

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-fourth Session
April 16, 2007**

The Senate Committee on Natural Resources was called to order by Chair Dean A. Rhoads at 3:37 p.m. on Monday, April 16, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chair
Senator Mike McGinness, Vice Chair
Senator Mark E. Amodei
Senator Joseph J. Heck
Senator Michael A. Schneider
Senator Maggie Carlton

COMMITTEE MEMBERS ABSENT:

Senator Bob Coffin (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Assembly District No. 24

STAFF MEMBERS PRESENT:

Susan E. Scholley, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Shirley Parks, Committee Secretary

OTHERS PRESENT:

Allen Biaggi, Director, State Department of Conservation and Natural Resources
Kyle Davis, Nevada Conservation League
Chris MacKenzie, Chair, Board of Wildlife Commissioners
Rick Gimlin, Deputy Director, State Department of Agriculture

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John O'Brien, Administrator, Division of Plant Industry, State Department of Agriculture
Lee M. Lawrence, Pest Control Licensing and Regulation, State Department of Agriculture

CHAIR RHOADS:

We will open the hearing on Assembly Bill (A.B.) 217.

ASSEMBLY BILL 217: Revises the membership of the State Environmental Commission. (BDR 40-1196)

ASSEMBLYMAN DAVID P. BOBZIEN (Assembly District No. 24):

Assembly Bill 217 is a straightforward bill, but a concept that has been visited in previous sessions. I have a PowerPoint presentation ([Exhibit C](#)) explaining the purpose of the State Environmental Commission (SEC). The SEC deals with permitting issues, clean water, clean air and anything concerning environmental regulation and policy in Nevada.

The current SEC membership is outlined on pages 3 and 4 of [Exhibit C](#). Page 5 of [Exhibit C](#) explains what A.B. 217 would do.

The definition of conservation is the protection and preservation, management or restoration of wildlife and natural resources such as forests, soil and water. Anyone who is involved with advocating any of these issues for the conservation of natural resources would be a suitable candidate for this position.

Page 6 outlines why this position is necessary to the State.

I will give the committee an example of where this position would be of assistance. In the Assembly, there is a bill addressing mercury releases from coal-fired power plants. There have been experts from industry, mining and conservation coming together and resolving these emissions problems. The SEC will benefit from its many diverse perspectives.

CHAIR RHOADS:

Is this new position one of the five members appointed by the Governor?

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ASSEMBLYMAN BOBZIEN:
Yes.

SENATOR HECK:
Who has occupied the other seats? Has there been a pattern?

ASSEMBLYMAN BOBZIEN:
I do not know if there has been a pattern of who has occupied those at-large seats.

ALLEN BIAGGI (Director, State Department of Conservation and Natural Resources):
There has not been a pattern, but the persons occupying those seats have had knowledge and experience of environmental protection-type issues.

I wish to state for the record, "The Division of Environmental Protection and the State Department of Conservation and Natural Resources are in support of A.B. 217." This change would serve to balance the representative interests and enhance the diversity and viewpoints to help make fair and equitable decisions. The responsibilities of the SEC cover a wide spectrum of issues and concerns relating to the protection of human health and the environment.

SENATOR AMODEI:
Are there any guidelines for experience and expertise in advocating issues relating to conservation?

MR. BIAGGI:
A reasonable interpretation would be that this is the Environmental Commission and they would be advocating for the conservation ethic. The historical precedent has been these individuals have had experience and background in conservation.

ASSEMBLYMAN BOBZIEN:
There is a similar situation with the Board of Wildlife Commissioners for having a conservation seat. It is not the same statutory language. It would be the Governor who would make that determination.

SENATOR AMODEI:

Was there an issue or a problem that was the genesis for defining these appointments?

MR. BIAGGI:

The SEC has had a good track record of making fair and equitable decisions and the decisions are rarely appealed to district court. When the decisions have been appealed they have had a good win-loss record.

SENATOR AMODEI:

It was my understanding that the SEC has a good record. What is the need for further refinement?

MR. BIAGGI:

The thought was that there should be a conservation or environmental advocate on the SEC, and it would be good public policy to have someone advocating a conservation perspective.

ASSEMBLYMAN BOBZIEN:

The proposal of A.B. 217 was generated by the projection of future complex environmental regulations. These decisions would benefit by the additional perspective.

RANDY STEPHENSON (Committee Counsel):

Statutory provisions have to be given a logical meaning. Assembly Bill 217 would take one of the five members the Governor has been authorized to appoint and requires it to be a person who is an advocate in conservation.

KYLE DAVIS (Nevada Conservation League):

The Nevada Conservation League supports A.B. 217. It is a good idea to have someone who has experience in conservation based on the complex issues the SEC addresses. This was listed in the transition team for the Governor as a recommendation.

