

AGRICULTURE COMMITTEE : 56TH ASSEMBLY SESSION

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MINUTES OF MARCH 2, 1971

MEMBERS PRESENT: CHAIRMAN: Virgil Getto, Melvin Howard, Norman Glaser, William Swackhamer, Roy Young, Roy Torvinen, Frances Hawkins.

The bills before the committee on this was: AB 261, 468, 325, 452, and 453;

First bill heard was AB 325: Increases maximum draught from wells for domestic purposes not requiring permits.

Roland Westergurad gave testimony on this bill:

Mr. Chairman, members of the committee-I sent some very brief comments to the two people who introduced the bill. Especially what this provision in the statute as it now stands, negates the necessity of having a water permit on a well, where the daily withdrawal from the well is going to be 1440 gallons per minute. I think it is a little interesting to review the legislative history of this thing, you may be interested to know that the first time a limitation was placed, a statutory limitation, on the amount to be withdrawn from a domestic well, without the benefit of a permit, the amount was 2 gallons per minute. This would be equivalent to about 2880 gallons a day or just twice the present entitlement of 1,440. In 1955 this act was amended to decrease this amount and cut it is half to 1440 gallons per day. This proposed amendment would again increase it, sort of take the middle road and provide a gallon and a half per minute or 2160 gallons per day. Most areas of the state have had no complaints about the 1440 gallons. We would suggest, and I don't have any preference, Mr. Chairman, one way or the other, on this bill; except is the amount is increased there should be or we would like for the committee to consider an additional amendment; which would be amending the definition of domestic use in the statutes; 534. 010 to read as follows: Domestic use extends to culinary and household purposes in a single family dwelling.

Mr. Howard: I have talked with Assemblyman Hafen; what he is getting at here is he would like to have, through the State Engineer, consideration of a time limit here, where a party could justify the use of the water and retain the permit for that well. He has a period of two years in it, I think, which might possibly be a little long, but I would like to hear from Mr. Westerguard's opinion on this.

Mr. Westerguard: Yes, for the benefit, perhaps of myself, to get started here; This would allow a grace period after notice was given in which to use underground water beneficially in order to prevent loss of the water right. I believe we were before this

in 1967 session of the legislature to request a change in this Statute 534.090, which you saw fit to approve. The statute at that time required that in order to lose a water right by non-use, there had to be an abandonment. In an attorney's opinion, abandonment is next to impossible to prove, and for this reason we had this law amended so that forfeiture could become a reality through non-use for a period of five years. It is my personal opinion that the statute, as it reads, affords certain protections to the public and certainly to the State and to other water users in these given areas for the following reasons: 66

AB 452: Under the provisions of this amendment, the period of non-use to constitute forfeiture would be extended from five to seven years, and I think maybe I should point out right now, that this statute is in the groundwater provision and it does not apply to surface water. This question came up in 1967, and there were some years in some of these critical areas of the State where there is hardly any surfact water available for a period of five years. This is, however, not the case in the ground water basins. This would essentially extend the period of non-use from a period of five to seven years. There would have to be a notice given that the right was, in fact, subject to forfeiture and this is why I say it would extend it to seven years, because under this language the State Engineer would not be able to give notice to a party until five years had lapsed. Now, if you could back up and give it at the end of three years maybe you would be accomplishing the same thing, but I think the way this is worded you couldn't give notice for five years. It is our position that the whole theory of the water law pertains to beneficial use also requires due-diligence, and we think for the purpose for which it is appropriated it for; a period of five years has failed in this exercise of due-diligence. There is also the consideration of other water users in a given ground water basin, as many as you are aware, we have found it necessary in areas of the state to allow water rights in excess of the natural recharge to these ground water basins. This was necessary to get any type of development at all. A person who maybe exercising diligence, and yet someone with an earlier priority does not, we feel he should be in a position to forfeit that priority, and the man who has proceeded in good faith should have some protection under the law. Mr. Westerguard called the committee's attention to the statute on assignability of applications and permits, any application for a permit or any permit to appropriate water may be assigned subject to the conditions of the permit, so we feel when a person received advantage of the use of water under a permit that this other statute is particularly valid and that he thereby does assume the commitments that must be met under the permit. I think essentially Mr. Chairman, that outlines our concern about this proposed amendment.

Questions of Mr. Westerguard by the committee.

Mr. Young asked Mr. Westerguard if the water rights could be transferred or sold and the answer was "yes"

Mr. Westerguard stated there was a few areas in the state where they are not issuing any new permits; Pahrump Valley, Grass Valley, Quinn River Valley and King's River up in Humboldt County.

AB 453: Gives the state engineer discretion in cancelling permits to appropriate public water.

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Mr. Howard: I have talked this bill over with Mr. Hafen also, and we have had this problem come up, which Mr. Westerguard is well aware of, We Have a shortage of water engineers. The way we have the act set up, these people that draws the maps up, file the permit forms through the department to the engineer's office have to be certified water engineers for the state of Nevada. When you get out into these areas that are few and far between, the time limitations get pretty critical. Mr. Howard said through no fault of the land owner, if his permit arrives late, the state engineer has no other alternative but to cancel the permit, and the land owner has to begin all over again and obtain a permit with a lower priority.

