to this section must be deposited in the state treasury for credit to the uranium regulatory fund which is hereby created as a special revenue fund [which is hereby created]. The money received"

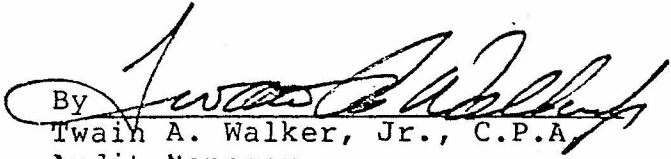
In addition to the above change we would recommend that the references to the fund at lines 6 and 7, and at line 10 of page 2 be changed by deleting "deposited into the fund" and inserting "used". This is necessary as money received will be deposited in the State Treasury rather than into the fund.

We are available to discuss this with you.

Sincerely yours,

JOHN R. CROSSLEY, C.P.A.
LEGISLATIVE AUDITOR

By


Twain A. Walker, Jr., C.P.A.
Audit Manager

JRC:TAW:hjr

AMENDMENT #12:

Amend section 1, page 1, line 13, after "A" by inserting "professionally".

Amend section 1, page 1, by deleting lines 16 through 19 and inserting:

"(b) A professionally qualified person appointed by the director of the department to evaluate the performance of the division.

(c) A professionally qualified person, approved by the director, appointed by a committee of the legislature, the legislative commission or a subcommittee of the legislative commission to evaluate the performance of the division. The director shall not authorize the release of records to such persons unless he is satisfied as to their professional competency to perform the program evaluation."

Amend section 1, page 1, line 20, by deleting "(a) and (b)" and inserting "(a), (b) and (c)".

Amend section 1, page 1, line 22, by inserting after "manner" the following:

"The records shall not be released to such persons until the director has received satisfactory assurances that the information will only be used to evaluate the quality of the programs and the administration of those programs, and that individual clients will not be identified in any report without the written consent of such clients."

Amend section 2, page 2, by deleting line 8.

Donald A. Molde, M.D.
Philip E. Carey, MSW
100 W. GROVE ST., SUITE 250
RENO, NEVADA 89509
TELEPHONE 786-2865

February 27, 1979

Senator Keith Ashworth
Chairman, Committee on Human Resources
Nevada State Legislature
Carson City, Nevada

Re: Senate Bill 24

Dear Senator Ashworth:

This letter is to provide some comments about Senate Bill 24 which I had intended to make on this date when the hearing for the bill was scheduled.

I am very impressed with the intent of the bill which is, as I interpret it, to produce information about program quality and to bypass balky administrators who have precluded program investigation by anyone in the past.

I am also enthusiastic about the concept of reviewing clinical records on a retrospective basis to make determinations regarding quality of care which is delivered to the client. This concept is currently in effect in all acute hospitals settings across the country. These studies, which are called Medical Care Evaluation Studies, are very productive of useful information and the technology for doing these studies has become quite sophisticated in recent times.

As the bill was originally printed there appeared to be two deficiencies, from my standpoint:

1. The issue of prior consent by the client to allow his records to be used for these purposes is not addressed in the bill. I believe this to be essential and is, in fact, a standard across the country for all other types of patients or clients. I believe the way to provide for this consent would be to have, as a condition of participation in the program, a signed statement by the client at the beginning which would provide his consent to allow his record to be used for purposes of peer review and determination of quality of care delivered. This concept and procedure is now used with Medicare and Medicaid, and for that matter, with all private insurance companies. When one receives benefits from Medicare or Medicaid, or when one submits a

claim to an insurance company one must also authorize them to allow the medical records to be examined, if necessary, to be sure that the program benefits are met and that the care delivered was done at reasonable cost and was of good quality. Parenthetically, I have never found the question of obtaining consent in this respect to be a problem.

2. The confidentiality provisions seem to apply only to clients as the bill is presently written. I would point out that health care providers and institutions should also have the same confidentiality. According to federal regulations for Medicare and Medicaid, health care information cannot be provided for any public use by agencies which gather that information unless all identifiers as related to patient, health care provider, and institution are removed. This is clearly a problem in rural areas where if public information has reference to a particular health care provider by type or to a particular facility, and where there may be one of each in the community, the identity of the provider or the facility is quickly known by everyone. I believe that serious problems could arise if information was made public to the Legislature which did identify providers and institutions, particularly if the information was of a critical nature and particularly if the health care provider or institution had not had the proper hearings and appeal rights and all of the other legal steps which are provided for in federal legislation.

