

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

**Seventy-Fifth Session
March 16, 2009**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Vice Chair Joseph M. Hogan at 1:38 p.m. on Monday, March 16, 2009, 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/75th2009/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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jerry D. Claborn, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman David P. Bobzien
Assemblyman John C. Carpenter
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

Assemblyman Paul Aizley (excused)

GUEST LEGISLATORS PRESENT:

Senator Dean A. Rhoads, Rural Nevada Senatorial District

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Judith Coolbaugh, Committee Secretary
Steve Sisneros, Committee Assistant

OTHERS PRESENT:

Tony Lesperance, Ph.D., Director, State Department of Agriculture
Charles Moses, Environmental Specialist IV, Environmental Compliance
Branch, Division of Plant Industry, State Department of Agriculture
Dawn Rafferty, Administrator, Division of Plant Industry, State
Department of Agriculture

Vice Chair Hogan:

[Roll was called.] I am opening the hearing on Senate Bill 38.

Senate Bill 38: Revises the period of validity of certificates to apply
restricted-use pesticides. (BDR 49-355)

Tony Lesperance, Ph.D., Director, State Department of Agriculture:
With me today is Mr. Charles Moses who will present S.B. 38.

**Charles Moses, Environmental Specialist IV, Environmental Compliance Branch,
Division of Plant Industry, State Department of Agriculture:**

I oversee the activities relating to pesticide regulation within the Department of Agriculture (DOA). This bill proposes to amend *Nevada Revised Statutes* (NRS) 555.357 for the purpose of improving the efficiency and fairness of this statute. My responsibility at the DOA is to issue a restricted-use pesticide credential to those individuals who use restricted-use pesticides within our state. I would characterize this bill as "housekeeping" language changes. First of all, it will alleviate the workload for our Las Vegas office, which issues these credentials. Secondly, it gives an applicant a "true" four-year certification cycle. The statute currently says the credential is up for renewal every four calendar years and expires on December 31. Therefore, if someone renews in the middle of a calendar year, he does not receive a full four years before the next renewal is due. With this change in language, the credential will expire exactly four years from the date of issuance. The date change should decrease the amount of complaints our office receives.

Vice Chair Hogan:

Are there any questions?

Assemblyman Bobzien:

I want to verify the reason for the change. Before the advent of computer technology, the current method for credential dating made recordkeeping easier by simply stating all renewals are valid for four calendar years, and expire on December 31. Now, with new technology, it is easier to track each individual's renewal date. Is that correct?

Charles Moses:

Yes, that is correct.

Vice Chair Hogan:

Are there any other questions? Are these credentials awarded to the landowner, or to the company which is providing the restricted-use pesticide?

Charles Moses:

The credential is acquired by the applicator of the restricted-use pesticide. This individual has to pass the certification examination. We have two types of credentials. The one addressed in this bill is the restricted-use pesticide credential. Generally, the people requiring the restricted-use pesticide credential work for government agencies, nursery businesses, or they are owners of farms and ranches. This is not the same credential as the one a person receives to apply pesticides for hire.

Vice Chair Hogan:

Are there any more questions? Mr. Lesperance, do you have any more witnesses?

Tony Lesperance:

No, I do not have any other witnesses to testify.

Vice Chair Hogan:

Are there any neutral witnesses who would like to testify? [There were none.] I am closing the hearing on S.B. 38, and opening the hearing on Senate Bill 39.

Senate Bill 39: Eliminates the requirement that the State Department of Agriculture provide annual proposed programs for the control of invasive species and certain endemic pests and weeds to counties. (BDR 50-356)

Dawn Rafferty, Administrator, Division of Plant Industry, State Department of Agriculture:

This bill would amend *Nevada Revised Statutes* (NRS) 561.355 to eliminate a current requirement that states the Department of Agriculture (DOA) must make annual visits to each county to introduce programs relating to invasive

species, weeds, and endemic pests. This particular part of the bill refers to NRS 375.026, which allows a voluntary real estate transfer tax to be levied in each county. The funds would be used to control invasive species and endemic pests. Since the inception of this voluntary tax, none of the counties have levied it. Therefore, the requirement for the DOA to make annual visits to the counties to propose these unfunded programs is counterproductive. It simply increases the workload for our dwindling staff.

Vice Chair Hogan:

Are there any questions?

