

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

**Seventy-Third Session
May 9, 2005**

The Committee on Natural Resources, Agriculture, and Mining was called to order at 1:35 p.m., on Monday, May 9, 2005. Chairman Jerry D. Claborn 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. Jerry D. Claborn, Chairman
Mr. Kelvin Atkinson, Vice Chairman
Mr. John C. Carpenter
Mr. Mo Denis
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joseph M. Hogan
Mrs. Marilyn Kirkpatrick
Mr. John Marvel
Mrs. Debbie Smith

COMMITTEE MEMBERS ABSENT:

Ms. Genie Ohrenschall (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Mary Garcia, Committee Attaché

OTHERS PRESENT:

Don Henderson, Director, Nevada Department of Agriculture
John O'Brien, Administrator, Plant Industry Division, Nevada Department of Agriculture
Kevin Piper, District Manager, Dayton Valley Conservation District
Kaitlin Backlund, Political Director, Nevada Conservation League
Dan Kaffer, Coordinator, Nevada Resource Conservation Service [NRCS], U.S. Department of Agriculture
Susan Donaldson, Specialist, Water Quality Education, Cooperative Extension, University of Nevada, Reno

Chairman Claborn:

[Meeting called to order. Roll called.] Today, we will hear S.B. 293, and then we will go into a work session. This bill was introduced by the Committee on Natural Resources on behalf of the Legislative Committee on Public Lands.

Senate Bill 293 (2nd Reprint): Authorizes money collected for registration of certain brands of pesticides to be used for eradication and control of noxious weeds. (BDR 51-431)

Don Henderson, Director, Nevada Department of Agriculture:

In the 1990s, the Department embarked upon developing a weed management strategy for the state. We worked with 20 or so State agencies to come up with this strategy. It took about 2 to 3 years to come to a consensus on how to take care of our noxious, invasive weed issues. To do that, it was concluded that we need to work locally and get the resources down to the local level to fight our invasive weed issues. We have been successful.

In 2001, this Body funded a noxious weed coordinator position for the Department. We have been able to access federal funding not only to get monies to the local levels but also, over the past 3 to 4 years, to establish over 28 working groups, called Coordinated Weed Management Areas. These are locally based groups, federal and state agencies, land owners, and volunteers working together to take care of weeds and their issue. We got ourselves into a box.

We have all these volunteer groups around the state that need support. We have funded a weed coordinator position through federal grant monies for the past couple years. The problem is that it is federal grant money, soft money. We have hired good people who have helped these local groups. Unfortunately,

since we have not been able to make this a permanently funded position, when a permanent position comes up, these people leave to go to them. Those are challenges faced by our weed groups.

[Don Henderson, continued.] Originally, when in the Senate, this bill proposed to take \$20 out of a \$60 annual pesticide registration fee, which the Department collects to take care of its regulatory functions under the Pesticide Management Plan [PMP]. Because that \$20 significantly impacted the funding of the existing program, S.B. 293 was amended to allow the Department the ability, when funding allows from that particular account, to use some of that money for the eradication of noxious weeds. If enacted as written, the Department would look at this account to see if there are any excess funds to fund a permanent weed coordinator position. That is our intent.

Chairman Claborn:

Are there going to be any additional fees? I don't see anything in the bill that shows additional fees. Is it the fees that you have already charged for the other eradication or pesticides? Are you going to extract some of that money out of there?

Don Henderson:

That is correct. Currently, the Department of Agriculture charges a \$60 annual registration fee for every pesticide sold in the state of Nevada. That fee funds our pesticide monitoring and testing programs. There are 8,000 pesticide registrations a year. That comes to about \$240,000 annually. There is some money in there. I will disclose to this Committee, as I have to the Governor's Office, this money also funds our environmental compliance section, which is a program funded by the EPA [U.S. Environmental Protection Agency]. They monitor groundwater and surface waters to make sure we don't get a pesticide contamination issue. We run a pesticide disposal program out of there as well.

The problem with this funding is that it is a cost-share program with the EPA. Since 1992, they have flat-funded this program. With increasing operational costs over the past 12 to 13 years and the growth in this state, it is difficult to keep this program in the black. Today, regardless of the passage of this bill, we are looking at that fee to see if it should be increased or decreased and if there is any money to fund a weed coordinator position.

Chairman Claborn:

I know the Governor is being very strict about new taxes or fees. Without that change, there wouldn't be any fiscal note attached.

Don Henderson:

I spoke this morning to Steve Robinson of the Governor's Office, and he indicated, as the bill stands, that the Governor is supportive of it.