Mr. Westerguard: The comments I made earlier would also apply in this case; about due-diligence and the priority concepts; the statutes applying for the issuance of a permit, in the first place, requires that the state engineer put an endorsement on there as to the date the proofs are going to be due. In addition to the proof of beneficial use the applicant must show proof that he has begun the work to appropriate the water. He must file a notice of completion of work.

Mr. Getto asked Mr. Westerguard if this would be more work for him. Mr. Westerguard said he was sure it would.

Mr. Westerguard: By changing shall to "may", I do think that it is going to in effect endanger the states position on appeal.

AB 261: Provides rules, regulations and enforcement for denoting price per unit of weight, measure, or count on all commodities in package form.

Mr. Lee Burge, Director of the Department of Agriculture, and Mr. Galloway of the same Department gave testimony of the above bill.

Mr. Burge: Mr. Chairman, Ab 261 is a department bill, to try to bring our weights and measures operation up to date on several areas. It deals in part with truth in labeling, where it says on the first page. "we shall not use such terms as mimimum or giant size. This is to make it uniform with the Uniform Commercial Code.

Mr. Burge referred to page 3 line 34; the proper care of standards that are in the care of the department, Mr. Burge pointed out that the Federal Government had just given the department 90,000 dollars worth of equipment (this is standards equipment housed at Coney Island) This section simply tells us what we will do with those standards.

Mr. Burge referred to page 4 sub-section 2 of Section 9; you will notiice there is some deletion in the present law, because the law

conflicts with the Federal Law.

Mr. Galloway gave testimony on the above sections mentioned by Mr. Burge:

Mr. Galloway pointed out to the committee that in Section 4 of sub-section 4 would carry a \$3,000 note (fiscal) on it; enable the department to hold hearings, publish regulations and handle the information capability on it. 68

Section 5 sub-section c; this would require additional field personnel and we put a fiscal not on that of \$15,000; in other words what we are looking for is an additional one staff man, weights and measures; that would release our other weights and measures people when they are doing their work.

Burge stated that if the two sections in the bill, there will be a strain on the department without funding, the rest of the bill does not present a problem and it does clean up the department.

AB 468: Establishes new petroleum products usage standards.

Mr. Burge stated that this bill was also in the weights and measures area; of the petroleum areas, to bring the petroleum act up to date.

Mr. Burge further stated that the petroleum industry taxes itself by state statute, specifically for the money to go into the inspection fund. This money goes to the general fund at this time.

This bill does have the approval of the petroleum industry with the exception of sub-section 7 lines 33-35; Mr. Burge suggested that on line 33, after the word container delete down to line 35, stopping after one-fourth inch in height, and add " of a legible size." So that lines 33-35 should read "printed, embossed or otherwise firmly affixed on such container in letter and numerals of a legible size and such designation shall constitute compliance with the provisions of this section:

SB 30: Removes executive director and division directors of state department of agriculture from classified service.

Mr. Getto: Lee as this bill is drawn, how will it change the position of the director as the present statutes are. The director is responsible and appointed by the Board right?

Mr. Burge: This bill changes nothing except the setting of salary.

AB 559: Restricts use of economic poisons harmful to man if consumed. Mr. Torvinen moved to introduce a resolution to the Assembly and get AB 559 into the Agriculture committee. Seconded by Mr. Howard, Motion carried.

Meeting adjourned 12:00 noon.

HEARING DATES set for MARCH 2, 1971, AM RECESS, ROOM 214:

AB 325: Increases maximum draught from wells for domestic purposes not requiring permits.

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AB 452: Allows grace period, after notice, in which to use underground water beneficially in order to prevent loss of water right.

AB 453: Gives State Engineer discretion in canceling permits to appropriate public water.

AB 261: Provides rules, regulations, and enforcement for denoting price per unit of weight, measure, or count on all commodities in package form.

AB 468: Establishes new petroleum products usage standards.

HEARING DATES SET FOR MARCH 4, 1971, AM RECESS, ROOM 214:

AB 428: Conforms Nevada's meat and poultry inspection law to federal inspection law.

AB 172: Requires prepackaged meat to bear USDA grade.

AB 455: Provides additional regulations of livestock and produce brokers.

AB 456: Extends additional privileges to licensed cash buyers.

A Tentative date has been set with Chancellor Emil Marak for a hearing on the following pesticide bills; AB 122, 280, 281: The above bills will be heard on March 22, providing a joint hearing with the Senate can be set.

Meeting adjourned at 11:00 a.m.

b. smithers

ASSEMBLY

AGENDA FOR COMMITTEE ON AGRICULTURE

Date March 4, 1971 Time after a.m. recess Room 214

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
A.B. 172	Requires prepackaged meat to bear USDA grade	
A.B. 428	Conforms Nevada's meat and poultry inspection law to federal inspection law	
A.B. 455	Provides additional regulations of livestock and produce brokers	
A.B. 456	Extends additional privileges to licensed cash buyers	
<u>PUBLIC HEARING</u>		

*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date 3/4/71 Time a.m. recess Room 214
Subject as above

Date _____ Time _____ Room _____
Subject _____