

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND  
MINING  
SUBCOMMITTEE**

**Seventy-Third Session  
March 30, 2005**

The Committee on Natural Resources, Agriculture, and Mining Subcommittee was called to order at 3:59 p.m., on Wednesday, March 30, 2005. Chairman Joseph M. Hogan presided in Room 3161 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Mr. Joseph M. Hogan, Chairman  
Mr. John C. Carpenter  
Mr. Mo Denis

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Peggy Pierce, Assembly District No. 3, Clark County

**STAFF MEMBERS PRESENT:**

Amber Joiner, Committee Policy Analyst  
Mary Garcia, Committee Attaché  
Matthew Mowbray, Committee Assistant

**OTHERS PRESENT:**

Leo Drozdoff, Administrator, Division of Environmental Protection,  
Nevada Department of Conservation and Natural Resources  
Doug Zimmerman, Chief, Bureau of Waste Management, Division of  
Environmental Protection, Nevada Department of Conservation and  
Natural Resources

Jason Geddes, Environmental Affairs Manager, Environmental Health and Safety, University of Nevada, Reno  
Joe Johnson, Legislative Advocate, representing the Toiyabe Chapter of the Sierra Club  
Kaitlin Backlund, Political Director, Nevada Conservation League  
Marcy Eastham, Northwest Government Affairs Manager, Hewlett-Packard Company

**Chairman Hogan:**

[Meeting called to order. Roll called.] We'll start by taking testimony from the sponsor of the bill, A.B. 65. We have your amendment. Please proceed to explain how you arrived at such a marvelous resolution.

**Assembly Bill 65: Requires State Environmental Commission to adopt regulations prohibiting disposal of electronic waste in landfills and establishing program for recycling of such waste. (BDR 40-489)**

**Assemblywoman Peggy Pierce, Assembly District No. 3, Clark County:**

The part (of Exhibit B) printed in green is largely what I arrived at in conversations with the Nevada Division of Environmental Protection (NDEP). It describes an up-front fee program on consumer electronics. At least one member of the committee suggested this was a good way to go. Also, this program has just been implemented in California. I think the vast majority of consumer electronics are bought in the big box stores, so at this point, the big box stores in California are implementing this program and getting used to it. It seemed fairly simple to just get them to include Nevada in that.

Jason Geddes had told me there was someone operating in Reno who was not particularly reliable, so we wanted a certification program. I talked to folks in the urban counties about whether it was better to put electronic waste (e-waste) out on the sidewalk with the garbage or to have regular drop-off days. What I heard was that regular drop-off days were the better choice. That is my own personal choice, also. Then we would have a collection system in the rural counties like they have for refrigerators, batteries, and tires.

The next section is about how to set up the fee, the accounts, and that sort of thing. The last part is more about setting up the fee system and about the Department of Taxation adopting regulations, methods of accounting, and such. In speaking to my colleagues from the rural counties, I thought that a better way to go would be to put off the ban in the rural counties until the actual regulations were in place.

[Assemblywoman Pierce, continued.] In the urban counties, Clark and Washoe, the ban on putting electronic waste in landfills will take effect on December 31 of this year. NDEP has told me they will do collection days in both of the urban counties twice a year until their program kicks in, so there will be a way for people in the urban counties to dispose of their e-waste and so the ban can take place. As I said, the ban in the rurals would go into effect on September 30, 2006, which is the date that the regulations will be finished by the State Environmental Commission (SEC).

**Chairman Hogan:**

At our last meeting, I think we were approaching the point of establishing the dates for both the completion of the regulations and the ban on further landfill use for this type of waste. We were wondering whether to identify, in the legislation itself, the matters that should be addressed by the Commission in its regulations, or if we should leave that to them. It appears we have resolved that, with the concurrence of the Department, by deciding to be fairly specific about what we would like to cover. You're saying they will agree as to the specifics that should be spelled out clearly in regulations?

**Assemblywoman Pierce:**

Yes, and it would be terrific if they would come up and speak to this.

**Leo Drozdoff, Administrator, Division of Environmental Protection, Nevada  
Department of Conservation and Natural Resources:**

Working with Assemblywoman Pierce has been great. She clearly had a vision of what she wanted this bill to be. When the bill was first heard, there was a lot of variability in where we were heading. At the time, the Division was neutral largely because of the uncertainties. We worked with Assemblywoman Pierce to get a better sense of what she envisioned, and she did transmit that to us. She told us what kind of program she wanted, modeled after the California program.

