

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

**Seventy-Seventh Session
May 16, 2013**

The Senate Committee on Natural Resources was called to order by Chair Aaron D. Ford at 1:30 p.m. on Thursday, May 16, 2013, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 Aaron D. Ford, Chair
Senator Mark A. Manendo, Vice Chair
Senator Tick Segerblom
Senator James A. Settelmeyer
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Michael J. Stewart, Policy Analyst
Brenda Erdoes, Counsel
Lynn Berry, Committee Secretary

OTHERS PRESENT:

David Gaskin, P.E., Deputy Administrator, Division of Environmental Protection,
State Department of Conservation and Natural Resources
Kyle Davis, Nevada Conservation League
Dylan Shaver, Nevada Mining Association
Jennifer Lazovich, Broadacres Outdoor Marketplace

Chair Ford:

I will open the work session.

Michael J. Stewart (Policy Analyst):

Assembly Bill (A.B.) 2 was brought forward by the Nevada Association of Counties. There are no proposed amendments outlined in the work session document ([Exhibit C](#)).

ASSEMBLY BILL 2 (1st Reprint): Revises provisions governing the Land Use Planning Advisory Council. (BDR 26-175)

This bill specifies that the Governor's appointments to the Land Use Planning Advisory Council will represent each county based on nominations provided by the boards of county commissioners of the counties. In addition to the 17 voting members appointed by the Governor, the bill provides that one nonvoting member will be appointed to the Council. The bill further provides that Council members, who are also county commissioners, may be appointed by the Governor to one other board, commission or similar body. There were no amendments offered.

SENATOR SETTELMEYER MOVED TO DO PASS A.B. 2.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. Stewart:

The next bill is A.B. 168. No specific amendments are included in the work session document ([Exhibit D](#)).

ASSEMBLY BILL 168 (1st Reprint): Requires the membership of each county advisory board to manage wildlife to include one qualified member who represents the interests of the general public. (BDR 45-780)

This bill requires the appointment of the general public member as soon as practicable after the first board vacancy that occurs on or after July 1, 2013. This measure also specifies that the other board members must be appointed based on recommendations from ranchers and farmers in the county and from organizations that represent hunters, trappers or anglers.

No specific amendments were offered. However, testimony on A.B. 168 included some discussion regarding whether additional criteria should be included to specify that the appointee representing the interests of the general public must not possess a hunting, fishing or trapping license and must not be engaged in ranching or farming.

Chair Ford:

No amendments were offered.

SENATOR SETTELMAYER MOVED TO DO PASS A.B. 168.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. Stewart:

Assembly Bill 264 makes a second or subsequent violation of the statutory prohibition against feeding stray or feral livestock a gross misdemeanor. The work session document includes Proposed Amendment 8703 from Assemblyman Wheeler ([Exhibit E](#)).

ASSEMBLY BILL 264: Increases the penalty for certain crimes relating to estrays and feral livestock. (BDR 50-531)

An amendment was submitted to clarify that the State Department of Agriculture may provide for the management of estrays and feral livestock and to authorize the Department to enter into a cooperative agreement for the management of stray and feral livestock. This amendment clarifies that any cooperative agreement must provide for the cooperating person or entity to hold the State harmless from any claim or liability arising from an act or omission of the cooperating person or entity in carrying out the cooperative agreement.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED A.B. 264.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Mr. Stewart:

Assembly Bill 345 states that wildlife in Nevada must be managed according to the best science available. There is a conceptual amendment included in the work session document ([Exhibit F](#)).

ASSEMBLY BILL 345 (2nd Reprint): Revises provisions governing the management of certain wildlife. (BDR 45-273)

In addition to existing uses for money generated by a \$3 fee on game-tag applications, the bill allows such money to be used for research relating to injurious predatory wildlife and for management activities relating to the protection of game-animal species that are at risk of, or historically subject to, excessive predation. This bill further requires the Board of Wildlife Commissioners to establish certain policies for programs, activities and research related to predatory wildlife.