Assemblyman Marvel:

If you double the fee, how much would that bring in altogether?

Don Henderson:

If we double the fee, it will go from \$60 to \$120 for registration.

Assemblyman Marvel:

How much would that bring in?

Don Henderson:

It would be about \$480,000 additional, if my math is correct.

Assemblyman Marvel:

Is there some kind of budget for this item on how you spend this money?

Don Henderson:

We do. It is in the Governor's Recommend. What everyone needs to understand is that this function of pesticide testing is a laboratory with equipment. This account builds up a reserve to replace and upgrade equipment as needed. That is figured into The Executive Budget. In terms of budgets for the Department of Agriculture, comparatively, this is one of our flusher accounts.

Assemblyman Marvel:

Do you have a program for combating noxious weeds?

Don Henderson:

We do have a program. The state funding to that program is simply the salary for our state noxious weed coordinator.

Assemblyman Marvel:

But we want you to get out on the ground and do something. This will do that for you, correct? [Mr. Henderson answered in the affirmative.]

Assemblyman Hogan:

Currently, the noxious weed effort is being supported to some extent by federal funds. We see the federal budget cutting back on several important programs. Do we have any information that would tell us that we are going to lose some or all of this funding? How much was this funding?

John O'Brien, Administrator, Plant Industry Division, Nevada Department of Agriculture:

Our current grant from the U.S. Forest Service is approximately \$150,000. It has just been renewed. We don't know what it will be in the future, which is uncertain even within the Forest Service. We have no guarantee any will come through in subsequent years.

Don Henderson:

This is our third year with those funds. We have used that money to fund a noxious weed coordinator position. Anything remaining out of that, we have given as grants to these local weed entities to help fund them.

Assemblyman Goicoechea:

I spoke with Chairman Rhoads and have a friendly amendment to the bill ([Exhibit B](#)). Have you seen that amendment?

John O'Brien:

Yes, we have seen it. We don't have a problem with it. It adds some flexibility to that particular statute.

Assemblyman Goicoechea:

I didn't realize you had already gone to Public Lands and requested this bill.

Don Henderson:

We support this amendment because, as we read it, there is no fiscal impact associated with it. It is purely an operational issue of raising the allowable composition on these weed districts from 3 to 5 persons.

Assemblyman Goicoechea:

Yes, that is correct. They serve at the pleasure of the board of county commissioners. This came on behalf of the Humboldt County Commissioners and the Paradise Valley Weed District. They wanted to expand their board from 3 to 5 members. It gives every weed district in the state that opportunity. This is just enabling legislation. We need to consider the amendment as we consider the bill.

Chairman Claborn:

Other than noxious weeds, how are the whitetops doing? How is that looking? Are they still blocking up our canals? Are we making any headway?

Don Henderson:

Whitetop remains an issue—a challenge—in the state of Nevada because of the magnitude of the issue. We have entities along the Carson and Truckee Rivers

who are attempting to get on top of it. A lot of the tall whitetop in the Truckee Meadows is being addressed through development in the Double Diamond area, which has been a large effort. Whitetop has shown up in the Lake Tahoe Basin. The Cooperative Extension, through Dr. Sue Donaldson, has had a widespread and successful effort to eradicate whitetop in the Tahoe Basin. Tall whitetop is a plant we are going to have to live with for a long time. There is a lot of it.

Chairman Claborn:

Tell us about the Mormon crickets. Are we going to have them again this year?

Don Henderson:

We do have crickets today. Their growth has been delayed by the cool, wet weather that we had this spring. They have hatched and we have, to date, not noticed any appreciable losses due to adverse weather. We are running a very aggressive spray program. We have already sprayed more this year than we did all of last year. We are planning to spray about 400,000 acres in northern Nevada above US-50. We got an early start and Mother Nature was slow. We have completed our spraying in the Winnemucca area and have moved on to Battle Mountain. Shortly after that, we will be moving to Eureka County and Diamond Valley and spraying north of Reno. After that, we will be moving up the I-80 corridor to Elko.

Chairman Claborn:

You have been awfully busy. Does anyone have questions for these witnesses? Thank you, gentlemen. We have others who wish to testify on this bill.

Kevin Piper, District Manager, Dayton Valley Conservation District:

I also work with the Nevada Weed Management Association. You asked about funds in the program. As a cooperative weed management area, we receive some federal dollars. Last year, the grant program gave out \$100,000 to eighteen of the cooperative weed management areas. Those cooperative weed management areas matched that with over \$300,000. Those funds come with volunteer time, or you get other grant funds or partner with other entities. That is how those cooperative areas work. You put together that management area and look to see who can be a player and participate—whether a federal agency, state or local entity, or private landowners. You try to match up funds with others.

