

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

**Seventy-Fourth Session  
May 16, 2007**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:36 p.m., on Wednesday, May 16, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Jerry D. Claborn, Chairman  
Assemblyman Joseph M. Hogan, Vice Chairman  
Assemblyman Kelvin Atkinson  
Assemblyman David Bobzien  
Assemblyman John C. Carpenter  
Assemblyman Pete Goicoechea  
Assemblyman Tom Grady  
Assemblyman Ruben Kihuen  
Assemblyman John W. Marvel  
Assemblyman James Ohrenschall  
Assemblywoman Debbie Smith

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Committee Policy Analyst  
Randy Stephenson, Committee Counsel  
Christina van Fosson, Committee Secretary  
Matt Mowbray, Committee Assistant



**OTHERS PRESENT:**

Doug Busselman, Executive Vice President, Nevada Farm Bureau  
Steve K. Walker, representing Douglas County  
Jason King, Deputy State Engineer, Division of Water Resources,  
State Engineer's Office

**Chair Claborn:**

[Meeting called to order. Roll called.] We have seven bills for our work session today. We will begin with Senate Bill 329 (R1). Ms. Ruedy?

**Senate Bill 329 (1st Reprint): Prohibits a person from allowing a cat or dog to remain unattended in a motor vehicle under certain circumstances. (BDR 50-950)**

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from prepared text ([Exhibit C](#)).]

**Chair Claborn:**

I would like to have some discussion on these bills before putting them to a vote. I am adamant regarding this bill and the amendment. When we hunt in southern Nevada, it is 120 degrees in Laughlin, Nevada in September, and it is not sensible to leave an animal in the car. Is there any discussion on this bill?

**Assemblyman Bobzien:**

Thinking back to the original hearing, we have questions about the hunting exemption, specifically the way it was worded. It is setting us up for some unintended consequences by singling out that particular relationship with your animal. I do not know anybody who has hunting dogs that does not see them as a sizable investment. I support this amendment.

**Vice Chair Hogan:**

The purpose is to protect the animals. If the hunting dog is actually locked in a vehicle, in jeopardy, it should have the same protection.

**Chair Claborn:**

Is there any further discussion? I will entertain a motion.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND  
DO PASS SENATE BILL 329 (1ST REPRINT).

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Claborn:**

Ms. Ruedy, Senate Bill 105 (1st Reprint).

**Senate Bill 105 (1st Reprint):** Revises provisions governing regulation of motor vehicle fuel. (BDR 51-258)

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from prepared text ([Exhibit D](#)).]

**Chair Claborn:**

Is there any discussion? We have a motion on the Floor.

ASSEMBLYMAN MARVEL MOVED TO ADOPT THE ORIGINAL BILL AND DROP THE AMENDMENT.

(THE MOTION FAILED FOR LACK OF A SECOND.)

ASSEMBLYMAN KIHUEN MOVED TO AMEND AND DO PASS SENATE BILL 105 (1ST REPRINT).

(THE MOTION FAILED FOR LACK OF A SECOND.)

**Assemblywoman Debbie Smith:**

I need a clarification on the motion on this amendment. We have the proposed mock-up, which is what Mr. Krueger submitted?

**Randy Stephenson, Committee Counsel:**

The mock-up was done based on Mr. Krueger's proposed amendment. There is only one amendment.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

THE MOTION FAILED. (ASSEMBLYMEN ATKINSON, BOBZIEN, CARPENTER, GOICOECHEA, GRADY, HOGAN, MARVEL, OHRENSCHALL, AND CLABORN VOTED NO.)

**Chair Claborn:**

Is there any discussion on the motion?

**Assemblyman Grady:**

Are we taking away what the Department of Agriculture is charged with? Is this bill necessary? Can we send this back to the Department of Agriculture and let them make the decision?

**Assemblyman Goicoechea:**

I concur with my colleague from Yerington. The bottom line is that the Department of Agriculture is charged with the American Society for Testing and Materials (ASTM) standards. The key is the 38th parallel. Why would we put that in statute?

