

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

**Eightieth Session
May 16, 2019**

The Senate Committee on Natural Resources was called to order by Chair Melanie Scheible at 4:03 p.m. on Thursday, May 16, 2019, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Melanie Scheible, Chair
Senator Chris Brooks, Vice Chair
Senator Dallas Harris
Senator Pete Goicoechea
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Alysa Keller, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Steve Woodbury, Committee Secretary

OTHERS PRESENT:

Tim Wilson, Acting State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources

CHAIR SCHEIBLE:

I will open the work session on Assembly Bill (A.B.) 62.

ASSEMBLY BILL 62 (2nd Reprint): Revises provisions related to water.
(BDR 48-215)

ALYSA KELLER (Committee Policy Analyst):

I will read the summary of the bill and the amendments from the work session document on A.B. 62 ([Exhibit C](#)).

SENATOR HARRIS:

Section 1 of the State Department of Conservation and Natural Resources (DCNR) conceptual amendment directs the State Engineer to make reasonable rules for the proper and orderly execution and speedy accomplishment of the purposes of *Nevada Revised Statutes* (NRS) 533.380. I would suggest that eventually this be whittled down to something similar to "the State Engineer shall promulgate regulations to implement NRS 533.380".

The other suggestion I would like to put on the record is possibly making sure that these rules include language that the State Engineer shall promulgate these rules pursuant to NRS 233B. I would take the Legal Division's opinion as to whether the State Engineer is already required to promulgate rules under NRS 233B. If not, I would like to see this included in section 1.

ERIN STURDIVANT (Committee Counsel):

The State Engineer is currently exempt from the requirements of NRS 233B, except for certain limited provisions related to adopting Division of Water Resources (DWR) hearing requirements.

SENATOR HARRIS:

I would request that the rules called for in A.B. 62 be promulgated pursuant to NRS 233B.

SENATOR HANSEN:

That would complicate this. The provisions in NRS 233B would make it exceptionally onerous for the DWR to do what it needs to do. I support the open meeting concept. The irony is that the Legislature has excluded itself from that law because it would never get anything done. Putting this requirement on the DWR would be an unnecessary addition to the DCNR conceptual amendment. I have never heard any complaint that the State Engineer is being unreasonable when it comes to hearings or sneaking things through. What has just been proposed is a major change to the ideas contemplated in the conceptual amendment and would require another full-blown hearing to determine why the DWR was exempted in the first place and if we want to pursue making a change.

SENATOR BROOKS:

I agree with Senator Hansen. I support the current version of the DCNR conceptual amendment.

SENATOR GOICOECHEA:

Typically, when regulations are brought forward, they are required to go through a workshop first and then a public hearing, which is advertised and noticed. I am seeing nods in the affirmative, so I think there is adequate protection, and I do not think the DWR needs to be subject to NRS 233B. If people choose not to engage in the process, it is their loss.

SENATOR HARRIS:

My only intent is to ensure there is an open process, that there are hearings, and workshops and people are participating. If that is already required, I would prefer the bill include language referring to that statutory requirement to make it clear that regulations must be adopted according to that process.

CHAIR SCHEIBLE:

Is there such a statute that could be referenced?

MS. STURDIVANT:

To the extent to which the Committee wishes the State Engineer to be subject to the hearing requirements, the statute to be cited would be NRS 233B. The State Engineer is currently exempt from that chapter. If the Committee wants the State Engineer to go through that process, the amendment would have to either state that the process for adopting regulations must be in conformity with NRS 233B or that the State Engineer has to hold a hearing on the regulations without specifically citing NRS 233B.

SENATOR HARRIS:

What is currently causing the DWR to hold hearings and workshops? Is this required somewhere or done simply as a good practice?

TIM WILSON (Acting State Engineer and Administrator, Division of Water Resources, State Department of Conservation and Natural Resources):

The DWR does not follow the provisions in NRS 233B to the letter, because it is exempt from that chapter. Nevertheless, we do generally follow the same procedures when adopting regulations. We advertise our regulations, meet with stakeholders, conduct public workshops and develop small business impact statements. When we go to the Legislative Commission, we want to be able to demonstrate that we have had an open process and included the public.

SENATOR HARRIS:

Would it be too onerous if we required these rules to be promulgated pursuant to NRS 233B, since you are essentially doing that already?