The Nevada Weed Management Association would like to see the bill passed from the standpoint of what the cooperative weed management areas are out doing on the ground and the fact that the Department of Agriculture has been very supportive with federal dollars. Now, you have these 28 groups spread

throughout the state that want to stay working. We would like to see this effort made.

Assemblyman Goicoechea:

There is a bill out there that is still alive. It is Assemblyman Hettrick's bill that makes an appropriation. It is now in Ways and Means. It is only \$100,000, but it does help.

Kevin Piper:

It is A.B. 413, and it establishes funding for counties to go after eradication funds to support NRS 555, which is the regulation for going after weeds on the ground. The counties are tied without that ability.

Kaitlin Backlund, Political Director, Nevada Conservation League:

We want to go on record in support of S.B. 293, as well as the proposed amendment. We have followed this bill and commend Don Henderson for his efforts to accommodate the Governor's cap on fees and looking at ways to make this bill happen. Noxious weeds present an enormous threat to the biodiversity that we have in Nevada. This is a tremendous grassroots effort.

**Dan Kaffer, Coordinator, Nevada Resource Conservation Service [NRCS],
U.S. Department of Agriculture [USDA]:**

I also work for a nonprofit group called the Western Nevada Resource Conservation and Development Council. As one of four or five federal agencies that provide funding for weed control in Nevada, we think this is very important. I work with USDA's NRCS, which also provides funds that come out to counties from the BLM [U.S. Bureau of Land Management], the Forest Service, the Bureau of Reclamation, and some from the U.S. Fish and Wildlife Service. There are a lot of federal agencies that are trying to provide funding and support in each of the communities. It is important that the State of Nevada partner with us and have staff to support the counties and cooperative weed management areas needed to control these weeds.

There is a partnership that involves local organizations like the cooperative weed management areas, county governments, state entities such as the Carson Water Subconservancy District, private organizations such as State Weed Council, and federal agencies. Together, with the private landowners, we all work to solve this problem. This is important for eradicating weeds, educating people, having staff for the state of Nevada, and partnering to get these projects done.

Susan Donaldson, Specialist, Water Quality Education, Cooperative Extension, University of Nevada, Reno:

I am also the chair of the Tahoe Basin Weed Coordinating Group. I work with the Truckee Meadows Weed Coordinating Group, the Lower Truckee River Weed Group, the Washoe Valley Weed Group, and the Carson City Weed Group. I echo what everyone thusfar has said. We have a wonderful opportunity. We have a great grassroots effort to address the problem at the local level. That is the only way it is going to work at the local level, on the ground, and with all the landowners. They need support. They use their own personal resources and are looking for grants to support their efforts. The support of the State would make a big difference in helping these groups address the weed problem and keeping their energy going.

The work these people do is amazing. The number of acres of weeds that have been mapped and controlled by these groups is phenomenal; over 3 million acres were mapped last year. From these grassroots efforts, imagine what they can do with a little more support.

Chairman Claborn:

Thank you, Ms. Donaldson, for your testimony. Is there anyone else that would like to speak on S.B. 293? Seeing none, we will close the hearing on S.B. 293. Does the Committee have any discussion on this bill or the amendment?

Assemblyman Goicoechea:

If anyone has any questions on the amendment, I can answer them, if you want me to go around to the table.

Assemblywoman Kirkpatrick:

Who was on the board before, or is this a new thing in Section 2 of the amendment? Can you explain it to me?

Assemblyman Pete Goicoechea, Assembly District No. 35, Eureka, Pershing, White Pine, Humboldt (part), Churchill (part), Lander (part), and Washoe (part):

Presently, there is a three-member board in Paradise Valley. They wanted to expand that board to five members. The statute was explicit with only three members. Now, we changed that to three or five members. They serve without compensation.

Assemblywoman Kirkpatrick:

There is only one board?

Assemblyman Goicoechea:

There are 28 weed districts in Nevada; each has its own board. This would allow any of those 28 districts to expand to five members. Realistically, since it is a volunteer board, they wouldn't have a quorum present; this helps that.

Assemblyman Denis:

In Section 2, line 10, subsection (b)...

Assemblyman Goicoechea:

That is existing statute.

Assemblyman Denis:

Okay, so all the rest of this is existing statute?