The irony of this entire matter, of course, is that when the Division of Mental Hygiene and Mental Retardation revised the statutes regarding mental health in 1975, they made provision in the law to allow the client direct access to his records. As a result of the passage of this law, the quality of record keeping within the Division of Mental Hygiene and Mental Retardation diminished substantially. I am in a position as a consultant for another State agency to review records which originate within the Division of Mental Hygiene and Mental Retardation. I can tell you that the quality of these records is generally very poor, and the only thing that a Legislative audit would determine by looking at client records would be that the quality of the records is so poor that little else could be learned from them.

I should mention in closing that my perspective on these matters comes from two points of view. I am presently the President of the Washoe County Medical Society. I am also the Medical Director for the Nevada Professional Standards Review Organization. Both of these organizations are highly concerned with peer review and with quality and utilization of care which is received by patients in the general community. I am quite sensitive to the matters related to confidentiality of health care information, not only from the standpoint of clients or patients, but also from the standpoint of health care providers and institutions.

Page 3
Senator Keith Ashworth
Re: Senate Bill 24

EXHIBIT E

If there is any further interest in these matters, and if I might be helpful in supplying more information or additional details, please feel free to contact me.

Sincerely,

Donald A. Molde, M.D.

Donald A. Molde, M.D.

DAM/jh

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGIONAL OFFICE

100 VAN NESS AVENUE

SAN FRANCISCO, CALIFORNIA 94102

SOCIAL SECURITY
ADMINISTRATION

FEB 12 1979

RECEIVED
Rehabilitation Division

FEB 16 1979

Kinkead Bldg.
Carson City, Nevada 89710

Delbert E. Frost, Administrator
State Rehabilitation Division
Department of Human Resources
Kinkead Building, Room 403
505 East King Street
Capitol Complex
Carson City, Nevada 89701

Dear Mr. Frost:

This is in response to inquiries regarding Nevada Senate Bill No. 24 and its potential effects upon DDS records provided to Vocational Rehabilitation. However, this does not reflect upon the merits or advisability of the pending legislation.

Federal guidelines provide that whenever personally identifiable information is disclosed to another agency or organization, the recipient of such information must be informed of the confidentiality of the records and cautioned that the data are not to be redisclosed. An SSA-1994 (1-77) form must be attached as a cover sheet to all medical and other information released under the "routine use" provisions of the Privacy Act or released pursuant to the Freedom of Information Act but without the individual's consent. Records released to VR fall within these provisions of the Privacy Act and the FOIA.

Redisclosure of SSA evidence from VR records is prohibited by law (42 USC 1306(a) and Section 1106 of the Social Security Act). Redisclosure by VR is permitted only if they have the consent of the client or SSA. Requests to VR for redisclosure of such information

where there is no consent are to be referred to the DDS for appropriate action. The requestor should be advised of the inability to release and of the referral to another component for response.

I hope this responds to your need. If there are any further questions, please do not hesitate to contact me.

Sincerely,

for Gladys C. Vedros
for Thomas P. Hart
Assistant Regional Commissioner
Disability Insurance

cc: DOS

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



ARTHUR J. PALMER, *Director*
(702) 885-5627

EXHIBIT "G"
LEGISLATIVE COMMISSION (702) 885-5627
DONALD R. MELLO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*
INTERIM FINANCE COMMITTEE (702) 885-564
FLOYD R. LAMB, *Senator, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

February 9, 1979

M E M O R A N D U M

TO: Senator James N. Kosinski
FROM: Andrew P. Grose, *Research Director*
SUBJECT: Confidentiality of Hospital Records and Accreditation

Dr. Douglas Duncan is head of medical records review for the Joint Commission on the Accreditation of Hospitals. Dr. Duncan says that JCAH must have complete access to patient medical records or they will not even go into a hospital. It is impossible to evaluate the quality of hospital care without total access to the records according to Dr. Duncan.

In review of surgery, the JCAH does not try to evaluate the necessity for each surgery but it does look at the hospital's procedure for reviewing the necessity of surgery and it cannot do this unless it reviews individual records to see how the process of review works. They do not write reports on accreditation based on particular records. Instead, they look at aggregate data but that aggregate data must come from a review of individual records.

If a state law prevents full access to patient records, JCAH will not even go into this state. This is the current status with Wisconsin which, according to Dr. Duncan, passed a last minute bill in their last session that prevents access to records without individual releases. This has prevented any JCAH reviews in the state and also Medicare reviews. There is danger of loss of Medicare funds as a result. The hospitals are now having all patients, at time of admission, sign records release forms. Dr. Duncan also understands the law will be changed this session.

Page 2

On the other side of the coin, JCAH is very concerned that proper confidentiality safeguards are in effect when they review a hospital. One of their items is the training of medical records personnel on confidentiality.

