

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING
SUBCOMMITTEE ON ASSEMBLY BILL 65**

**Seventy-Third Session
April 4, 2005**

The Subcommittee on Natural Resources, Agriculture, and Mining was called to order at 4:33 p.m., on Monday, April 4, 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:

Bryan Gresh, Legislative Advocate, representing Hewlett-Packard Company
Mary Lau, Executive Director, Retail Association of Nevada

Chairman Hogan:

[Meeting called to order. Roll called.] We will open the hearing on A.B. 65.

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)

Bryan Gresh, Legislative Advocate, representing Hewlett-Packard Company:

Our client testified before the Committee when the bill was originally heard. They followed up with a letter to the Chair. I believe the issues raised were the same ones brought before you today.

The cost to operate the program is not yet known, yet it is expected to be up and running by January 2006. The funding mechanism is to be a fee charged when purchasing the items in question, but we don't know yet what the fee is going to be. Usually, the fees set by State departments tasked to operate programs must fall within a range that has already been set up; the departments are not necessarily asked to provide that range. Those were, and remain, the concerns of Hewlett-Packard.

Assemblyman Carpenter:

If I remember from when Hewlett-Packard testified last time, they have their own program going, but it's only going to take care of a small portion of the waste in Nevada. What do we do with the rest? It seems to me we have to have some kind of cooperative program where we allow people like Hewlett-Packard to do their thing, but maybe we also need some other ways to do it in order to handle all this waste. Do they have any ideas of how to do that in other areas where they're really operating?

Bryan Gresh:

I could certainly get you some information that could, perhaps, answer that question for you.

Assemblyman Carpenter:

I'd like to see that, because I got to thinking after they testified that they're doing great things, but I don't think it's a cure for all our ills here in Nevada. I was wondering how other areas where they operate get rid of the rest of it. Maybe they have some ideas. They said they had been doing this for 17 years. I don't think they're taking care of all of this waste, or we wouldn't be here right now.

Mary Lau, Executive Director, Retail Association of Nevada:

We did not testify at the original hearing on the bill. We have since received copies from our national associations that we belong to. We have talked to Assemblywoman Pierce, and we have a letter ([Exhibit B](#)) that was given to her by Consumer Electronic Retailers Coalition (CERC). We are also a member of the National Retail Federation and the Retail Industry Leaders Association.

Ms. Pierce has asked us to get information on what their testimony has been on the federal level, what subcommittees they've worked on, what the various programs are, and to see if we can get CERC to concisely give her more information about what is being done on the federal level. We just talked to her in the halls about 45 minutes ago, so we were not able to get that information for this Subcommittee hearing.

One of the concerns with this bill is the fact that Nevada would be asked to create an electronics recycling program from beginning to end using consumer fees, which is basically a tax on the consumer for purchasing electronic products. More people have been working on that than our electronic waste industry here in Nevada. We do support the idea of a national program, and yes, they have been working on it for years. It has been very difficult for them to get their arms around what to do and how to do it.

Several programs have been brought about by volunteer efforts, as Mr. Carpenter mentioned, coalitions formed between retail industries and such. One of the difficulties is how and to where the waste gets returned.

Part of our concern now is that the amendment places fees directly upon the consumer to be collected at the retail level. That becomes very problematic. I see in a brief reading of this that you are trying to coordinate between the Nevada Division of Environmental Protection (NDEP) and the Department of Taxation how much the retailer will pay and what they will do. I think part of it is going to be so complex that we suggest people will start desert dumping, which is a problem we have had in this state before. The more complex something gets, the more our consumers tend to take a dirt road off to the right.

How are we going to collect this fee from electronic retailers, and what are you going to do? I know that a lot of people in mass quantity purchasing—I'm not sure if the State purchases its computers over the Internet, but this would be a fiscal note on the government entities who have a lot of computer purchases. I don't see a fiscal note on this.

[Mary Lau, continued.] Part of this letter states that point-of-sale and advanced recovery fees have been the most problematic setup for people trying to set up these programs. They have been extremely difficult to administer. Office Depot and Home Depot have had experimental programs. We have reams of paper talking about this very issue, and it's really impossible to know what the needs are going to be to make sure it's adequately funded.

I'm not sure if NDEP testified on the bill and what they had attended at the national level. However, we are willing to get the information for Ms. Pierce and, if the bill is going to proceed further, see what can be done to assist on that level. I have been attending national seminars on this for probably six to seven years now, and they have not come up with a really good solution. They are making headway, and some of the work being done is very impressive. But this bill is starting a process at the beginning, while we are midstream on finding a reputable end.