Assemblyman Bobzien:

Are we surrendering the war against invasive weeds?

Dawn Rafferty:

No, it will not affect any programs the DOA is currently conducting to control invasive weeds and endemic pests. The change in language would only eliminate the annual visits by the DOA. The program managers are already in contact with county officials about control programs, so the required annual visits are superfluous.

Assemblyman Bobzien:

Do you believe it is necessary for the counties to impose the voluntary real estate transfer tax to support these control programs?

Dawn Rafferty:

It would be helpful if the counties enacted the tax, but given the current economic climate, property owners are already overburdened.

Chairman Claborn:

What was the original reason for putting the DOA annual visitation requirement into statute? Will it eliminate a necessary line of communication between the DOA and the counties if the requirement is deleted?

Dawn Rafferty:

If the counties did collect the taxes, the DOA would be required to meet with the county within 30 days of the fiscal year-end to determine which programs would be funded by those taxes. The DOA does continue to work on invasive species and noxious weed control through other programs which have other, primarily, federal funding sources.

Assemblyman Grady:

If they do not continue the annual visits, how does the DOA intend to notify the counties of monies that may be available to them?

Dawn Rafferty:

If we have any grant funds available for a particular county, the DOA personnel who already go to every county would communicate the information in-person. We also use email. Usually, by the time the DOA receives notification of available grant funds, the county is already aware of the funding because the DOA worked with the county to put the grant application together. There are over 30 cooperative weed management areas in the state. These are volunteer groups operating in all the counties to provide blanket protection and coverage to control weeds.

Vice Chair Hogan:

Are there any other questions? [There were none.] Is there any more public testimony for or against this bill? [There was none.] Does anyone choose to testify from a neutral position on this bill? [There was none.] I am closing the hearing on S.B. 39, and opening the hearing on Senate Bill 109.

Senate Bill 109: Deletes the provisions that place each state grazing board within the State Department of Agriculture. (BDR 50-495)

Tony Lesperance, Ph.D., Director, State Department of Agriculture:

Apparently several sessions ago, a number of corollary agricultural groups were placed under the auspices of the DOA. The state grazing boards, created for each Bureau of Land Management (BLM) grazing district, were included in these groups. However, the various grazing boards within the state are very independent, and they manage their own funding as they see fit. The DOA came to the conclusion this unnecessary oversight function should be eliminated by deleting the language from the statute. The DOA does work with the grazing boards whenever it is possible. For example, on Thursday, I will be in Yerington all day for a meeting with one of the grazing boards. We keep track of what is going on and offer assistance whenever we can, but we do not manage their funding. We are requesting the deletion of the words "...within the State Department of Agriculture..." from NRS 568.040. I have been working closely with Mr. Ron Cerri to make this change. I do not know of any opposition to this language change.

Vice Chair Hogan:

Are there any questions?

Assemblyman Bobzien:

Who appoints the members of the grazing boards? Who oversees their operation?

Tony Lesperance:

The prospective members' names are submitted to the Governor for his final selection. People in the livestock industry or the DOA can submit names, and those recommendations provide a level of membership oversight. The DOA works closely with the grazing boards on any changes in policy or philosophy. The individual grazing boards receive 12.5 cents per livestock head. This is the amount the BLM charges each permittee for grazing user-fees on public lands. Although the fees do not generate a great deal of money, the funds are used for range improvements, water troughs, and similar items. The individual grazing boards set their own project funding priorities.

Vice Chair Hogan:

Are there any questions?

Assemblyman Goicoechea:

For clarification, the state grazing boards are made up of permittees who are elected from each of the five grazing districts. You have to be elected by your peers to sit on the grazing boards.

Tony Lesperance:

There is also a board that exists in northeast California for ranches running cattle in northwestern Nevada.

Assemblyman Goicoechea:

The Cedarville area does work in conjunction with the people in northern Washoe and Humboldt Counties. Mr. Lesperance said they were Governor appointees, but they are not. There is also a central grazing board.

Tony Lesperance:

I believe I was confusing the various boards.

Chair Claborn:

I see Senator Rhoads in the audience, and I believe he can be helpful in answering questions.