Assemblyman Goicoechea:

Yes. The only thing that we put in is "or 5." The rest is all existing statute.

Chairman Claborn:

Any more questions? I will entertain a motion.

ASSEMBLYMAN MARVEL MOVED TO AMEND AND DO PASS
SENATE BILL 293.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Ohrenschall was not present for the vote.)

[BLM submitted a letter of support for S.B. 293, [Exhibit C](#).]

Chairman Claborn:

We will go to our work session and have Amber Joiner go through the work session document ([Exhibit D](#)) for us. The first bill in the work session document is S.B. 16.

Senate Bill 16 (1st Reprint): Makes various changes relating to regulation of petroleum products. (BDR 51-662)

Amber Joiner, Committee Policy Analyst:

Its primary sponsor was the Senate Committee on Natural Resources on behalf of Nevada's Division of Environmental Protection. It was heard on May 2, 2005. This bill allows Nevada's Division of Environmental Protection (NDEP) to spend up to \$250,000 per year from the Fund for Cleaning Up Discharges of Petroleum to pay costs incurred by the Division for cleaning up discharges that involved petroleum from storage or mobile tanks. The measure further provides that money from the Fund must be used to augment, not replace, other sources of revenue and requires that the Division be reimbursed for a portion of the cleanup costs. Finally, the bill deletes a requirement that Nevada's Board of the Regulation of Liquefied Petroleum Gas notify licensees and applicants before adopting safety regulations.

During testimony, supporters of S.B. 16 testified that in the past, NDEP has had to rely on others to prioritize cleanup efforts. This measure allows the Division to more quickly clean up large or environmentally sensitive areas without waiting for the responsible parties to apply for cleanup grants. After the cleanup, the Division can then request appropriate reimbursement from the responsible parties. Representatives from the Nevada Board of the Regulation of Liquefied Petroleum Gas, the Nevada Conservation League, NDEP, the Nevada Motor Transport Association, and the Nevada Propane Dealers Association testified in favor of the bill.

There was no testimony in opposition, no proposed amendments, and there is no fiscal impact to either the local or state level. Additionally, this did pass unanimously in the Senate.

Chairman Claborn:

Are there any questions? Seeing none, I'll entertain a motion.

ASSEMBLYMAN GOICOECHEA MOVED TO DO PASS
SENATE BILL 16.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Ohrenschall was not present for the vote.)

Chairman Claborn:

Next, we have S.B. 26 ([Exhibit D](#) in the work session document.)

Senate Bill 26 (1st Reprint): Revises provisions governing distribution of money in Pollution Control Account to local governmental agencies. (BDR 40-397)

Amber Joiner, Committee Policy Analyst:

This bill was sponsored by the Senate Committee on Natural Resources on behalf of the Nevada Department of Motor Vehicles (DMV). It was heard on May 4, 2005.

Senate Bill 26 revises provisions governing the distribution of money in the Pollution Control Account. It requires that the revenue collected for emissions control certification forms must be distributed quarterly to certain local governmental agencies in areas with high levels of air pollution, rather than requiring those agencies to apply for annual grants as provided in existing state law. It further provides that local governments may continue to receive grants from excess funds remaining in the account at the end of the fiscal year; however, this measure increases the balance that must remain in the account from \$500,000 to \$1 million.

During testimony, representatives from Nevada's DMV testified that this measure would make it easier to distribute funds to the local governmental agencies receiving allocations from the Pollution Control Account. It was also indicated that in order for the DMV to have enough money in emergency reserve to operate at the beginning of the year, the balance in the Account should be increased from \$500,000 to \$1 million.

There was no testimony in opposition to S.B. 26; there were no proposed amendments; and there is no fiscal impact at any level. On the Floor, it was passed with 20 ayes and one absent.

Chairman Claborn:

Many of you may remember this bill. It was regarding vehicle smog checks. It was supposed to go to Ways and Means. There should be no discussion; I am looking for a motion.

Assemblyman Atkinson:

Are we taking a vote on the bill or on re-referring to Ways and Means?

Chairman Claborn:

We don't have to refer it.

Amber Joiner:

Actually, it was concurrently referred. We move on the bill. We don't have to re-refer; it will go directly to Ways and Means.

Assemblyman Atkinson:

We are basically sending a recommendation then.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS
SENATE BILL 26.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Ohrenschall was not present for the vote.)

Chairman Claborn:

The next bill in our work session ([Exhibit D](#)) is S.B. 263.