CHRIS MACKENZIE (Chair, Board of Wildlife Commissioners):

I am not testifying on behalf of the Board of Wildlife Commissioners. I am personally testifying about the conservation seat we have currently on the Wildlife Commission. It is an invaluable addition to the Wildlife Commission to

have that seat when we are making determinations and anticipating issues in the future.

SENATOR AMODEI:
Who fills that seat? Please describe the qualifications.

MR. MACKENZIE:
We have had two qualified conservation persons in that seat. The current person has been in that position for seven years and is with the Washoe County Health Department. He is an avid bird-watcher and member of many conservation organizations.

SENATOR AMODEI:
Does your statute require someone who is an advocate or just someone with credentials in that area?

MR. MACKENZIE:
They need to satisfy some basic requirements.

SENATOR MCGINNESS:
Does the recommendation come through the Nevada Wildlife Commission?

MR. MCKENZIE:
The recommendation comes through the Governor's Office.

SENATOR MCGINNESS:
I would assume a soil conservationist would be eligible. Assemblyman Bobzien is nodding his head in affirmation.

MR. STEPHENSON:
The language for appointing the member of the Board of Wildlife Commissioners states, "It has to be one member who is actively engaged in the conservation of wildlife."

CHAIR RHOADS:
We will close the hearing on A.B. 217 and open the hearing on A.B. 42.

ASSEMBLY BILL 42: Authorizes the State Department of Agriculture to accept and make certain grants. (BDR 50-634)

RICK GIMLIN (Deputy Director, State Department of Agriculture):

Currently, our authority to issue grants is limited to single programs authorized under the *Nevada Revised Statute* (NRS) 561.335 or NRS 563.310. The State Department of Agriculture does not have specific authority to issue sub grants other than those that are provided by specific funding vehicles. Our lack of authority to issue grants and sub grants could prohibit the Department from being able to serve its constituents. Currently, our Department charges \$100 to register a pesticide in Nevada. Under the *Nevada Administrative Code* 586.011, subsection 2, paragraph (c); \$10 of the fee will be used to eradicate and control noxious weeds. One of the most effective means to control noxious weeds is to work with our Cooperative Weed Management Associations (CWMA). There are 31 of these associations with at least 1 CWMA in each county. The approval of A.B. 42 would allow the Department authority to issue grants to these organizations.

If the legislation is not approved, other than existing authority, the Department will continue to depend upon specific funding vehicles such as a federal agreement to provide expressed authority to issue grants or sub grants.

CHAIR RHOADS:

Has the Department had to turn down some gifts, contributions or donations in the past?

MR. GIMLIN:

No. We have been lucky, especially block grants where the funding vehicle has language that authorizes us to issue a grant or sub grant. Where the fee is increased for a specific purpose we do not have the ability to make a sub grant for this expressed purpose.

CHAIR RHOADS:

Do you receive any federal funds?

MR. GIMLIN:

Yes. As it relates to noxious weeds, the U.S. Forest Service is providing us approximately \$130,000 to \$150,000 annually to make grants to CWMAs. This bill would allow us to provide a State source of funds the CWMAs could use as a match to attract federal funding.

SENATOR CARLTON:

What other departments have the opportunity to accept gifts, grants and donations? How many are there? The issue is keeping the departments independent.

MR. GIMLIN:

Currently, we are allowed to accept grants based on a variety of different statutes and within the Budget Act there is a general ability to accept grants with the approval by the Interim Finance Committee. The NRS 353 allows acceptance of grants up to \$10,000. After \$10,000, it must be approved by the Interim Finance Committee.

SENATOR CARLTON:

Is the purpose of the bill to be able to accept the grants without approval?

MR. GIMLIN:

In this case, it is the ability to take existing State funding, fee-based funds, and issue a grant or a sub grant to a particular agency.

SENATOR CARLTON:

I am referring to accepting the money. Do you want to accept the money without going to the Interim Finance Committee?

MR. GIMLIN:

If the grant was under the limit, we would do a work-program document and accept the funds. If it is over the limit, we would go to the Interim Finance Committee.

SENATOR CARLTON:

I do not understand why this bill is necessary.

MR. GIMLIN:

The concern is not with accepting the funds. The concern is that once we have the funds then having the opportunity to make a grant or a sub grant to an organization. When we increased the fee for the pesticide registration, we now have the money in our account that we could grant or sub grant out, but the Department does not have the ability to issue a grant or sub grant out of those funds because the Department does not have express authority. We do have the authority to issue a grant or sub grant under other statutes. At a departmental

level we are seeking to be able to use state funds for the purposes of making grants or sub grants.

SENATOR MCGINNESS:

In this instance, you do not have authority to accept the funds and grant it to a weed management agency. Are you looking for specific authority to do so?

MR. GIMLIN:

Yes. We are seeking authority in this specific instance but also on a departmental-wide basis should we have the ability to receive some other funds that would allow us to make a grant or sub grant out of those funds.