Chairman Hogan:

Are you suggesting that, if we were to pass this bill and attempt to get the regulations issued by the time specified in the amendment, we would be the first state to reach that stage with a point-of-sale collection and this type of program?

Mary Lau:

No. Actually, several states have tried it, but it has not been successfully done. The consumers end up actually paying more for their products without there being a very successful end result.

Assemblyman Denis:

How long do you think it's going to take to get the information Ms. Pierce requested?

Mary Lau:

We're going to email tonight and see what information we can get tomorrow. Ms. Pierce's question is very detailed as far as how many committees they have testified before, the dates and times, the subjects, and so forth, and I'm not sure how many years back. I'll have to ask her that. We'll just send our enquiry and do our best.

Assemblyman Denis:

Do you have any recommendations on what we could do with this waste? We obviously have to do something with it. We've talked about states that have done some things, but do you have any other recommendations that might help us as we deliberate on this?

Mary Lau:

I feel that, at this point in time, this is premature legislation for us. I can't testify to any other dumps because I don't know. I'm a rural Nevadan myself. What they do is treat it like white goods and set it off to the side. There are a lot of donations going on now with computer products, where they give them to schools and they become training tools. They start educating the technicians on what to do.

I've learned from the seminars I've gone to that a lot of the recycling is people putting e-waste in their attics because they don't know what to do with it. Part of the problem has been that if you take it back, what are you going to do with it? How are they going to handle it? Is it adequately filled?

There was a concern in Ms. Pierce's conversation earlier today about landfills being adequate to take e-waste because they're not lined. I don't know how many aren't lined. Does that mean we have to go back and have our rural landfills redeveloped to set up this program? If so, how much would that cost?

In my opinion, this type of legislation is premature because we would be setting up such a huge program. I think the market itself is starting to solve the industry problems.

Assemblyman Denis:

I do computers for a living. One of the toughest problems we have is trying to find anybody who will take computers. They are so inexpensive now that it's cheaper to buy new ones than to take old ones and try to get them fixed.

I don't know that we can wait much longer. We have all these extra computers sitting around. Since they're so cheap, people are replacing them more often than they used to. It used to be that people would hold onto them for six or seven years, but now they can get a new one every year. With all the viruses, it's easier to get a new one each year than try to deal with it.

Chairman Hogan:

Assemblywoman Pierce, things have been moving rather rapidly over the last few days. I wonder if you could bring us up to date on where you are with your efforts on some of these questions and what the prospects are for getting enough of the answers we need to move the bill.

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

I have been contacted by a number of new entities, and everyone is telling me they support national legislation. They have been supporting national legislation

for probably a decade. It seems fairly easy for these entities to say that, so I have asked all of them to document their support of national legislation—to tell me what bills they supported or didn't support, in front of what committees in Congress they testified, and when they testified—so I can get some kind of feel of whether this support of national legislation is genuine or simply a smoke screen to keep this country from doing anything about this pressing problem.

[Assemblywoman Pierce, continued.] I believe Mr. Denis just asked a question about other states. Speaking of premature, the program in California started on January 1, so it's been in effect for three months. I think it's a little early to declare it a disaster.

The only other thing I wanted to say is that the entities who have come forward have been very careful to express how complicated this all is. All of these entities have somehow managed to get their arms around this problem in Japan because the Japanese government told them they had to get their arms around it. Every one of these entities has gotten their arms around the problem in Europe because the European Union (EU) told them they had to get their arms around it.

Somehow, though, when it comes to the United States and Nevada, it's so complicated we just can't get our arms around it. I would suggest that getting our arms around the e-waste problem is probably not very different in the United States or Nevada than it is in Europe or Japan. Like I said before, without the pressure from national legislatures, we will not get a national program.

Chairman Hogan:

I believe when you testified last week you indicated, with respect to the effective dates of the new regulations and the beginning of collection, that the State Environmental Commission indicated, in spite of the complexities and concerns that had been voiced, they felt they could address those issues in regulations by the deadline. [Ms. Pierce concurred.] And they were presumably aware of some of the possible difficulties in drafting these regulations, but they could see their way through by the deadline, I gather.

Assemblywoman Pierce:

Yes, and they've been looking at the California model, which is new.

Chairman Hogan:

Are there any further questions? The Subcommittee is recessed [at 5:07 p.m., April 4, 2005] until the call of the Chair.

Chairman Hogan:

[Meeting called back to order at 1:06 p.m., April 5, 2005. Roll called.] The Subcommittee has received, from the sponsor of the bill, a copy ([Exhibit D](#)) showing one additional amendment she is suggesting to us. That would be on Section 4, line 14. It has the effect of extending the date by which regulations should be adopted to December 31, 2006, which is 21 months from now. We are due to report our conclusions on this bill back to the full Committee as soon as possible. Is there any discussion on the sponsor's proposed amendment?

