

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

**Seventy-Sixth Session
March 31, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 1:37 p.m. on Thursday, March 31, 2011, 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/76th2011/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:

Assemblywoman Maggie Carlton, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman Elliot T. Anderson
Assemblyman David P. Bobzien
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Debbie Smith, Washoe County Assembly District
No. 30

Minutes ID: 677

CM677

STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Judith Coolbaugh, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

None

Chair Carlton:

[There was no roll call or Chair's introduction.] I am opening a work session. Our first bill today is Assembly Bill 306. You have received the work session document ([Exhibit C](#)).

Assembly Bill 306: Revises the manner in which certain supervisors of a conservation district are appointed. (BDR 49-1037)

Are there any questions? [There were none.] I will entertain a motion.

ASSEMBLYMAN LIVERMORE MOVED TO DO PASS
ASSEMBLY BILL 306.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

Is there any discussion? [There was no discussion.]

THE MOTION PASSED UNANIMOUSLY.

I am opening the hearing on Assembly Bill 322. You have received the work session document ([Exhibit D](#)).

Assembly Bill 322: Revises provisions relating to wildlife. (BDR 45-150)

Chair Carlton:

The Committee will remember that Mrs. Smith had to leave early on the day this bill was heard. I did invite her to come back to the witness table today as we normally give the sponsor of the bill an opportunity to address any concerns that were brought up during the testimony on the bill. She declined to return today as she is in another hearing room working on another bill, and she believes we have all the required information from her. Are there any questions that the Chair can attempt to answer?

Assemblywoman Bustamante Adams:

I was able to get some clarification on my question about the Community Foundation of Western Nevada, and I understand the concept of it being a fiscal agent. I just wanted to put that comment on the record.

Assemblyman Ellison:

For the record, I spent hours and hours on this bill trying to understand every inch of it, so I can be as fair and honest as possible. I do that on every bill, and I can tell you, at this point in time with the information I have received, I am in support of this bill.

Chair Carlton:

Are there any other questions or concerns?

Assemblyman Hogan:

I also had some concerns at the last hearing about what appeared to be kind of a sole source arrangement for the Dream Tag program. I have seen the explanation that has been offered about the role of a fiscal agent as opposed to a normal contractor situation.

Chair Carlton:

It was a confusing issue.

Assemblyman Hogan:

I still have some doubts since I spent many years at the federal level dealing with contracts, and I have very strong feelings about not getting all the competition we can in a procurement setting.

Chair Carlton:

This issue was debated in the last session on that bill. We are straying from the bill by going backwards to discuss that particular issue. However, if the history on the bill is important, then we should put it on the record. In order for this lottery to happen, it had to go through a nonprofit entity. Rather than taking the time to create a new nonprofit organization, an existing nonprofit organization was identified that could act as a fiscal agent so that this could happen in a timely manner. The money does not go directly to them; it is being managed by them for other projects. Mr. Bobzien is nodding in the affirmative.

I deal with nonprofits. We are a state-recognized nonprofit, and we act as a fiscal agent for a number of different projects within the state because of our auditing capability and the standard we have managing the monies. As a nonprofit, we can also leverage monies. I believe that was the intent, and Mr. Bobzien can clarify anything I missed.

Assemblyman Bobzien:

The heart of this bill is cleaning up the language related to the conservation seat to bring it into alignment with the language used by the State Environmental Commission. The other issue is the ability of the Governor to enact and implement his agenda. This legislation with the program was dealt with last session. We are just changing the word "may" to "shall."

Assemblyman Hansen:

I will be voting "no" on the bill, but I wanted to cover a few items. In section 1, we never defined the word "conservationist." We jumped all around it, but it was never defined. In section 2, we are giving the Governor the ability to appoint anyone to the position without restriction. The previous restriction on appointments was a reasonable check on the Governor's selection. The nominations for the position came from the Board of Wildlife Commissioners. Since they represent the public, there was assurance that the public had an opportunity for input. That check is being bypassed in this bill.

In section 3 on the Dream Tag issue, we had conflicting testimony. The reason the Dream Tag was not implemented was unclear. Either the Department of Wildlife (DOW) or the Board of Wildlife Commissioners failed to do it. Who was actually responsible? In this bill, we are giving the implementation responsibility to the DOW without clarifying whether or not they were the agency that originally failed to implement the bill. The Dream Tag, which was proposed last session, was in conflict with the Silver State Tag bill. The Silver State Tag bill was supported by the Board of Wildlife Commissioners and the county advisory boards, where the Dream Tag bill had not been. I want to get on the record that we are not opposed to the concept, but there were conflicting tag programs. Essentially, the two tag programs are appealing to the same purchasers and therefore the same pool of money. The Dream Tag had an unusual provision in it because you did not have to be a sportsman or a licensed hunter to get one. However, if you were one, you still had to pay a special \$10 application fee.