We've tried, I think successfully, to tell Ms. Pierce what we think she should consider if she wants to do this. We are still officially neutral on the bill. After looking at this issue for the last couple of years, our underlying concern—not with this bill, but with the issue in general—is that it is extremely complex and costly.

Many of the things in this bill are, if not suggestions from us, certainly answering the questions of how to collect fees and pay. I think it's still going to be a work in progress. We're now tracking other State programs much more closely than we were a month ago. We're making contact with the State of California to see how things are going.

[Leo Drozdoff, continued.] Any direction you can give us, in terms of defining what you envision, would be appreciated. The SEC is going to rely largely on input from NDEP, and the less variability, the better.

**Assemblyman Carpenter:**

Do you see anything in the green language here ([Exhibit B](#)) that's a problem, or do you think most of it is workable? Do you need more latitude?

**Leo Drozdoff:**

In fairness, we're seeing this for the first time here. I would like to look at it a bit more. I think the green language explains Ms. Pierce's vision of how this is going to happen. There will be an up-front fee collected by the Department of Taxation and put into a fund.

NDEP's responsibilities will be largely a regulatory program for licensing recyclers. That will take some work on our end to see if there are any other programs across the country that we can model. Doug [Zimmerman] and I were just talking about how we would pull this off—whether we would get a contractor who would visit all of these drop-off points and then contract with a licensed recycler if a market emerges here.

At first blush, the items in green certainly make it a lot clearer to us what the vision is. What we're now going to be tasked with is figuring out how we're going to do it. The other point I need to make is that we're not the only game in town. Washoe and Clark Counties already have their own programs that we're going to have to work in consultation with.

**Assemblyman Carpenter:**

Assemblywoman Pierce has put a lot of thought into this. It seems to me that it ought to work. This is a new area, and a lot of work will have to be done on how much a person will have to pay when buying a computer or whatever and what it's going to cost to run this program.

You people should have the expertise to at least get us started on the right track. Maybe we need to put some kind of language in here so that, if something in here absolutely will not work, or you need something else in, the SEC has the latitude to make changes or additions. We want to get the best program we can.

Because of the situation in Nevada with the rurals, it's probably going to be a lot easier to implement this program in Clark and Washoe Counties. We're going to need to have a lot of drop-offs. Let me ask you this: Do you think the

program for the tires, batteries, and motor oil is working well or not at all in the rurals?

**Leo Drozdoff:**

I think that's actually working well. It seems like it's taking hold. We find that we're in an area where people understand that there's some level of personal responsibility. What they really want is to understand what they need to do. It works well as long as it requires reasonable, not arduous, effort.

**Doug Zimmerman, Chief, Bureau of Waste Management, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources:**

There is one issue that concerns us and that we're still trying to understand fully. When batteries and oil are collected at the landfill, the landfill actually gets paid for those materials. That will not be true of the electronic waste, and that is the purpose of collecting the fee up front. There will be a cost to the collection points, but they won't be able to sell the material. The up-front fee will cover that. It should work as well as the battery and oil collections.

**Leo Drozdoff:**

I think the biggest issue right now is that there's going to have to be a market created. There will have to be some place for this material to be taken or recycled. There will have to be a market for us to bring this to a certified recycler. Right now, because there doesn't need to be, there really isn't somebody out there. That and the complexity are the two issues that gnaw at me, but that doesn't necessarily mean they can't be done. Those are just the challenges that await us.

**Assemblyman Carpenter:**

What I would like to see added here is that the SEC investigate the recycling of this electronic waste as a possible tool for economic development in the rural areas. There's already some talk among the people at Great Basin College in Elko that something like this might be an opportunity. I don't know whether it is or isn't, but I think it needs to be looked at. If Ms. Pierce and the rest of the Committee would not object, I would like to have that added to the bill.

**Assemblywoman Pierce:**

I think that's a terrific idea. I don't know how that gets done, but I would like to see that. Legal counsel would have to tell us how that happens, but that would be terrific. Thank you for the suggestion.

**Chairman Hogan:**

It occurs to me that we have, in the page 2 green language ([Exhibit B](#)), a list of things for which the money in the account could be spent. I don't know if we would want to include in that list an investigation of the business opportunities that may be created by the growing amount of this material we will be obtaining.

