

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

**Seventy-Sixth Session
April 14, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 1:35 p.m. on Thursday, April 14, 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:

Assemblyman James Ohrenschall, Clark County Assembly District No. 12

STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Judith Coolbaugh, Committee Secretary
Gianna Shirk, Committee Assistant

OTHERS PRESENT:

Patrick Cates, Deputy Director, Department of Wildlife

Chair Carlton:

[Roll was called.] This is a work session today, and I am opening the hearing on Assembly Bill 503 with a proposed amendment.

Assembly Bill 503: Revises certain provisions governing the conservation of habitat for wildlife. (BDR 45-1091)

[Mrs. Carlton read the work session document and the amendment summaries ([Exhibit C](#)).] I am opening up the hearing for Committee discussion or questions.

Assemblyman Livermore:

If only 25 percent of the Wildlife Obligated Reserve Account may be used to monitor wildlife and its habitat, where does the rest of the money go?

Chair Carlton:

Part of your answer is in the proposed amendment, but the amount is being changed to 18 percent.

Assemblyman Livermore:

Where does the remaining amount of funds go?

Chair Carlton:

We have someone coming to the witness table to help us.

Assemblyman Livermore:

I am asking where the 75 percent remainder of the funds goes? How is it going to be used?

Patrick Cates, Deputy Director, Department of Wildlife:

Currently, under statute, the habitat conservation fee is only used for on-the-ground habitat projects administered by our Habitat Division.

Assemblyman Livermore:

I understand that.

Patrick Cates:

This change would allow a portion of the funds to be used for associated surveying and monitoring related to those projects.

Assemblyman Livermore:

The way I read the bill, the measure provides that in any year, not more than 25 percent (or 18 percent with the amendment) of the money in the Wildlife Obligated Reserve Account may be used to monitor wildlife and its habitat for the purpose of habitat rehabilitation and restoration. Where does the remaining 75 percent go?

Patrick Cates:

The entire fee is used for habitat work. This bill would allow 25 percent or 18 percent of the funds to be used for related surveying and monitoring.

Chair Carlton:

How is the remaining 75 percent used?

Patrick Cates:

It goes to on-the-ground habitat projects. We propose a set of projects every year.

Assemblyman Bobzien:

The concern is the need to monitor what the Department of Wildlife (DOW) does with the funds. In this amendment, we are specifying that the remaining portion can be used for associated monitoring and studies. We are trying to get as much of the funds as possible designated for on-the-ground projects.

Assemblyman Ellison:

Is this money going to be used for areas that need fire restoration? And sage grouse protection?

Patrick Cates:

That is correct. We have a list of annual projects that we propose to the Commission. A lot of the funds are directed to sage grouse habitat restoration, and we do earmark a portion for fire rehabilitation.

Assemblyman Ellison:

Do the funds stay in the DOW's account? There is not going to be another board created and the money will not be going anywhere else, is that correct? What board will be overseeing these funds?

Patrick Cates:

The funds remain in the DOW's account, and we take the projects to the Board of County Commissioners annually.

Assemblyman Anderson:

If it is acceptable, I move to amend and do pass this measure.

Chair Carlton:

I have a motion.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 503 WITH THE PROPOSED AMENDMENT TO
SECTION 2 LANGUAGE.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

Chair Carlton:

Is there further discussion?

Assemblyman Hansen:

I have several concerns with the bill and the amendment. One is the enforcement factor. Also, there needs to be some method to ensure that current holders of hunting and/or fishing licenses will not be charged again if the holder wishes to visit Wildlife Management Areas (WMA) during the out-of-season period of his license. The funds being raised are primarily through nonconsumptive users' fees, and they are using habitat lands purchased with consumptive users' dollars. In the future, I see sections of those areas being blocked for exclusive use by nonconsumptive users for activities such as bird watching. During the hunting season, the same area is going to be used by consumptive users, and nonconsumptive users may object. We are opening a potential can of worms. The money being raised should be used to purchase habitat areas that are critical birding areas for use by the nonconsumptive users.

My concern about enforcement is the penalty. What is the penalty going to be if someone is in the WMA without proof he paid the conservation fee? What are the provisions for groups like the Boy Scouts of America? Do they all have to purchase the \$5 conservation fee, or is there a group fee? These are administrative items that are being left on the table.

In the absence of clarity about the ultimate use of this legislation, I believe we should think the process through and solve these problems. There are too many unknowns.

Chair Carlton:

Mr. Hansen, I respectfully disagree with you. All those questions were asked and answered in the hearing. I would not bring something before you for a vote unless the bill has been thoroughly vetted, and the Committee feels comfortable with the measure. I realize you still have concerns, but other Committee members are satisfied that their concerns have been addressed. I think it is an issue of fairness. There is no reason why nonconsumptive users should not have to ante up to help support these areas. My philosophy is "take photos and leave only footsteps." However, I am willing to pay my fair share to make sure these areas do well. If you did not get answers to your questions and this bill passes, I will make sure you do get the answers before the bill goes to the floor.

Assemblyman Hansen:

The old saying goes, "he who pays the piper calls the tune." That is one of my concerns. As more and more money comes from nonconsumptive users, their ability to impact what goes on in those areas (originally purchased with consumptive users' funds) will become more significant. I can see some issues coming forward in the future.

Assemblyman Anderson:

If items need to be fixed later, they always can be. I do not think the passage of this bill will irreparably harm the WMA; I think it will be helping.

Assemblyman Ellison:

I believe a lot of my concerns have been answered. In Elko and Humboldt Counties, we lost 2 million acres in wildland fires. The wildlands destroyed were prime areas of sage grouse habitat. If this money can be used to restore those areas, I support it. I would like to reserve my right to change my vote on the floor.