**Chair Claborn:**

That is a good question. We should have thought about that when we heard the bill.

**Assemblyman Bobzien:**

I concur with my colleague from Eureka. This is a situation where we are going above and beyond what the Department of Agriculture should be doing in terms of regulated fuel. I looked at the study from the Desert Research Institute (DRI) that looked at the rule change that is in question. It is inconclusive about whether or not there is an impact to vehicles. A quote from the DRI states, "These reports do not definitively implicate the gasoline volatility rule change as being the source of the problem, but they do indicate the nature of problems that can occur." That is a consistent theme throughout this study. It is high standard that I would need to convince me that the Department of Agriculture was not doing its job, and we would have to step in.

**Chair Claborn:**

Is that the appetite of the Committee to do this? Mr. Kihuen, would you like to withdraw your motion? No, you would not like to withdraw your motion. We have a motion on the Floor. Is there any more discussion?

**Chair Claborn:**

Mr. Kihuen's motion was to Amend and Do Pass. Assemblywoman Smith seconded the motion.

**Assemblywoman Smith:**

The original motion was to Do Pass in its original form. That did not get a second. The only option left was to Amend and Do Pass.

**Chair Claborn:**

The first motion was to Do Pass in its original form, and I did not get a second. Mr. Kihuen asked to Do Pass with Amendment, Ms. Smith seconded, we put it to a vote, and it failed. We will go to Senate Bill 366 (R1).

**Senate Bill 366 (1st Reprint): Limits the authority of the Department of Wildlife over Australian red claw crayfish raised for the sale as food for human consumption. (BDR 45-1328)**

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from prepared text ([Exhibit E](#)).]

**Chair Claborn:**

Is there any discussion on the bill?

**Assemblyman Goicoechea:**

On the one hand we have the Department of Wildlife saying they do not want the crayfish sold alive, than we have the Department of Agriculture saying we do not have the facilities to inspect them if they are dead. Where do we go with this bill?

**Chair Claborn:**

I do not see it that way. Department of Agriculture says the proprietor can do anything he wants. He can pay \$100 for a license, another \$200 for another kind of license, and \$100 for another license, for a total of \$400. If he wants the license to do what he does now, he would have to sell them dead. The Department of Agriculture will take his money and give him a license.

**Assemblyman Goicoechea:**

The testimony I heard from the Department of Agriculture said that they did not want them dead because they did not have the facilities or the ability to inspect them. The crayfish would become like any other meat product.

**Doug Busselman, Executive Vice President, Nevada Farm Bureau:**

Having participated in the hearing, I heard the Department of Agriculture say that they were concerned over the food-safety issues associated with the lobster/crayfish not being alive. From a food-safety perspective, the food was safer as a live lobster/crayfish as opposed to it being dead.

**Chair Claborn:**

When I asked the Department of Agriculture, they stated that if a seller would pay the total of \$400 he would be able to get back in business; they said "yes." It should show in the minutes.

**Assemblyman Goicoechea:**

I have no objection to moving the bill forward. I had some issues with the crayfish being alive, and the Department of Agriculture has some issues with them being dead.

**Assemblyman Grady:**

The Department of Wildlife did not want the crayfish to be sold live because they did not want them introduced into waters in Nevada.

**Chair Claborn:**

Is there any more discussion? I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS  
SENATE BILL 366 (1ST REPRINT).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BOBZIEN AND SMITH  
VOTED NO.)

**Chair Claborn:**

I will do the floor statement on S.B. 366 (R1).

**Senate Bill 267 (1st Reprint): Revises the powers and duties of the Legislative Committee on Public Lands.**

**Jennifer Ruedy, Committee policy Analyst:**

[Read from prepared text ([Exhibit F](#)).]

**Chair Claborn:**

Is there any discussion on the bill?

**Assemblyman Carpenter:**

I am in favor of the bill.

**Assemblywoman Smith:**

Is there anything that would prevent the State Lands Committee from having a subcommittee to discuss the water issues?