There was discussion concerning how much of the \$3 game tag fee was specifically designated for predator control. Assemblyman David Bobzien submitted a mock-up Proposed Amendment 8918 specifying that at least 50 percent of the money credited to the Wildlife Fund Account from the game-tag fee be used specifically for predator control ([Exhibit G](#)).

Christine Schwamberger, Nevada Political Action for Animals, submitted documentation setting forth the desired legislative intent as it relates to the language in section 1 of the bill ([Exhibit H](#)).

Larry Johnson, President, Coalition for Nevada's Wildlife and Joel Blakeslee, Coalition for Nevada's Wildlife, noted that predatory wildlife is managed based on trend data derived from the harvest of these predators. Mr. Blakeslee noted that determining an accurate population of predators might be difficult due to the manner in which predators are managed.

Chair Ford:

There has been discussion about legislative intent. It is my understanding that Assemblyman Bobzien intends for the word "science" to be broad.

Senator Settlemeyer:

I spoke with Assemblyman Bobzien, and he is agreeable to the concept of looking at other areas, but the data still would need to be based on facts.

Chair Ford:

The terminology in the bill is related to science. It is left purposefully vague. Are you satisfied with the amendment regarding the disbursement of the \$3 fee?

Senator Settlemeyer:

I will be supporting the amendment. We need to ensure that not all the money goes to research and away from predator control. I wish the percentage was higher, but I will support the 50 percent split.

Senator Goicoechea:

I will be opposing the bill. I wanted 75 percent of the funding to be spent on predator control, especially for my constituency in rural and northern Nevada.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED A.B. 345.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR GOICOECHEA VOTED NO).

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Mr. Stewart:

The next bill is A.B. 346. There is a conceptual amendment included in the work session document ([Exhibit I](#)).

ASSEMBLY BILL 346 (1st Reprint): Revises provisions governing mining reclamation. (BDR 46-1035)

This bill requires that reclamation plans for mining operations and exploration projects must, if feasible, provide for at least one point of public nonmotorized access to the water of a pit lake that has a predicted filled surface area of more than 200 acres. Such access must be provided when the pit reaches at least 90 percent of its predicted maximum capacity.

The bill also makes provisions regarding the responsibilities and liability of certain persons involved with the premises on which such a pit lake with public access is located. Such persons have no duty to keep the premises safe for entry or use, or to give warning of any hazardous conditions. These persons also do not assume responsibility or incur liability for injuries to any person or damages to any property caused by an act of a person who has permission to access the premises.

Finally, A.B. 346 provides that relevant reclamation plans filed before the bill takes effect must provide for public access to a pit lake as set forth in the bill.

There was discussion regarding the applicability of the measure for pit lakes located on private property. An amendment submitted by the Nevada Mining Association addresses this issue by providing that a private property owner be under no obligation to allow access to a pit lake.

Senator Settlemeyer:

I appreciate the amendment. I would like to ask the Division of Environmental Protection a question regarding the water in pit lakes. If we allow people access to the pit lakes, will this bill create any additional requirements for water quality?

David Gaskin, P.E. (Deputy Administrator, Division of Environmental Protection, Department of Conservation and Natural Resources):

There are existing water quality criteria in the mining regulations in the *Nevada Administrative Code* 445A.429, subsection 3. This bill would not change any regulations.

Brenda Erdoes (Counsel):

Is the first sentence of the proposed amendment, [Exhibit I](#), intended towards all pit lakes or only those on private property? Is it meant to be a veto power over what is provided in the bill?

Senator Settlemeyer:

We do not have any power over the federal government.

Ms. Erdoes:

If it is being managed by the federal government, we do not. If it is a mining operation on federal land and has a pit lake, is it intended that the mining operator have veto power?

Kyle Davis (Nevada Conservation League):

The answer is yes. Ultimately the landowner, be it the Bureau of Land Management or the appropriate federal land agency, would have the ability to decide the use of the land. A land manager could say not to allow access.

Chair Ford:

The bill was said to have been developed in consultation with everyone involved. Can property owners say they do not want access on their property, private or otherwise?

Mr. Davis:

That is my understanding.

Dylan Shaver (Nevada Mining Association):

That is our understanding, as well. We do not want to require landowners to do something they do not want to do with their land.