Without access to patient records, there can be a problem with internal controls in hospitals. For instance, the Wisconsin law is so stringent that other doctors charged with reviewing surgical procedures of their colleagues cannot do so. This would cripple any attempts at risk management. It would also seriously impede clinical research work at university hospitals.

These views are those of Dr. Duncan and he has a bias on the subject but when he says that JCAH will not go into a hospital unless they have complete records access, that seems like a fact. JCAH is a voluntary organization and no one can make them do anything, so the threat seems real.

APG/jld

(iv) Services to members of a handicapped individual's family;

(v) Placement; and

(iv) Most-employment services necessary to assist handicapped individuals to maintain suitable employment;

(2) The State plan shall provide that the State agency will give full consideration to any similar benefit available under any other program to a handicapped individual to meet, in whole or in part, the cost of physical and mental restoration services and maintenance provided to such a handicapped individual except where such consideration would significantly delay the provision of such services to an individual;

(3) The State plan shall provide that when, and to the extent that, an individual is eligible for such similar benefits, such benefits will be utilized insofar as they are adequate, and do not interfere with achieving the rehabilitation objective of the individual.

(4) The State plan shall further provide that the State agency will give full consideration to any similar benefits available to a handicapped individual being provided an extended evaluation of rehabilitation potential under § 1361.36 in a manner consistent with paragraphs (b) (1) through (b) (3) of this section.

§ 1361.46 Administrative review of agency action, and fair hearing.

(a) The State plan shall provide that an applicant for or recipient of vocational rehabilitation services under the State plan who is dissatisfied with any action with regard to the furnishing or denial of such services may file a request for an administrative review and re-determination of that action to be made by a member or members of the supervisory staff of the State agency. The State plan shall further provide that when the individual is dissatisfied with the finding of this administrative review, he shall be granted an opportunity for a hearing before the State administrator or his designee.

(b) Each applicant for or recipient of vocational rehabilitation services shall be informed of the opportunity available to him under paragraph (a) of this section.

§ 1361.47 Confidential information.

(a) The State plan shall provide that the State agency will adopt and implement such regulations as are necessary to assure that:

(1) All information as to personal facts given or made available to the State agency, its representatives, or its employees, in the course of the administration of the vocational rehabilitation program, including lists of names and addresses and records of agency evaluation, shall be held to be confidential;

(2) The use of such information and records shall be limited to purposes directly connected with the administration of the vocational rehabilitation program;

(3) Information shall not be disclosed directly or indirectly, other than in the administration of the vocational re-

habilitation program, unless the informed consent of the client has been obtained in writing;

(4) Release of information to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided and that it will not be released to any other individual, agency, or organization;

(5) Upon written request, information may be released to the client or, as appropriate, his parent, guardian, or other representative, and shall be released to such client, parent, guardian, or other representative for purposes in connection with any proceeding or action for benefits or damages, including any proceeding or action against any public agency: *Provided*, (1) That only such information as is relevant to the needs of the client shall be released, and (2) In the case of medical or psychological information, the knowledge of which may be harmful to the client, such information will be released to the parent, guardian, or other representative of the client by the State agency, or to the client by a physician or by a licensed or certified psychologist; and

(6) Information will be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State vocational rehabilitation program and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the State agency without written consent of such person and the State agency.

(b) The State plan shall further provide that all information is the property of the State agency;

(c) The State plan shall further provide that the State agency will adopt and maintain such procedures and standards as are necessary to:

(1) Give effect to these regulations; and

(2) Assure that all vocational rehabilitation applicants, clients, providers of services, and interested persons will be informed as to the confidentiality of vocational rehabilitation information and the conditions for the release of such information.

§ 1361.48 Scope of agency program: Management services and supervision for small business enterprises for the most severely handicapped individuals.

(a) The State plan may provide for management services and supervision provided to small business enterprises (including vending facilities) operated by the most severely handicapped individuals, and may also provide for estab-

lishing such small business enterprises. If the State plan so provides, it shall further provide that the State agency shall establish in writing and maintain:

(1) A description of the types of small business enterprises to be established under the program;

(2) A description of the policies governing the acquisition of vending facilities or other equipment and initial stocks (including livestock) and supplies for such businesses;

(3) A description of the policies governing the management and supervision of the program;

(4) A description of how management and supervision will be accomplished either by the State agency, or by some other organization as the nominee of such agency, subject to its control; and

(5) Assurance that only the most severely handicapped individuals will be selected to participate in this supervised program.

(b) If the State agency elects to set aside funds from the proceeds of the operation of such enterprises, the State plan shall also provide that the State agency shall establish in writing and maintain a description of the methods used in setting aside such funds, and the purpose for which such funds are set aside. Such funds may be used only for small business enterprise program purposes and any benefits for operators must be provided on an equitable basis.