**Chair Claborn:**

We were working on that. Public land issues are important to the ranchers and the State of Nevada, but so are the water issues.

**Assemblyman Goicoechea:**

If you can put alternates on the Committee, they could serve on a subcommittee.

**Randy Stephenson, Committee Counsel:**

Yes, the Public Lands Committee could have subcommittees, but the members of the subcommittees would have to be a regular member of the Committee, or an alternate in the event a regular member could not attend.

**Chair Claborn:**

Is there any more discussion?

ASSEMBLYMAN MARVEL MOVED TO DO PASS SENATE BILL 267 (1ST REPRINT).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Senate Bill 275 (1st Reprint): Makes various changes relating to underground water. (BDR 48-208)**

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from prepared text ([Exhibit G](#)).] There is an amendment.

**Chair Claborn:**

Mr. King and Mr. Walker, can you come up and clarify this amendment for the Committee?

**Steve K. Walker, representing Douglas County:**

The intent of the amendment was to address one of the issues that came up at the hearing.

**Chair Claborn:**

Mr. Walker, if you are going to walk us through the bill, make it fast because what you are going to get is a bunch of questions.

**Steve Walker:**

[Read from prepared text ([Exhibit H](#)).]

**Chair Claborn:**

Will this clarify the question asked at the last meeting by Michael DeLee? Jennifer, would you read the question by Mr. DeLee?

**Jennifer Ruedy:**

The question raised by Mr. DeLee was on page 8, Section 4, subsection 4(b).

**Steve Walker:**

That is why we put that amendment in there. [Continues reading from prepared text ([Exhibit H](#)).]

**Assemblyman Carpenter:**

Please clarify page 4, subsection 4, line 13. I thought we were registering these wells, that it was not an appropriation.

**Jason King, Deputy State Engineer, Division of Water Resources, State Engineer's Office:**

We are not requiring a permit for a domestic well. It is as it has always has been. This language is assigning a priority to it once we receive the well log after it has been drilled.

**Assemblyman Carpenter:**

It seems to me it refers to an appropriation. You are registering these wells, right?

**Jason King:**

Our office believes this language is sufficient.

**Assemblyman Goicoechea:**

There is not an appropriation on a domestic well because it does not have a water right. What we are looking at is the date that we registered that groundwater source because there is not an appropriated water right with a domestic well.

**Jason King:**

Exchanging the word "register" for "appropriation" is fine.

**Assemblyman Goicoechea:**

Maybe we should leave it because that establishes that a domestic well has an appropriated water right.



**Jason King:**

*Nevada Revised Statutes* (NRS) Chapters 533 and 534 state that we have to acknowledge domestic wells. Calling it "appropriation" might be more in line with other statutes.

**Assemblyman Goicoechea:**

On page 7, subsection 3, line 3, is that truly a water right we are talking about?

**Jason King:**

In this instance we are talking about a permitted water right that someone has received through the application process, and that is being dedicated or relinquished for the purpose of parceling.

**Assemblyman Goicoechea:**

Rather than say the "right to appropriate water," call it a "water right"?

**Jason King:**

That language would work as well. I would agree that "water right" is probably clearer.

**Assemblyman Carpenter:**

What does page 10, line 13 mean?

**Jason King:**

This language serves someone who seeks to parcel land in a county that requires a water dedication or relinquishment. It retires a valid water right.

**Assemblyman Carpenter:**

Would the water revert back to the source?

**Jason King:**

Yes, it reverts back to the water source. It keeps the basin in balance; we are not appropriating additional water.

**Assemblyman Carpenter:**

Please clarify line 23(a).

**Jason King:**

If there is a relinquishment or a dedication of a "right" to a purveyor, we do not want that purveyor to take that water right and serve some other parcel because it is tied to the parcel being created. It refers to someone who has purchased a water right and dedicated it so that they can drill a well and later

get a hook-up. That commitment is tied to that parcel and cannot be used anywhere else. We will edit the language to clarify.

