

Minutes of Meeting --- February 18, 1971

Committee Members Present:	Thomas Wilson, Chairman
	Chic Hecht
	Lee Walker
	John Foley
" " Absent:	Clifton Young
	Emerson Titlow

Also Present Were:

John Hoakum	Sierra Club
Kay Beckett	" "
Dottie Learey	" "
Fula Forst	League of Women Voters
Joan Reid	" " " "
Tom Jesch	Students To Oppose Pollution
Ray Kniseley	
Ray Robinetta	

Members of the News Media

Chairman Wilson called the meeting to order at 2:35 p.m. Presented for public hearing was one bill:

S.B. 108 Proposed by Senators Young, Hecht, Wilson and Foley. Provides for actions for declaratory and equitable relief for protection of air, water and other natural resources and public trust therein.

Testimony was heard from two witnesses, John Hoakum and Mrs. Fula Forst. Mr. Hoakum stated Sierra Club members support S.B. 108 in principle however, they feel a specific definition of "pollution" was lacking. He added, if a clear definition is not to be included in this bill, it should be clarified somewhere in the backlog of legislation. Mrs. Forst stated the League of Women Voters are opposed to Section 3. (Statement attached)

The hearing was adjourned at 2:55 p.m. to an executive session which reconvened at 3:40 p.m. Members engaged in a general discussion and review of all bills referred to this committee and took the following action:

Unanimously approved a Do Pass recommendation on amended S.B.20 as moved by Senator Walker, seconded by Senator Young.

Unanimously approved a motion by Senator Foley, seconded by Senator Hecht that the committee hold for further consideration S.B. 15, to be scheduled along with S.B. 275 for concurrent public hearings On March 2nd and 4th.

Scheduled for consideration at the next meeting was S.B. 108.

Scheduled for consideration February 25th was S.B. 118 and 159.

There being no further business, the meeting was adjourned at 5:20 p.m.

Mrs. Fula Forst stated she was a representative of the League of Women Voter in Nevada and is opposed to Section 3, lines 3 to 7, inclusive, page 2 of S.B. 108.

MRS. FORST: If I understand this correctly, it says that the plaintiff must have ability to pay in order to bring charges for court action against a polluter.

We strongly support citizen participation in water resource decisions and have recently become aware of that portion of state water law which requires anyone filing a protest on a water application to pay a fee of \$10 for each protest of each application. We recommend repeal of that section of the law, feeling that any citizen or organization should have the right to question an application without having to pay a fee.

In view of the relationship of bringing court action, we would oppose Section 3 of S.B. 108.

SENATOR YOUNG: Don't you feel that there's a danger that somebody who might be caught up in the ecological tide, so to speak, might file action and cause a company or an alleged polluter thereupon to engage counsel for their defense?

When you get into a law suit of this magnitude it can be a fairly serious and fairly expensive thing. Even a groundless suit can cause a responsible citizen or company to expend a tremendous amount of leg-work...This bill is patterned after the Michigan Act, it passed the house there by a vote of 98 to 3, I think, and there were 40 or 50 sponsors for the act.

I strongly favor the legal approach as a supplement to the administrative agencies and the executive branch, but I can see danger if there isn't some restraint upon people who could be irresponsible in this field. I think a law suit is an ideal place to determine truth. You have a chance to examine under oath that you don't have at committee hearing. I think this sort of bill gives great promise for really accurately determining what the facts are.

I think a law suit is an ideal place to determine truth. You have a chance to examine under oath and we don't have that at a committee hearing. We have to move rapidly. I think this sort of bill gives great promise for accurately determining what the facts are and it is a responsible sort of proceeding.

Further, from a practical standpoint, I think a bill of this nature would have difficulty being approved without some safeguard against the irresponsible, litigation-minded person.

MRS. FORST: In other words, Senator, you foresee just most anyone filing a court claim that someone is polluting...without sufficient background knowledge?

(cont'd.)

SENATOR YOUNG: They could. It could be a very expensive situation. I've been involved in a lawsuit where the party on the other side has appeared as a 'pauper person' that means, he has no attorney and he has caused the defendant company to expend thirty to forty thousand dollars in legal costs of defense, even though the claim, so the court decided, was groundless, based on fraud, etc..

This could happen in environmental suits because we now have a law that states if you claim you are a pauper you don;t even have to pay the filing fee. There is this problem because once you get into court, you are entitled to all the privileges of setting, etc., unless there's some description, such as the cost of bond.

MRS. FORST: Would you suggest that any person who could charge someone with pollution, then approach a different agency rather than filing a court claim?