Senator Dean A. Rhoads, Rural Nevada Senatorial District:

I have been Chairman of the Committee on Public Lands for many years. During the interim, the Committee visits 9 to 11 of the grazing lands in rural areas, and it also goes to Las Vegas and Reno. The visitations are made to each area at

least once during the interim. Also, the Committee goes to Washington, D.C. twice during that period. Many times, we have been able to give federal legislators insight on activities and issues, including wild horses, water, and wildlife, which relate to grazing on public lands. Therefore, we are in a position to positively influence a vote in Congress in favor of the state. Everything which happens in the 87 percent of the state which is federally owned comes under the Committee on Public Lands. Prior to 1999, the state grazing boards were under their own jurisdiction. The grazing boards do a lot of good. I have a letter from Mr. Ron Cerri, who is president of the Central Committee of the Nevada State Grazing Boards, to submit for the record ([Exhibit C](#)).

Vice Chair Hogan:

Are there any questions?

Assemblyman Goicoechea:

I wanted to clarify how the funding flows. The BLM authorizes the county to collect the money at the rate of 12.5 cents per livestock head. The money goes to the state, which in turn, reimburses the funds back to the various grazing boards. We need to make sure the procedure for fund collection is clear, and on the record.

Senator Rhoads:

A grazing district with more livestock would receive a larger amount of the funds. The grazing boards meet on a quarterly basis to review the various projects that individual ranchers submit for range improvements, weed control, water pipelines, and for redistribution of livestock and wildlife. They spend quite a bit of money on these projects, and many times the ranchers have to match the amount authorized by the grazing boards. It is a "win-win" situation for everyone.

Tony Lesperance:

I would like to add that a lot of money is used for projects like water improvements, which are also a tremendous asset to wildlife. Much of the wildlife in the state is dependent upon water sources, which the livestock industry has created. All the funds come from user-fees; there are no tax dollars involved.

Chairman Claborn:

If you are helping livestock, you are also helping the wildlife. I agree with you 100 percent.

Assemblyman Grady:

For the record, the Committee needs to know there are no General Fund monies in this account. It is all user-fees.

Tony Lesperance:

Yes, again for the record, it is all user-fees.

Vice Chair Hogan:

Are there any more questions?

Assemblyman Bobzien:

There was a change made in the law in 1999, to put the state grazing boards under the purview of the DOA. Was that to provide cohesive oversight or staff assistance? Can you comment on why that change was made in 1999? What have we learned in the last decade to make the DOA decide the current arrangement is not working?

Tony Lesperance:

Whatever prompted the change in statute in 1999 and the reasons for it, remain a mystery to me. It happened before I started work with the DOA. Mr. Ron Cerri brought this situation to my attention, and it seemed logical to change the statute. I did look at the history for the change, and I could not find evidence that the DOA has ever monitored any of these funds. The current budget cuts resulted in the DOA losing the position for the individual who worked closely with the various grazing boards. At this point, I am the only person available in the DOA to do the job, so I am trying to attend the grazing board meetings whenever possible.

Assemblyman Bobzien:

You indicated the position lost in the DOA was for the person that liaised with the grazing boards. Why was the position eliminated? Was it budget considerations?

Tony Lesperance:

A bill is being brought forward by an Assemblyman, not the DOA, which would replace half the position. The Governor's Budget made it impossible for us to do anything other than eliminate the position.

Assemblyman Segerblom:

On an annual basis statewide, how much money is collected from user-fees?

Senator Rhoads:

I would estimate about \$300,000. Do you agree, Assemblyman Goicoechea?

Assemblyman Goicoechea:

I believe it may be a little higher than that. We can find out that information.

Assemblyman Carpenter:

I can give you some perspective on what happened in 1999, and the reason for the change in purview to the DOA. There was a huge reorganization of state agencies. I believe the bill drafters saw the title—state grazing board—and simply put it under the DOA. From my experience in having served on four of the grazing boards, and as Chairman of the Central Committee for many years, the DOA has never had an oversight function in its relationship with the grazing boards. The state grazing boards are independent organizations. The BLM consults with the grazing boards to get recommendations for grazing lands. The grazing boards' main function is to spend the money collected for range improvements, which will benefit the livestock industry. Water improvement projects are the main focus of the expenditures.

Vice Chair Hogan:

Are there other questions?

Assemblyman Segerblom:

Do the state grazing boards have employees?

Senator Rhoads:

No, there are no employees. For clarification on the funding, the money goes to the state, then back to the county treasurer. Assemblyman Goicoechea, is that correct?