**Chair Claborn:**

Are you done, Mr. Carpenter?

**Jennifer Ruedy:**

Maybe Mr. Carpenter could reiterate the three changes?

**Assemblyman Carpenter:**

First, we can retain the word "appropriation." Second, on page 7, we would put "water" in front of "right" and take out "to appropriate water." On page 10(a), line 22 we would take out "for the parcel of land."

**Assemblyman Goicoechea:**

Is there a one-line language that addresses agriculture or farmsteads, and exempts them?

**Steve Walker, representing Douglas County:**

If a rancher went to the local government and requested a building permit to put an accessoried dwelling unit on the property, that ranch would be required to get a meter. If the ranch were in a county that did not have an ordinance specifying what a dwelling was, it would not be required.

**Assemblyman Goicoechea:**

We are putting people in that position as soon as they build a barn. There is not a grandfather clause that I can see.

**Steve Walker:**

This is only for a new building and applies from this bill forward. When an application comes in for a dwelling unit on a single-family parcel, it will require a meter.

**Assemblyman Claborn:**

Does the Committee need further clarification?

**Randy Stephenson, Committee Counsel:**

"Water right" means a "right to appropriate." You could get into the issue of "vested water rights," "adjudicated water rights," and there are "rights to appropriate water." Those are permitted or certified.

**Chair Claborn:**

That would be Mr. Carpenter's amendment. Is there any more discussion? [There was none.] I will entertain a motion. Mr. King, would you like to say something?

**Jason King:**

We support this bill with this amendment. This is an important piece of legislation for our office, and I urge you to support it.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO PASS SENATE BILL 275 (1ST REPRINT).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chair Claborn:**

Mr. Goicoechea, will you do the Floor on this one? Okay, Senate Bill 48 (R2).

**Senate Bill 48 (Second Reprint):** Redesignates district brand inspectors as agricultural enforcement officers. (BDR 50-628)

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from prepared text ([Exhibit I](#)).]

**Chair Claborn:**

Is there any discussion on the bill? [There was none.] We have a motion on the Floor.

ASSEMBLYMAN HOGAN MOVED TO DO PASS SENATE BILL 48 (2ND REPRINT).

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

THE MOTION FAILED. (ASSEMBLYMEN ATKINSON, BOBZIEN, CARPENTER, GOICOECHEA, GRADY, KIHUEN, OHRENSCHALL, SMITH AND CHAIR CLABORN VOTED NO.)

**Senate Bill 433:** Requires a developer of private land to ensure that the land is enclosed by a legal fence under certain circumstances. (BDR 50-264)

**Jennifer Ruedy, Committee Policy Analyst:**

[Read from prepared text ([Exhibit J](#)).]

**Chair Claborn:**

Is there any discussion on the motion?

**Assemblyman Goicoechea:**

What is prompting the amendment by the Nevada Farm Bureau is Washoe County's website. What Washoe County is preparing to do is contrary to the Nevada Attorney General's opinion. The third section is the statute that allows for an ordinance concerning the control of animals. A county should not be able to put an ordinance in place that impacts the fence-out law in the State of Nevada, and/or the ability for open range. This amendment does not do anything to developers; it only maintains and reinforces the existing law already in statute, and that is that you must fence them out. Even though Washoe County has said that it does not intend to go forward with it, if you visit the website, it is still on there.

ASSEMBLYMAN GOICOECHEA MOVED TO AMEND AND DO PASS  
SENATE BILL 433.

**Chair Claborn:**

That would be excluding Amendment 2.

**Assemblywoman Smith:**

I will be voting against this bill. Washoe County does not have the authority to pass something that is contrary to law. I do not like the original bill; I feel like we are killing a fly with a sledge hammer.

**Assemblyman Carpenter:**

It has become a problem in areas where development is taking place. The way to get around a lot of these problems is to take care of it up front.