**Assemblywoman Pierce:**

I recall a conversation I had with Mr. Zimmerman about there being something else in NRS [*Nevada Revised Statutes*] about looking at developing a market. We talked about how that was not really his area of expertise. In order to do what Mr. Carpenter is talking about, there would have to be something else in the bill. There is another part of the State government that would be better able to handle that than NDEP.

**Leo Drozdoff:**

What Assemblywoman Pierce is referring to is that, in our solid waste statutes, there is a statute that requires the Division to attempt to develop markets for recyclable material. That responsibility was given to the Division when the Office of Community Services was eliminated from the Governor's Office. I believe that was in 1993. We actually have a bill, S.B. 396, requesting that responsibility be removed from the Division because it really is outside our area of expertise. I'm not sure which agency would be the appropriate one, but it should be an agency involved with economic development, as opposed to environmental protection. We're certainly not opposed to that concept. In fact, we think it's a great idea. Until there are markets, the lack of them is the major obstacle in the way of recycling taking off.

**Chairman Hogan:**

Does that bill, S.B. 396, nominate or propose any recipient for this function? [Mr. Drozdoff said it did not.]

**Assemblyman Carpenter:**

We could let the Legislative Counsel Bureau look at that. Maybe it properly goes in there. Has your bill been heard yet?

**Leo Drozdoff:**

It hasn't. It was just given a bill number yesterday: S.B. 396.

**Assemblyman Carpenter:**

My only concern is that, whether this function remains with you people or goes to a different arm of government, it does get looked at. That's what I want to see happen.

**Assemblyman Denis:**

As I read the section about electronic waste, it basically refers to televisions and computer monitors. Is that right?

**Assemblywoman Pierce:**

Yes, but it also says "without limitation." I think the State Environmental Commission would have to nail down exactly how to define this and what would be part of this program.

**Assemblyman Denis:**

This wouldn't apply to the actual computer itself, but would only be the display device, except, as you point out, that it says "without limitations."

**Assemblywoman Pierce:**

That's right, but it is without limitations. That is up to the discretion of the State Environmental Commission.

**Assemblyman Denis:**

We hadn't talked about televisions, but there are going to be a lot of TVs out there, too. Are we going to put a fee on those?

**Assemblywoman Pierce:**

That is included under "cathode ray tube device."

**Assemblyman Denis:**

Where are the fees going to be charged—at the local retailer? [Ms. Pierce responded in the affirmative.] Many of the computer devices are actually ordered mail-order, where they may or may not be paying sales tax. How do you handle that?

**Assemblywoman Pierce:**

I hadn't thought of that, but I think that gets into the whole streamlined sales tax debate. I would have to talk to someone else about that.

**Assemblyman Denis:**

I think we would miss a big chunk of equipment coming into the state. We wouldn't get the fee, but yet, when the time came, we'd still have to dispose of it.

**Assemblywoman Pierce:**

I'd have to ask someone about that whole streamlined sales tax, because I think it would be a part of that.

**Assemblyman Denis:**

I think if they sell enough equipment in the state of Nevada they're required to get a sales tax permit, but if they don't, they may not be. That's something we want to look at.

I guess the fees we get up front now would help pay for the e-waste that needs to be disposed of right now, because we obviously have a lot of waste out there that needs to be disposed of now. We would have to come up with some kind of funding at the State level to get this going, right?

**Assemblywoman Pierce:**

I'm not sure because what's out there right now is being warehoused in people's garages. Also, Mr. Zimmerman says they can move ahead with a couple of collection dates right now. They can fit that into their budget.

**Chairman Hogan:**

I've been reading about the incredible number of cell phones that are anticipated to be abandoned in the coming years and even at present. Do they have harmful elements that would mean including them here?

**Assemblywoman Pierce:**

I think that can be included in the definition of electronic waste, but my concern right at the moment is that we start capturing monitors and TVs, and that, as time goes on, if we get really good at it, we can capture cell phones.

I also want to say that, certainly, it would be a wonderful thing if this bill would move ahead, bills all over the country would move ahead, and our Congress would suddenly decide to stop dragging its feet, as it has for about 15 years on this issue, and create a national program. That would really be the best choice.

Certainly, I would be happy to investigate, with Mr. Carpenter, any bills that are out there and figure out if there is a Rural Development Commission or something and try to get a market for e-waste amended into something like that. That would be a terrific thing.