Ms. Erdoes:

If a person who is mining on federal property is the operator of the claim, is the application the same?

Mr. Shaver:

If the mine is currently in operation, the requirements are not triggered until it goes into reclamation. The mining operation would be gone before the pit lake would fill up.

Senator Goicoechea:

The reclamation plans will address the concerns. I am comfortable with the bill.

SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS AS AMENDED A.B. 346.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. Stewart:

The next bill is A.B. 381. There are no proposed amendments in the work session document ([Exhibit J](#)).

ASSEMBLY BILL 381 (1st Reprint): Encourages the Office of Historic Preservation of the State Department of Conservation and Natural Resources and Partners in Conservation to collaborate to identify and develop programs for the preservation and protection of the historical culture of St. Thomas, Nevada. (BDR S-909)

This bill sets forth a legislative finding that St. Thomas, Nevada, contains unique and culturally important resources.

SENATOR SETTELMEYER MOVED TO DO PASS A.B. 381.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Mr. Stewart:

The next bill is A.B. 246. There are numerous conceptual amendments included in the work session document ([Exhibit K](#)).

ASSEMBLY BILL 246 (1st Reprint): Prohibits the sale or transfer of ownership of a live animal at a swap meet under certain circumstances. (BDR 50-747)

This bill makes it a misdemeanor to sell, attempt to sell, offer for adoption, or transfer ownership of a live animal at a swap meet, except in counties and incorporated cities that have adopted an ordinance authorizing live animal sales at such events. The bill further provides that these ordinances must meet certain minimum criteria relating to the care of animals. The provisions of the bill do not apply to livestock or to the adoption of dogs or cats at an outdoor event held by a nonprofit animal shelter or rescue organization.

There were several conceptual amendments to consider. The first concern was the sale of animals for the primary purpose of selling or auctioning livestock. Assemblywoman Heidi Swank will address this issue.

Gina Greisen, Nevada Political Action for Animals, wanted to delete section 1, subsection 3, paragraph (b) which creates an exception to the swap meet sale, adoption or ownership transfer provisions for nonprofit organizations that provide for the adoption of dogs or cats at an outdoor event held by an animal shelter or rescue organization.

Ms. Greisen also requested the deletion of section 1, subsections 2 and 3, which set forth all exemptions to the prohibition of selling, offering for adoption or transfer of ownership of a live animal at a swap meet. This proposed amendment would essentially prohibit without exception such sale, adoption or transfer of any animal.

The last proposed amendment would delete in section 1, subsections 1 and 2, references to the "transfer ownership" and "transfers ownership" which would essentially allow the giving away of certain animals at swap meets.

Chair Ford:

I did receive an email this morning from Ms. Greisen reiterating her concerns. Will you be accepting any of Ms. Greisen's proposed amendments?

Assemblywoman Heidi Swank (Assembly District No. 16):

No, we were not planning to accept any of Ms. Greisen's proposed amendments.

I have Proposed Amendment 8947 ([Exhibit L](#)) for your consideration. Section 1, subsection 3, paragraph (b) adds another exemption for an event where the primary purpose is to sell or auction livestock or agricultural implements. We do not want to restrict events similar to those held by 4-H clubs.

Senator Goicoechea:

We had discussed including some language about events that charged admission. That would eliminate concerns about people giving away pets at grocery stores. I have a concern about section 1, subsection 2, paragraph (c), subparagraph (1), where you are incorporating the provisions of *Nevada Revised Statutes* (NRS). Everyone has to abide by NRS 574. You are

actually naming specific provisions. The rural authorities would have to incorporate similar provisions into their local ordinances, which could create difficulties for the local entities that will be authorizing swap meets. Since you are amending the bill, could you remove that reference?

Chair Ford:

Are you saying that since all counties have to comply with NRS, there should not be a requirement that the statutes be rearticulated in ordinances?

Senator Goicoechea:

It says the ordinance, at a minimum, shall include provisions substantially similar to the provisions of NRS 574.360 to 574.510. I think it handcuffs the local governments.