MR. WILSON:

We do not want that included for a number of reasons related to past litigation. Handling regulations the way we do—holding public workshops, advertising, noticing and ultimately having the regulations reviewed by the Legislative Commission—is sufficient. We would prefer not to include a reference to NRS 233B.

SENATOR GOICOECHEA:

When regulations come before the Legislative Commission, all of the details are listed regarding small business impacts and when hearings and workshops were held.

MR. WILSON:

I have participated in the adoption of many regulations that have gone before the Legislative Commission. There is a checklist provided by the Legislative Counsel Bureau, and the DWR follows those procedures. It is a very open and public process, and I hope it satisfies the concerns of Senator Harris.

SENATOR GOICOECHEA:

It may not be required, but the DWR follows the Legislative Commission's process.

CHAIR SCHEIBLE:

The way the amendment is written, would the DWR need to come before the Legislative Commission with its proposed regulations?

MS. STURDIVANT:

I do not believe the State Engineer is required to bring regulations before the Legislative Commission, but I would need to confirm that. If not required in existing law, the proposed amendment as written does not make that requirement.

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CHAIR SCHEIBLE:

Requiring that the regulations to be promulgated pursuant to NRS 233B is a significant amendment to this bill. I would accept a motion to accept the amendment as written or table the bill.

SENATOR HARRIS:

This is not something that would cause me to not vote the bill out of Committee. I want the Committee to understand that the State Engineer is not required to hold hearings or workshops, or seek approval from the Legislative Commission when adopting regulations. If the Committee would like to make such a requirement, it would need to be stipulated in the amendment. If the Committee is not as concerned about this as I am, it would not be a sufficient reason to forgo all of the work that has been done on this bill.

CHAIR SCHEIBLE:

I will accept a motion on A.B. 62.

SENATOR BROOKS MOVED TO AMEND AND DO PASS AS
AMENDED A.B. 62.

SENATOR HANSEN SECONDED THE MOTION.

SENATOR GOICOECHEA:

I am concerned that there appears to be no requirement. I trust Mr. Wilson and the staff at the DWR, but I would like to see a requirement that regulations be brought before the Legislative Commission.

THE MOTION CARRIED. (SENATOR GOICOECHEA VOTED NO.)

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CHAIR SCHEIBLE:

I will open the work session on A.B. 233.

ASSEMBLY BILL 233 (1st Reprint): Revises provisions related to water.
(BDR 48-45)

MS. KELLER:

I will read from the work session document on A.B. 233 (Exhibit D).

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CHAIR SCHEIBLE:

I will accept a motion on A.B. 233.

SENATOR GOICOECHEA MOVED TO DO PASS A.B. 233.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

I will open the work session on A.B. 83 and accept a motion to rescind the Committee's previous action on that measure.

ASSEMBLY BILL 83 (1st Reprint): Makes various changes to provisions relating to wildlife. (BDR 45-210)

SENATOR HARRIS MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON A.B. 83.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. KELLER:

I will read from the work session document on A.B. 83 ([Exhibit E](#)).

CHAIR SCHEIBLE:

I will accept a motion on A.B. 83.

SENATOR HARRIS MOVED TO DO PASS A.B. 83.

SENATOR BROOKS SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

I will open the work session on Assembly Joint Resolution (A.J.R.) 2.

ASSEMBLY JOINT RESOLUTION 2 (1st Reprint): Urges Congress to reject any expansion in the use of land or exercise of jurisdiction by the United States Air Force in the Desert National Wildlife Refuge. (BDR R-697)

MS. KELLER:

I will read the summary of the bill and the amendments from the work session document on A.J.R. 2 ([Exhibit F](#)).

CHAIR SCHEIBLE:

I will accept a motion on A.J.R. 2.

SENATOR HANSEN MOVED TO AMEND AND DO PASS AS AMENDED
A.J.R. 2.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

Seeing no public comment, I will adjourn the meeting at 4:23 p.m.

RESPECTFULLY SUBMITTED:

Steve Woodbury,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	1		Attendance Roster
A.B. 62	C	2	Alysa Keller	Work Session Document
A.B. 233	D	1	Alysa Keller	Work Session Document
A.B. 83	E	2	Alysa Keller	Work Session Document
A.J.R. 2	F	1	Alysa Keller	Work Session Document