**Assemblyman Goicoechea:**

There are a couple of sections that make sense, and it is a fact that when you propose an ordinance, that same ordinance will require that the entity that is proposing the ordinance to designate who would be responsible for maintaining that fence and the infrastructure that goes with the legal fence. In many cases, "who is responsible" is where we fall down. In most cases, the permittee or the person that has the livestock out on the range would like to have the fence built. You need to ensure that there is a mechanism that designates who is going to maintain that fence. In most cases the permittee ends up maintaining and is willing to maintain the fence. We know it is an issue in the rural areas. We are asking that you support this amendment that defines who is going to

maintain the fence, who is responsible for the cattle guards that are in place, and also reinforces the state law that says it is a fence-out state.

**Chair Claborn:**

When we heard this bill, we were going to try to work with its proponents. There was supposed to be an amendment coming up about signs. Is that correct or not correct?

**Doug Busselman, Executive Vice President, Nevada Farm Bureau:**

There was a discussion with both sides of the debate, and the sign idea was an idea that surfaced. However, that amendment has been pulled. The fencing has also been pulled as far as requiring the developers to build a fence. We are proposing that the developers would not have any responsibility other than what a normal property owner would have if he wanted to keep livestock, under the open-fence law, from their property.

**Chair Claborn:**

This is the first time I have seen this amendment.

**Assemblyman Goicoechea:**

It is in the amendment in the mock-up in the work session.

**Doug Busselman:**

We circulated this amendment to each of the Committee members about a week ago.

**Chair Claborn:**

Is there any more discussion on S.B. 433?

**Assemblyman Goicoechea:**

I believe I have a motion on the Floor, Mr. Chair.

**Chair Claborn:**

I accept that motion.

**Assemblyman Goicoechea:**

I believe that motion has been made and seconded. Is that correct?

**Chair Claborn:**

You are correct. Madam Secretary, could we have a roll call vote, please?

[Roll-call vote taken.]

THE MOTION FAILED. (ASSEMBLYMEN ATKINSON, BOBZIEN, HOGAN, KIHUEN, SMITH AND CHAIR CLABORN VOTED NO.)

**Chair Claborn:**

Is there any discussion?

**Assemblyman Atkinson:**

I am requesting reconsideration of Senate Bill 105 (R1). We would like to take a look at an amendment.

**Chair Claborn:**

We will reconsider S.B. 105 (R1). Mr. Atkinson, what would you like to do now?

**Assemblyman Atkinson:**

We have to vote on reconsidering it.

**Chair Claborn:**

There is a motion on the Floor to reconsider S.B. 105 (R1), and it has to carry a two-thirds majority. Let us have a roll call vote on that.

THE MOTION FAILED. (ASSEMBLYMEN CARPENTER, GOICOECHEA, GRADY, HOGAN, OHRENSCHALL AND CHAIR CLABORN VOTED NO.)

**Chair Claborn:**

This Committee will recess [at 2:59 p.m.] until the call of the Chair.

RESPECTFULLY SUBMITTED:

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Christina van Fosson  
Committee Secretary

APPROVED BY:

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Assemblyman Jerry D. Claborn, Chair

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

**EXHIBITS**

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

**Date:** May 16, 2007

**Time of Meeting:** 1:36 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	*****	Agenda
	B	*****	Attendance Roster
SB 329 (R1)	C	Jennifer Ruedy, Committee Policy Analyst	Work Session Document.
SB 105 (R1)	D	Jennifer Ruedy, Committee Policy Analyst	Work Session Document
SB 366 (R1)	E	Jennifer Ruedy, Committee Policy Analyst	Work Session Document.
SB 267 (R1)	F	Jennifer Ruedy, Committee Policy Analyst	Work Session Document.
SB 275 (R1)	G	Jennifer Ruedy, Committee Policy Analyst	Work Session Document.
SB 275 (R1)	H	Steve K. Walker, representing Douglas County	Proposed amendment.
SB 48 (R2)	I	Jennifer Ruedy, Committee Policy Analyst	Work Session Document.
SB 433	J	Jennifer Ruedy, Committee Policy Analyst	Work Session Document.