Also, there is still a question that I would like Legal to address. How do you reconcile the fact that the *Nevada Constitution* prohibits the establishment of lotteries when this bill is creating one? The money generated by the Dream Tag lottery sales goes back to a governmental agency. The Dream Tag lottery is in conflict with the constitutional prohibition on lotteries.

Chair Carlton:

I will try to answer a couple of Mr. Hansen's concerns. As far as defining the conservationist, Mr. Hansen, you had provided one definition at the hearing on this bill, and I had told you that we use *Black's Law Dictionary* as this

Legislature's default source. I apologize if you did not receive a copy of that definition because my intent was to get you one. The other items you addressed are your feelings and opinions which are valued, and everyone has the right to view a bill from his own personal context. We will let our legal counsel address the lottery prohibition issue.

Assemblyman Hansen:

One comment on the "conservationist" position, according to *Black's* the individual who currently holds that position on the Board of Wildlife Commissioners would fit that definition.

Chair Carlton:

It was repeatedly stated at the bill's hearing. If the person who currently holds the position fits the definition, then there will be nothing to prohibit that person from continuing to fill that position.

Assemblyman Hansen:

I just wanted to get that on the record.

Chair Carlton:

Ultimately, it is the Governor's choice.

Randy Stephenson, Committee Counsel:

Before we leave the "conservationist" issue, I want to clarify that just because words are not defined in statute does not imply they have no meaning. A Court would give them what is called "a plain and ordinary meaning." The Court would simply ask, "What is the ordinary meaning of this word?"

As far as section 3 goes and the lottery question, the purpose of having a designated private agent to handle this contract is to work with the issue of a constitutional prohibition on lotteries, and we are not violating any constitutional provision. The point was to make the Dream Tag program work.

Assemblyman Ellison:

I had a lot of the same concerns. My biggest concern is having someone fill the position who is fair and honest and will be focused on protecting the environment and the sage grouse habitat. I am pretty well assured that they will be looking for that kind of person, someone who is fairly open-minded. Perhaps an amendment is necessary to clarify which agency is handling the Dream Tag program and the lottery. Who actually handles the lottery of the tags?

Chair Carlton:

It is my understanding that the designated nonprofit organization will handle it.

Assemblyman Ellison:

Is that nonprofit named?

Chair Carlton:

That was the basis of the controversy during the hearing about naming an organization in the bill.

Assemblyman Ellison:

Does that named organization periodically change?

Chair Carlton:

No.

Assemblyman Livermore:

Who will select the nonprofit organization for the revenue earned from the Dream Tag?

Chair Carlton:

I understand your question, and I am trying to remember if you were present that day.

Assemblyman Livermore:

I missed one hearing.

Chair Carlton:

That debate was held on the bill that passed in the last session. The organization was chosen because they were up and running, and there would be no waiting time to start up a new nonprofit and they were to act as the fiscal agent for this project.

Assemblyman Livermore:

There are nine different animal tags that would be issued. Will the same nonprofit organization be handling all nine, or will there be a different nonprofit chosen to handle each?

Chair Carlton:

I am not sure if that is pertinent to this bill. We are going back and talking about the passage of the Dream Tag program last session.

Assemblyman Livermore:

I am just trying to get "my arms around it." There will be nine lotteries and they should benefit something. Should it benefit conservation or the Boy Scouts of America? Who is going to be the benefactor of the money earned?

Chair Carlton:

The sponsor of the bill is here, and I will be happy to have her answer your questions. However, we are not going to get into another hearing mode; we are here to process the bill. I want you to be comfortable with the Committee's decision even if you are opposed.

Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:

Fire away.

Chair Carlton:

Mr. Livermore is concerned about the Dream Tag issue, the nine tags, and how that money is dealt with. I know this does not deal with your bill in particular, but he is concerned and it would be helpful if we can answer them.

Assemblywoman Smith:

The purpose of this legislation was to create a fund that could be used for habitat restoration from wildfires and those sorts of occurrences. It is important to restore the mule deer population and protect sage grouse as well.

Assemblyman Livermore:

Thank you. That was all I needed.

Chair Carlton:

I will entertain a motion.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS
ASSEMBLY BILL 322.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND KITE
VOTED NO.)

I am opening the work session on Assembly Bill 451. You have received the work session document ([Exhibit E](#)).

Assembly Bill 451: Repeals obsolete provisions regarding the Advisory Council
on the Metric System. (BDR 51-82)

Chair Carlton:

I will accept a motion.

ASSEMBLYWOMAN PIERCE MOVED TO DO PASS
ASSEMBLY BILL 451.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Is there anything else to come before the Committee today? [There was nothing.] Is there any public comment? [There was none.]

This meeting is adjourned [at 1:56 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

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

Date: March 31, 2011

Time of Meeting: 1:37 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 306	C	Assemblywoman Maggie Carlton	Work Session Document
A.B. 322	D	Assemblywoman Maggie Carlton	Work Session Document
A.B. 451	E	Assemblywoman Maggie Carlton	Work Session Document