**Jason Geddes, Environmental Affairs Manager, Environmental Health and Safety, University of Nevada, Reno:**

I'm in support of the bill and in support of the bill as amended. I think it's very good, and it gives good direction. I want to address a couple of things that were brought up.

Cell phones are taking care of themselves at the moment. There is enough of a market out there. Currently, you can get at least \$1 per cell phone. There are



several collection points, generally at all the cell phone stores. When we conduct the collections in Washoe County, we do get a good slug of them, but as I mentioned, there is a market, so they pay for themselves. We don't see many going into the landfill.

[Jason Geddes, continued.] Monitors and TVs are the big issue and the big concern. To back up what the Division said, people are just keeping these in their garages. They are storing them. They want to take them someplace; they just don't know where. When we had the two Washoe County collection events, they brought everything out of their garages to us and we took whatever we could.

There are two things I would caution you about. We do need some kind of certification, and I see that is in the bill. We get a lot of solicitations at the university; we have a lot of computers that go to waste. We get a lot of people asking to take them, and we're not sure who to give them to—who is certified and who is not. We do our own background investigations to try to come up with someone reputable, but we would greatly appreciate anything the Division or Commission could do to give us direction in that regard.

Also, in storage, in the containers, these are universal wastes. If the monitors break, they do become hazardous waste. So, in setting up those regulations, the collection and storage does need to be handled and monitored carefully. Otherwise, it could lead to a bigger problem in cleanup issues.

**Assemblyman Carpenter:**

I guess there is a market for a certain amount of this waste. How much extra has to go into a program to make up for what there is not a market for?

**Jason Geddes:**

It's changing often as the market is developing. The first year we did the collection, we were paying \$27 a monitor. The next year we were paying \$0.25 a pound. Last year, we paid \$0.12 a pound, which roughly equated to \$5 to dispose of a computer monitor. We got a good break because there was a Reno business close by, so we had no transportation charges.

It depends. The Dell and Hewlett-Packard take-back programs are both a lot more active than they were a few years back, so we don't see as much of that as we traditionally have. It varies, but it has been about \$5 a monitor. It probably takes about \$0.15 to \$0.18 a pound to break even or to get them to take it back, and then they recover the rest of the difference through recycling and recovery.

[Jason Geddes, continued.] To address one of the things you brought up, Great Basin College is looking into setting up a program to recover, dismantle, do some of the recycling, and work that way. I think they've moved along fairly well on that program.

**Assemblyman Carpenter:**

Where are the recyclers now that are actually doing this?

**Jason Geddes:**

The first year we used one out of Santa Rosa, California, and shipped it over there. The second year we used one out of Los Angeles. We collected it all and shipped it down to Los Angeles. This last year we had three different vendors in the Reno area solicit and put in proposals for taking our waste. We actually have three in Reno right now that I know of, two of which are national firms. One of those is certified by the State of Ohio, and the other is certified by the State of Florida. Since those states had certification programs, we looked at those two for ours.

**Joe Johnson, Legislative Advocate, representing the Toiyabe Chapter of the Sierra Club:**

I would like to address Assemblyman Carpenter's comment about finding additional methods to treat this material and create economic development in the rurals. As I recall, in the original discussion where we shared some participation in the recycling and solid waste management—it has always been a concern of developing markets—I would suggest that the existing grant program that the Division has could well supplement the program out at Great Basin. If the responsibility for market development was transferred to the department of business administration in a separate State agency, this would probably be appropriate. Whether that would happen in S.B. 396 or you would like to see that happen in this bill is a matter of legislative policy. We would like to be recorded in support of this bill, and we would work with the sponsor and other interested parties.

**Kaitlin Backlund, Political Director, Nevada Conservation League:**

We just want to go on record in support of the amendments and in support of the bill.

**Marcy Eastham, Northwest Government Affairs Manager, Hewlett-Packard Company (HP):**

[Submitted [Exhibit C](#) and [Exhibit D](#).] I have extensive experience in study committees in Oregon and Washington on e-waste. Of course, as a California company that has been recycling electronic products for 17 years, we have extensive experience in this matter.