§ 1361.49 Scope of agency program: Establishment of rehabilitation facilities.

The State plan may provide for the establishment of public or other non-profit rehabilitation facilities. If the State plan so provides, it shall:

(a) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their establishment and that such establishment will be consistent with State rehabilitation facilities planning and will not duplicate other resources available to rehabilitation facilities;

(b) Provide that the State agency shall establish in writing and maintain standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety and other pertinent conditions and insofar as workshops are concerned, the State agency shall establish in writing and maintain criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. Such standards and criteria shall incorporate, insofar as applicable, any standards and criteria established by the Commissioner, and shall conform with regulations of the Secretary of Labor relating to occupational safety and health standards for rehabilitation facilities, the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards pre-

S. B. 227

 SENATE BILL NO. 227—COMMITTEE ON HUMAN
 RESOURCES AND FACILITIES

FEBRUARY 14, 1979

Referred to Committee on Human Resources and Facilities

SUMMARY—Authorizes municipalities to recover certain costs of industrial sewage treatment and to refuse certain wastes. (BDR 40-474)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

 EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to water pollution control; authorizing municipalities to recover certain costs of sewage treatment and to refuse to receive wastes from entities not complying with a plan for areawide waste treatment management; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 445 of NRS is hereby amended by adding
 2 thereto a new section which shall read as follows:
 3 *Any municipality may, with respect to any sewage collection, treatment*
 4 *or disposal facilities or projects:*
 5 1. *Provide through the establishment and collection of rates, fees*
 6 *and charges for payment to that municipality by the industrial users of*
 7 *the sewage treatment works of that facility or project of the portion of*
 8 *any federal share of the cost of construction of those works allocable to*
 9 *the treatment of industrial waste in accordance with section 204(b)(1)(B)*
 10 *of the Federal Water Pollution Control Act Amendments of 1972 (33*
 11 *U.S.C. § 1284(b)(1)(B)), as amended from time to time.*
 12 2. *Refuse to receive any sewage, liquid waste, solid waste, industrial*
 13 *waste, night soil or any other waste from any other municipality which*
 14 *fails to comply with any provision of an approved plan for areawide*
 15 *waste treatment management prepared pursuant to section 208 of the*
 16 *Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.*
 17 *§ 1288), as amended from time to time.*
 18 SEC. 2. NRS 445.133 is hereby amended to read as follows:
 19 445.133 As used in NRS 445.131 to 445.354, inclusive, and section
 20 1 of this act, unless the context otherwise requires, the terms defined in
 21 NRS 445.134 to 445.196, inclusive, have the meanings ascribed to them
 22 in those sections.

S. B. 24

SENATE BILL NO. 24—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

JANUARY 17, 1979

Referred to Committee on Human Resources and Facilities

SUMMARY.—Broadens access to clinical records
of mental patients. (BDR 39-54)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to mental health; authorizing certain persons to examine the original records of clients to evaluate the performance of the mental hygiene and mental retardation division of the department of human resources; and providing other matters properly relating thereto.

*The People of the State of Nevada; represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 433A.360 is hereby amended to read as follows:
2 433A.360 A clinical record for each client shall be diligently main-
3 tained. The record shall include information pertaining to the client's
4 admission, legal status, treatment and individualized habilitation plan.
5 The clinical record [shall not be] *is not* a public record and no part
6 of it [shall] *may* be released, except:
7 1. The record may be released to physicians, attorneys and social
8 agencies as specifically authorized in writing by the client, his parent,
9 guardian or attorney.
10 2. The record shall be produced in response to a subpoena or released
11 to persons authorized by order of court.
12 3. The record or any part thereof may be disclosed to: [a].
13 (a) A qualified staff member of a division facility or an employee of
14 the division when the administrator deems it necessary for the proper
15 care of the client.
16 (b) A qualified staff member of a division facility appointed by the
17 administrator or a qualified person appointed by a committee of the
18 legislature or the legislative commission to evaluate the performance
19 of the division.
20 *The persons described in paragraphs (a) and (b) shall not identify,*
21 *directly or indirectly, any individual client in any report of such evalua-*
22 *tion, or otherwise disclose the identity of a client in any manner.*

— 2 —

- 1 4. Information from the clinical records may be used for statistical
2 and evaluation purposes if the information is abstracted in such a way
3 as to protect the identity of individual clients.
- 4 5. To the extent necessary for a client to make a claim, or for a claim
5 to be made on behalf of a client for aid, insurance or medical assistance
6 to which he may be entitled, information from the records may be
7 released with the written authorization of the client or his guardian.
- 8 SEC. 2. NRS 449.200 is hereby repealed.

②