Assemblyman Carpenter:

I think that's fine. That gives them time to really look at it and see whether any other types of programs are going to be on board. I would like to comment on page 2 where it says they "shall, to the extent consistent"—I don't like to limit the Environmental Commission to whatever new things might come up. I would like to change the "shall" to "may" to give them leeway to do what they think is best. I think we have in here that they "shall" establish a recycling program and all those things.

We specifically say they have to have a fee program that charges an up-front fee on consumers. After they study it, if they think that's what they need, that's fine. However, I hate to tie their hands so they can't consider all options. I wasn't able to talk to Ms. Pierce about this.

Chairman Hogan:

If I understand, the specific change would be to change the word "shall" to "may" on page 2, line 1. [Mr. Carpenter agreed.]

Assemblyman Denis:

Is that the only place you're saying that you want it changed to "may"? There are other places where it says "shall." In your mind, Mr. Carpenter, you want it to say they "may, to the extent consistent with federal law, adopt regulations that include," so what if they choose not to adopt regulations?

Assemblyman Carpenter:

On the first page, it says they "shall" establish a recycling program. I don't want that to be a "may." I just don't want to tie their hands where it says they have to institute a fee program and things like that.

Assemblyman Denis:

So what you're saying is that they have to do the recycling, but they don't have to charge a fee if they don't want to.

Assemblyman Carpenter:

That's right, and if something else is out there that makes more sense, then they should be free to adopt that rather than have to set up a fee program.

Assemblyman Denis:

If we change this particular "shall" on line 1 (page 2 of [Exhibit C](#)) to "may," that affects not only the fee program, but they also "may" adopt regulations that include a certification program for recycling facilities and a scheduled regular drop-off collection system. They don't have to do any of that either if we change it there.

Assemblyman Carpenter:

I think that is right, but I think that gives them the latitude they need to come up with the best program. Down here where it talks about the Department of Taxation, maybe that works and maybe it doesn't. I want them to get the best program that's available and not restrict them to certain things that they have to do, but I firmly believe they need to come up with a program like it says on the first page (of [Exhibit C](#)). I think we need to talk to the sponsor of the bill. If she absolutely doesn't like my suggestion, then we could have another meeting and change it, but I think that makes more sense.

Assemblyman Denis:

If we choose to vote it out with Ms. Pierce's amendment, we could also just change it in the full Committee.

Chairman Hogan:

Let me make a suggestion. Looking at this same paragraph, if we change that "shall" to "may," then the whole issue of whether they adopt regulations is preceded by a "may." That would seem to introduce the possibility that they wouldn't adopt regulations at all. What if we tried to accomplish what I believe is the purpose in a slightly different way? What if we said, "shall, consistent with federal law, adopt regulations that may include"? That way, those four specifics are now optional.

Assemblyman Carpenter:

That is fine with me.

Assemblyman Denis:

So we're telling them they have to adopt regulations, but we're saying they may include these, but they could include any other ones that aren't on here.

Assemblyman Carpenter:

That's right. That's fine with me. That's better wording. It sounds like a good idea.

Chairman Hogan:

I think that opens it up on both ends. We just move "may" about ten words down and we have it. It just occurred to me that was a clean way to do it.

Assemblyman Denis:

I like that better.

Chairman Hogan:

I would be happy to entertain a motion to recommend the bill as we have it with the change of date recommended by the sponsor and the addition of the word "may" in page 2, line 2, preceding the word "include."

Assemblyman Denis:

That is Section 1, subsection 3.

ASSEMBLYMAN DENIS MOVED TO RETURN ASSEMBLY BILL 65
TO THE ASSEMBLY COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE, AND MINING WITH THE RECOMMENDATION TO
AMEND AND DO PASS, ADDING THE WORD "MAY" ON PAGE 2,
LINE 2, BEFORE THE WORD "INCLUDE."

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Hogan:

Is there anything further for us to discuss at this meeting? Our work has been accomplished, and the meeting is adjourned [at 1:17 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Attaché

APPROVED BY:

Assemblyman Joseph M. Hogan, Chairman

DATE: _____

EXHIBITS

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

Date: April 4, 2005

Time of Meeting: 4:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
AB 65	B	Mary Lau / RAN	Prepared statement from CERC
AB 65	C	Assemblywoman Peggy Pierce	Proposed amendment
AB 65	D	Assemblywoman Peggy Pierce	Proposed amendment