**Senate Bill 263 (1st Reprint): Adopts Uniform Environmental Covenants Act.
(BDR 40-359)**

Amber Joiner, Committee Policy Analyst:

This bill was sponsored by Senator Care and cosponsored by Senator Titus and Assemblywoman Genie Ohrenschall. It was heard on May 4, 2005.

[Amber Joiner, continued.] Senate Bill 263 relates to contaminated property and adopts the Uniform Environmental Covenants Act (UECA) in Nevada. It provides for perpetual real estate interest, known as an environmental covenant, to regulate the use of contaminated land when ownership is transferred. Under S.B. 263, an environmental covenant remains with the property unless it is limited to a specific duration or termination by various means.

During testimony, supporters of S.B. 263 testified that the National Conference of Commissioners on Uniform State Laws (NCCUSL) is in the process of proposing the Uniform Environmental Covenants Act in states across the nation, and five states have already adopted it. The covenant provides a voluntary legal framework that allows control over the uses of contaminated land long-term. Representatives from the City of Henderson, the Nevada Conservation League,

NDEP, and the Southern Nevada Home Builders Association testified in favor of the bill.

[Amber Joiner, continued.] There was no testimony in opposition to S.B. 263. However, representatives from the Toiyabe Chapter of the Sierra Club, who were neutral, and the Nevada Conservation League, who were in favor, were concerned that the enforcement of the covenant would be problematic, since well drillers and those providing zoning approvals would not see the deed to the property or be aware of the covenant prior to allowing drilling or other development. However, they did not indicate a way to amend the measure to alleviate this problem.

There were no proposed amendments; there was no fiscal impact. On the Floor, there were 20 in favor and one excused.

Chairman Claborn:

Are there any questions?

Assemblyman Goicoechea:

Just to get this on the record, this is just enabling legislation. It is strictly voluntary. To Legal, once you have this environmental covenant in place, it has to be recorded, isn't that correct? Is it recorded on the deed?

Amber Joiner:

I am not clear on that, but from testimony provided, it would appear on the deed. I am uncertain by what you mean by "recorded." I would have to look into that for you.

Assemblyman Goicoechea:

In Section 11, it talks about "record," and I assume that means recorded as the only legal mechanism that could be put in place.

Amber Joiner:

It will be recorded on the deed.

Assemblywoman Kirkpatrick:

I will be supporting this bill; however, I have concerns on how it is going to be enforced. I reserve the right to change my vote at a later date.

Assemblyman Atkinson:

I have those same concerns. Senator Care did speak to this, so I am going to vote for the bill.

Assemblyman Goicoechea:

Because it is voluntary, the only real enforcement is going to come at the hands of the signer of the covenant. Whoever signed that environmental covenant and had it recorded on the deed would be the person who would make the next owner or developer aware that the covenant was in place. He is the one that has the environmental responsibility for that property. That doesn't go away if he had an environmental issue at the point he sold it.

Assemblywoman Kirkpatrick:

I am still not going to be comfortable with this. I don't think you see a deed very often when you buy property. You can go to the planning department or the building department and never see it.

Assemblyman Hogan:

Traditionally, the process of recording any limitation on the use of the land is mostly looked at the next time it is put up for sale or transfer. Many of us who purchase a house may not look at the deed; generally, it is specifically examined by whoever handles the settlement—by attorneys, et cetera. It may not be enforced the first day somebody violates it. It will put up an obstacle to whoever holds that property and failed to carry out the obligation. It is not a perfect way to enforce this. It doesn't stop the violation on day one, but it gives the holder of the property good reason not to violate those restrictions in the covenant.

Chairman Claborn:

Are there any more questions?

ASSEMBLYMAN DENIS MOVED TO DO PASS SENATE BILL 263.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Ohrenschall was not present for the vote.)

Chairman Claborn:

We only have one bill still active and that is the game warden bill, S.B. 397. We have too many pieces left to go over on S.B. 397. We won't have a meeting on Wednesday; it is cancelled. With that, we are adjourned [at 2:21 p.m.].

RESPECTFULLY SUBMITTED:

Mary G. Garcia
Recording Attaché

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblyman Jerry D. Claborn, Chairman

DATE: _____

EXHIBITS

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

Date: May 9, 2005

Time of Meeting: 1:35 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		AGENDA
SB 293	B	Assemblyman Pete Goicoechea	Amendment to S.B. 293
SB 293	C	Joanne Simpson / BLM	Letter of support for bill from Robert Abbey, State Director of BLM
	D	Amber Joiner / LCB	Work Session Document