[Marcy Eastham, continued.] You have before you written testimony ([Exhibit D](#)) that I will be reading from in part. I wanted to point out a couple of things. First of all, Hewlett-Packard is very committed to recycling, and, as I said, we have been doing this for 17 years. We have recycled 500 million pounds of product since the inception of our programs. We run two state-of-the-art recycling facilities in the United States and one in Canada. We have a significant number of programs that we utilize to encourage our consumers to return their products. That includes a product hardware recycling program where we will actually send a box and have UPS [United Parcel Service] or FedEx pick up the product at the consumer's home. We recycle all of our supplies. We have a Trade-In Trade-Up program where a consumer can turn in an old HP product and get credit toward a new one. We also have a buy-back program where we will pay fair market value for an old product.

In addition, we had a program with Office Depot last summer where, across the United States, we did a pilot program that was a free drop-off of any electronic product or television, regardless of brand, at any Office Depot location in the United States. It was completely free with no government intervention and at no cost to the consumer. We collected over 10.5 million pounds of electronic products during that seven-week test.

Hewlett-Packard is opposed to this bill as amended. We have several concerns with it. First of all is the advanced fee. We do not believe that consumers want additional taxes or fees when they purchase a product. One of the assumptions that I think is built into this is that it is simply consumers who are going to be responsible for paying this fee. The California model also requires that any government entity or business that purchases a product will have to pay a fee. This is problematic when you are looking at restrictive budgets in city, county, state, and federal governments. If they will not pay those fees, where is that money going to come from?

There is also potential for higher-than-anticipated program costs. For example, the State of California, in their program, has already hired nearly 100 new employees to start up the program. That cost is in the tens of millions of dollars. In addition, they have budgeted \$5.9 million annually just for the collection of the fee. It has nothing to do with the recycling of product, but is simply for fee collection. One thing that is starting to pop up in California is concern that the amount of the fee does not cover the actual cost of the product recycling. If the cost of recycling exceeds the amount of the fee, where is the additional funding going to come from?

[Marcy Eastham, continued.] We have found that retailers have costs for collecting the fee. There is an unfair advantage for distant retailers. Assemblyman Denis brought up the question about mail-order and Internet sales and things of that nature. The commerce clause of the *United States Constitution* prohibits states from requiring the collection of taxes or fees from sellers who have no nexus in the state. In the state of California, the Board of Equalization, which collects the fee, has concluded that the commerce clause applies in their case. Therefore, those companies that are selling product through mail order or over the telephone or by Internet cannot collect that fee.

There is also inequity for manufacturers and no manufacturer responsibility. One of the things we have found in our 17 years of experience recycling product is that it is forcing us to do a better job of designing our products for the environment. We begin the end-of-life design in the design process. We have learned not to use certain types of adhesives, which removes toxins from the environment. We have learned to recycle plastics. We have learned how to glean everything we can out of our products and find better ways to make them so that they are more easily recycled.

Case in point: We had found that, when we made a laptop, sometimes we used a Phillips head screw and sometimes we used a flathead screw in the same product. That meant it took more time to disassemble that product, so just streamlining it to use the same type of screw makes a big difference. It makes it easier and faster to process those things.

We feel that not having a manufacturer-based responsibility doesn't provide any incentives for lowering recycling costs over time or looking for new ways to do things. We prefer a federal solution to this, as has been mentioned before. Senator Ron Wyden of the State of Oregon has introduced legislation that will create a federal solution to e-waste.

We really look forward to participating in future hearings and to providing our expertise and our experience. We invite representatives from NDEP to visit our Roseville, California facility, which is just an hour and a half away, to take a look at our state-of-the-art facility and see what it looks like and how much is involved in that.

**Chairman Hogan:**

We will have to study the written version of that. In the interest of time, I thank you for your testimony and ask if there is anyone else. Does anyone wish to be heard at a subsequent hearing? Seeing none, we will close the hearing on A.B. 65. We are adjourned [at 4:43 p.m.].

RESPECTFULLY SUBMITTED:

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Mary Garcia  
Committee Attaché

APPROVED BY:

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Assemblyman Joseph M. Hogan, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Natural Resources, Agriculture,  
and Mining

**Date:** March 30, 2005

**Time of Meeting:** 3:59 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
AB 65	B	Assemblywoman Peggy Pierce	Proposed amendment
AB 65	C	Marcy Eastham / Hewlett-Packard	2-page flyer
AB 65	D	Marcy Eastham / Hewlett-Packard	Prepared testimony