SENATOR CARLTON:

The language specifies a "natural person." Could the funds go to a person for their personal property?

MR. GIMLIN:

Potentially, that could happen. The intent was not to go to an individual, but there are times when individuals provide services to the Department and they would qualify. There has been concern expressed that there should be a procedure that one person would not be in charge of both reviewing and approving the application. It was suggested that it go before a board for final approval.

CHAIR RHOADS:

We will close the hearing on A.B. 42 and open the hearing on A.B. 228.

ASSEMBLY BILL 228: Revises provisions governing licenses to engage in pest control. (BDR 49-626)

JOHN O'BRIEN (Administrator, Division of Plant Industry, State Department of Agriculture):

I will give the Committee an overview of my written testimony ([Exhibit D](#)). Section 1 of A.B. 228 relates to giving the Department the ability to refuse licensing to individuals who have a prior history of violations within the pest-control industry or other crimes. The industry is unique because often the licensed operators applying pesticides within homes and businesses require the occupants to leave for a period of time. It affords these licensed operators the opportunity to case the premises or for other wrongdoing.

Nevada has a difficult licensing examination but that does not guarantee the individual's character. The intent of this section is to increase protection for Nevada citizens and our licensing ability to eliminate licensed individuals who do not perform well and commit crimes while doing their operations. Assembly Bill 228 would increase businesses' ability to filter out undesirable persons.

Section 3 of A.B. 228 addresses a penalty for altering wood-destroying pest inspection reports. There have been instances where an inspection report has been altered by an individual associated with a mortgage company that has interest in the sale of a structure. This bill would expand our ability to assess penalties to people even if they are not within the pest-control industry.

On page 3 of [Exhibit D](#), are examples of problems that have occurred. On page 4 of [Exhibit D](#), is a letter from the Nevada Pest Control Association in support of A.B. 228.

LEE M. LAWRENCE (Pest Control Licensing and Regulation, State Department of Agriculture):

The Department and the pest-control industry are making attempts to try to better the industry. We have had disturbing instances in the last few years where child molesters have been convicted and are incarcerated. These individuals will be getting released in the next few years to try to get a pest-control license.

Many states have passed regulations regarding laws of moral turpitude for people in the pest-control industry. Pest control is a unique job. The operators go into people's houses and into the private recesses of homes to do their services. There have been instances where valuables have been stolen and other issues of moral turpitude. I have had calls throughout the years from people who suspected a problem in their home with a pest-control operator.

Our intent is to have some discretion as to who gets these types of licenses. We anticipate the pest-control industry will be proactive and take a partnership in the situation with us by doing background checks with their people.

CHAIR RHOADS:

Will these have a fiscal impact?

MR. LAWRENCE:

There could be an added cost. It will depend on how the Department and the industry go forward. Background checks cost approximately \$45 to \$60. It will depend on how the industry wants to implement this measure with the Department.

SENATOR CARLTON:

Under what conditions can you presently refuse an individual a license?

MR. LAWRENCE:

There are no conditions at the present time.

SENATOR CARLTON:

Please explain.

MR. LAWRENCE:

The only way we are able to refuse a license is if there is an outstanding fine pending against the individual for a prior pest-control offense. There is another instance which would be the "deadbeat-dad laws" where we could refuse a license.

SENATOR CARLTON:

I have concerns about how this bill is structured. I understand your need to refuse a license to someone who has been convicted, but if they pleaded innocent, you would have to issue them a license.

The language on page 2, lines 12 through 14 of A.B. 228 will not work because when a person is sentenced they are sentenced to parole or probation. There are lifetime probations in Nevada. Have you looked into any other licensing plans from other professions to use as a model?

MR. LAWRENCE:

Yes.

SENATOR CARLTON:

Was A.B. 228 modeled after one?

MR. LAWRENCE:

Assembly Bill 228 was structured after the NRS 645.330 which is the real estate license language. There was consideration of the existing law.

SENATOR CARLTON:

I do understand your intent, but I believe there is a better way than is explained in sections 1 and 3 of A.B. 228. This language may be problematic.

MR. LAWRENCE:

Last year, we used the Real Estate Division to take action on a company that was manufacturing wood-destroying pest inspection reports for property transactions. We did not have authority under our regulations to take action so we had the Real Estate Division assist us. Assembly Bill 228 would give us some "teeth" in our regulations to pursue those offenders without other divisions assisting us.

SENATOR CARLTON:

Another licensing board should not be able to go after someone else's licensees. You need to work cooperatively. You may have the proof of an offense but not the jurisdiction.

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CHAIR RHOADS:

There being no further issues before us today, I will adjourn the meeting of the Senate Committee of Natural Resources at 4:21 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Dean A. Rhoads, Chair

DATE: _____