Assemblyman Goicoechea:

The money goes to the state, and then the funds revert to the counties. The counties prorate the money back to the grazing districts. Some of the grazing districts cover areas in multiple counties, so each county receives a prorated portion for its share.

I need to disclose that I am a member of a grazing board, and I am a member of the Central Committee's grazing board. This bill does not impact me any differently than anyone else, so I will be voting on this bill.

For the record, I want to clarify that this change in language does nothing to change the grazing boards' status or ability to act as a state agency. They will continue to have cooperating agency status as they do now. For the record,

the grazing boards are still a state entity even if they will no longer be under the DOA. Do you concur, Mr. Lesperance?

Tony Lesperance:

I never realized they were under the DOA until all this transpired. Therefore, I do not foresee any changes in the grazing boards' status. We will continue to work with the grazing boards, and bring information to their attention. We will protect the grazing boards when controversial issues arise because they are part of agriculture. Our mission is to protect agriculture in this state.

Assemblyman Goicoechea:

For our Policy Analyst and other staff, I believe the statement, just made by Mr. Lesperance, would be the legal opinion since the state does disburse the money back to the grazing districts. They are a quasi-state agency. We want to ensure that their status of cooperating agency will be maintained.

Tony Lesperance:

I have talked to the Deputy Attorney General about the status issue. It might be wise if I request a written opinion. It never occurred to me that it might become a problem in the future. Therefore, it would be prudent to have the AG's assurance that the grazing boards' state agency status will continue unsullied if this change in the statute's language is made.

Assemblyman Goicoechea:

The same issue has been raised by the grazing boards themselves, so we want to make sure this intention is clearly part of the record.

Vice Chair Hogan:

We have a comment from our Policy Analyst, Jennifer Ruedy.

Jennifer Ruedy:

I noticed the last paragraph of Mr. Cerri's letter ([Exhibit C](#)) addresses the same concern that Assemblyman Goicoechea raised. It states: "It is important the Boards retain state entity status in order to receive information from the BLM, and to be able to participate in BLM and Forest Service planning processes as cooperating agencies...." This same letter was presented to the Senate Committee on Natural Resources, Agriculture, and Mining, and it was shared with legal counsel. I would be happy to follow this up with Mr. Stephenson, this Committee's Legal Counsel.

Assemblyman Goicoechea:

I apologize to the Committee and our Policy Analyst. I did not read the letter. Senator Rhoads, did your legal counsel concur and verify that the grazing boards are state agencies?

Senator Rhoads:

Yes, it was agreed.

Assemblyman Segerblom:

Is there any line of authority for accountability for the state grazing boards?

Senator Rhoads:

They are accountable to the committees that vote for them. The county treasurer requests a bill before any funds change hands. The permittees who vote for them and the counties which distribute the money, provide accounting oversight.

Vice Chair Hogan:

We will not be taking a vote on this bill today, so we will have an opportunity to check with our Legal Counsel. The last paragraph of Mr. Cerri's letter ([Exhibit C](#)) states that the BLM and Forest Service require a continuation of the state grazing boards' status in order for them to receive information. They would prefer the state grazing boards to remain a state entity. We need to nail that down, and securing a written opinion from the AG's Office would be appropriate. Are there any other comments?

Tony Lesperance:

I would like to indicate that not only are the BLM and Forest Service mentioned in the letter, but also Natural Resources, Conservation, and a multitude of other agencies which work with the state grazing boards. It is absolutely essential these lines of communication be kept wide open, so everyone knows what everyone else is doing. The only way to do that is to maintain the present status quo. I will do my best to get an AG's opinion on that, and I will try and have it ready for this Committee by the work session on the bill.

Vice Chair Hogan:

Retention of the status quo does not mean we cannot change this bill's language. Is that correct?

Tony Lesperance:

Yes, that is correct.

Vice Chair Hogan:

Is there any testimony from the public either for or against the bill? [There was none.] Is there anyone who would like to testify from a neutral position? [There was none.] I am closing the hearing on S.B. 109.

This meeting is adjourned [at 2:23 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblyman Joseph M. Hogan, Vice Chair

DATE: _____

EXHIBITS

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

Date: March 16, 2009

Time of Meeting: 1:38 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 109	C	Senator Dean A. Rhoads	Letter of Support from Mr. Ron Cerri