Assemblywoman Swank:

These specific statutes are used in North Las Vegas. The way North Las Vegas is handling swap meets and animals has been successful. We are using them as model legislation for the rest of the State. There were complaints prior to the implementation of these ordinances. After implementation, the complaints ceased.

Senator Goicoechea:

There are different issues in North Las Vegas than those in Humboldt County.

Senator Settelmeyer:

Nevada Revised Statute 574.360 is more expansive than we are discussing.

Chair Ford:

The bill sponsor wants the counties to issue ordinances that comply with State law.

Assemblywoman Swank:

That is correct.

Chair Ford:

The provisions we are speaking about relate to duties of operators of these establishments and also retailers and dealers of dogs and cats. Having it repeated in an ordinance is not necessarily bad. What would you like to do with this section?

Assemblywoman Swank:

We would like to keep it in.

Senator Goicoechea:

We are moving away from swap meets in general and talking about legislating requirements encompassing other issues such as puppy mills.

Jennifer Lazovich (Broadacres Outdoor Marketplace):

Broadacres is the only open-air marketplace in southern Nevada. The specific NRS references in the bill were not incorporated into the ordinance adopted by North Las Vegas. They did not apply to animals being sold at a swap meet. The ordinance did not include those provisions, but it did include provisions such as the size of the cage, water requirements and items that were applicable to animals being sold at swap meets.

Chair Ford:

You do not have to copy the statutes verbatim. Can you select the statutes that are applicable to your specific event for the ordinance?

Ms. Lazovich:

Yes, that was the intent. This is a good record to create. When I testified at the Assembly, I was assured that only the statutes that apply to swap meets would be required for the ordinance. Not everything within NRS 574 was applicable.

Chair Ford:

As a general rule, we are all bound to comply with the NRS. This bill allows us to choose which statutes are applicable to our specific local needs.

Assemblywoman Swank:

That is correct.

Senator Goicoechea:

Nevada Revised Statutes 574.360 to 574.510 is an exhaustive list. This will make it impossible to move an animal.

Chair Ford:

You do not have to adopt provisions you do not want.

Senator Settlemeyer:

I have a concern about transfer of ownership. Could the requirement to have immunizations before you give an animal away be waived? Animals are abandoned on my property, and it would be problematic to have to provide immunizations before they can be given away. Would it be acceptable to require the person who takes them to pay for immunizations?

Assemblywoman Swank:

Yes, we could live with that. We would like to add spaying and neutering to that request. Proliferation is a problem with pets.

Senator Settlemeyer:

I agree with immunizations, but the cost goes up significantly when you add the spaying and neutering. That makes giving an animal away difficult.

Chair Ford:

I agree with Senator Settlemeyer. Immunizations are a reasonable request.

Assemblywoman Swank:

That would be acceptable.

Chair Ford:

We have a conceptual amendment regarding the giving away of animals as long as they have their immunizations.

SENATOR MANENDO MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 246 WITH PROPOSED AMENDMENT 8947 FROM
ASSEMBLYWOMAN SWANK AND PROPOSED AMENDMENT BY
SENATOR SETTELMAYER.

SENATOR SEGERBLOM SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Ford:

There being no further business, the Senate Committee on Natural Resources is adjourned at 2:27 p.m.

RESPECTFULLY SUBMITTED:

Lynn Berry,
Committee Secretary

APPROVED BY:

Senator Aaron D. Ford, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	3		Attendance Roster
A.B. 2	C	1	Michael J. Stewart	Work Session Document
A.B. 168	D	1	Michael J. Stewart	Work Session Document
A.B. 264	E	6	Michael J. Stewart	Work Session Document
A.B. 345	F	1	Michael J. Stewart	Work Session Document
A.B. 345	G	3	Michael J. Stewart	Proposed Amendment 8918
A.B. 345	H	1	Michael J. Stewart	Legislative Intent Confirmation from Christine Schwamberger
A.B. 346	I	2	Michael J. Stewart	Work Session Document
A.B. 381	J	1	Michael J. Stewart	Work Session Document
A.B. 246	K	1	Michael J. Stewart	Work Session Document
A.B. 246	L	2	Assemblywoman Heidi Swank	Proposed Amendment 8947