Chair Carlton:

Amending on the floor is difficult. Keep in mind, we have a two-house system, and I assure this Committee if I ever find a true mistake I will sit in front of the other Committee and ask them to rectify it. We do have a safety net. I am calling for the vote.

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

I am opening the work session on Assembly Bill 427.

Assembly Bill 427: Enacts provisions requiring the payment of deposits and refunds on certain beverage containers sold in this State. (BDR 40-1079)

Chair Carlton:

You have the work session document and proposed amendment available ([Exhibit D](#)). There were a lot of questions and concerns about this bill, so I would like to invite the sponsor of the bill to come to the witness table and walk the Committee through the amendment. We put together a working group of approximately 20 people, and they discussed different options to address stakeholders' concerns.

Assemblyman James Ohrenschall, Clark County Assembly District No. 12:

We probably did not make everyone happy, but we tried to address the major concerns that were brought forward. On the radio this morning, I heard that Nevada's recycling rate is about 20 percent, which is far below states that do have a bottle and can redemption program. Their rates run around 80 percent to 90 percent. That is why I think this bill is so important.

Chair Carlton:

Before we get into the bill's language, we had a company that did not have an opportunity to testify at the hearing. They asked that I enter some information into the record for them. Strategic Materials, Inc. has submitted a letter of support ([Exhibit E](#)). They are the largest glass recycling processor in North America. They recently moved operations into Nevada by opening a state-of-the-art plant in North Las Vegas. They estimate Nevada's beverage container return rate to be less than 15 percent. We have also received letters from other companies who are watching our legislative action because they, too, would like to open facilities in the state.

Assemblyman Ohrenschall:

Their letter reinforces the concept that a recycling redemption program in our state will produce jobs. This company has already opened one plant, and they are interested in opening more if this type of legislation passes.

I would like to cover the provisions in the mock-up amendment. [See ([Exhibit D](#)).] There was concern that collecting returns would be onerous for retailers. Bottlers and distributors had concerns about having the product container labeled solely for use in Nevada.

In the amendment, we have broadened the definition of beverage. [See the mock-up amendment section 3, lines 6 through 9.] We still specifically exclude

milk and wine. We also revised the definition of beverage container to specifically target single-use containers. We changed the labeling requirements to have the container label read only the amount of the refund and the word "Nevada" or the abbreviation "NV." We removed the requirement that retailers would have to accept empty containers and provide refunds to customers. Instead, we provided for container redemption at certified redemption centers.

We deleted the provision that distributors and bottlers have to accept empty containers. We tried to leave more of the details open for promulgation through the regulations with fewer specifics in the bill. We do not want to micromanage. We revised the effective date for the legislation's implementation to January 1, 2013. This extended time period will allow time to hear from all affected parties.

We revised the deposit disposition by having the money placed directly into a state fund rather than have the retailer maintain a separate Deposit Transaction Account. This method is similar to how sales tax revenues are collected. Unclaimed deposit funds can be used for administration of the program as well as for recycling programs and education. One proposal that was brought forward suggested using schools as recycling centers, so they could benefit from the returned container money. I would be happy to answer any questions.

Chair Carlton:

Are there any questions on the amendment?

Assemblyman Anderson:

Mr. Ohrenschall, thank you for your work on this legislation.

Assemblyman Ohrenschall:

Thank you for your comment. I would like to clarify one item. I introduced this bill to promote recycling. I had no intention of introducing this bill for the purpose of generating revenue for the state. There was an editorial in the *Las Vegas Review-Journal* about a week ago stating the reason for this bill was to generate revenue. The nickel collected on each container is a refundable deposit. Therefore, every consumer can get his nickel back by returning the empty container. I would be delighted if no money came back into the account.

Chair Carlton:

Are there any questions? [There were none.]

Assemblyman Bobzien:

There are some remaining concerns that should be taken up by the Assembly Committee on Ways and Means. However, I would like to make a motion to amend the bill without recommendation and refer it to the Assembly Committee on Ways and Means.

Chair Carlton:

ASSEMBLYMAN BOBZIEN MOVED TO AMEND, WITHOUT RECOMMENDATION, AND REREFER ASSEMBLY BILL 427 TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

Is there any discussion or questions?

Assemblyman Ellison:

Mr. Ohrenschall, I think you did a great job, and I thank you for your hard work. My problem is that people in rural areas will be holding their empty containers, and they will have to transport those returns to recycling centers that are very far away. As the bill is written, I cannot support it.

Assemblyman Ohrenschall:

I appreciate your concerns about how this bill will affect rural Nevada. It is my hope that more recycling centers will be established throughout the state if this bill passes.

Assemblyman Livermore:

I, too, want to thank you for your work on this bill. In Carson City, we have had a recycling program in place all through my 12 years of service in local government. We employ a company that collects the refuse. If this bill is approved, those contracts could be jeopardized and so could the contracting company's investment in operations. Even the landfill for Carson City has a section with bins and containers for recyclables that generates revenue. There are a lot of administrative details that need to be in place. We also need to know if financial incentives are going to be offered to companies to locate recycling plants here. The devil is in the details. Creating a second recycling program may jeopardize the ones already in existence.

Chair Carlton:

Is there any other discussion? [There was none.] We will take the vote.

THE MOTION PASSED. (ASSEMBLYMEN ELLISON, KITE, AND
LIVERMORE VOTED NO.)

Is there any public comment? [There was none.]

This meeting is adjourned [at 2:05 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: April 14, 2011

Time of Meeting: 1:35 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 503	C	Assemblywoman Maggie Carlton	Work Session Document
A.B. 427	D	Assemblywoman Maggie Carlton	Work Session Document
A.B. 427	E	Assemblywoman Maggie Carlton	Letter of Support from Strategic Materials, Inc.