SENATOR YOUNG: You can approach agencies, but many times you get the quick brush-off from the agency or get a bland assurance that everything is all right. That's where the courtroom offers protection for the individual citizen who is willing, seriously, to go in and endeavor to have the matter considered by a judge. Perhaps because I'm a lawyer I'm prejudiced in favor of this sort of thing, but I think it supplements the regulatory agencies; it aids the legislature in determining what the facts are.

Pollution is a serious problem and any expert witness needed to testify would cost \$200 to \$250 a day. This sort of suit isn't designed for harassment. It's a serious sort of undertaking but I think it has great promise. The Legislature is in session once every two years and the administrative agencies get busy on something else, but here at the command and behest of a private citizen, is the right and the opportunity to go into court for certain safeguards to protect against serious environmental problems. I'm not sure I would even vote for the bill unless it has some safeguards against harassment type suits.

MRS. FORST: Yes, I agree with that. We do find, once in awhile, an individual citizen can uncover a source of great pollution where it is overlooked and this is, of course, the individual citizen's right to speak out and we do not like the idea of a price tag attached to it.

SENATOR YOUNG: But, every right has some responsibility.

end of verbatim transcript.

Amendment N^o 2830



Amend section 1, page 1, line 2, by deleting "9," and inserting "8,".

Amend sec. 2, page 1, line 3, by deleting "9," and inserting "8,".

Amend sec. 3, page 1, line 7, by inserting "reasonably" before "necessary".

Amend sec. 3, page 1, line 9, by inserting "reasonably" before "necessary".

Amend sec. 3, page 1, by deleting line 13 and inserting "activities and take all steps reasonably necessary to keep".

Amend sec. 3, page 1, by deleting line 17 and inserting "one of the



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guiding criteria in public decisions."

Amend sec. 3, page 1, line 21, by deleting "Require" and inserting "Take reasonable steps in accordance with chapter 233B of NRS to require".

Amend sec. 3, page 1, line 23, by deleting "Require" and inserting "Take reasonable steps in accordance with chapter 233B of NRS to require".

Amend sec. 4, page 2, line 3, by inserting "1." before "Each".

Amend sec. 4, page 2, line 7, by deleting "1." and inserting "(a)".

Amend sec. 4, page 2, line 8, by deleting "2." and inserting "(b)".

Amend sec. 4, page 2, line 10, by deleting "3." and inserting "(c)".

Amend sec. 4, page 2, line 11, by deleting "4." and inserting "(d)".

Amend sec. 4, page 2, line 12, by deleting "5." and inserting "(e)".

Amend sec. 4, page 2, line 14, by deleting "6." and inserting "(f)".

Amend sec. 4, page 2, by inserting between lines 15 and 16:

"2. A copy of the report required by this section shall be delivered to the governor's environmental council."

Amend sec. 5, page 2, line 19, by inserting after "act.": "A copy of such report shall be delivered to the governor's environmental council."

Amend sec. 6, page 2, by deleting lines 20 through 24.

Amend sec. 7, page 2, line 25, by deleting "Sec. 7." and inserting "Sec. 6."

Amend sec. 7, page 2, line 27, by deleting "9." and inserting "8."

Amend sec. 7, page 2, line 28, by deleting "governor and the legislature"

and inserting "governor, the legislature and the governor's environmental council".

Amend sec. 7, page 2, line 29, by deleting "January 1, 1973," and inserting "July 1, 1972,".

(more)

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Amend sec. 8, page 2, line 31, by deleting "Sec. 8. Any agency," and inserting "Sec. 7. Any state agency,".

Amend sec. 8, page 2, by deleting line 32 and inserting: "funds to local governments for any program which could have a significant effect on the environment, unless such".

Amend sec. 8, page 2, line 33, by deleting "allocate" and inserting "distribute".

Amend sec. 9, page 2, by deleting lines 36 through 39 and inserting:

"Sec. 8. The governor's environmental council shall make a report to the legislature not later than December 1 of each even-numbered year, enumerating the environmental problems discovered by it and the progress made in the solution of such problems. Such report shall be made available for public distribution."

Amend the title on the third line by inserting after "programs;" "requiring certain reports to be submitted to the governor's environmental council;".



NEVADA
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LEGISLATIVE REPORT

Feb. 12, 1971

1971-39

Don't You Think Parents Should be Responsible?

For the third time in as many sessions of the Legislature, there is an effort to require that parents be responsible for the "willful misconduct" of their children when that conduct results in injury or death or property damage. A lot of people thought that that was already the law---and so it is. But the present statute has a limitation of liability of only \$2,000. AB 166 would do two things: It would extend the liability for damage to public as well as private property; and it would remove the \$2,000 top limit of liability.

The progress of the bill (now in the Assembly Judiciary committee) has been all fouled up in arguments over who can buy insurance and who can get coverage for losses. The basic issue of parental responsibility is almost completely submerged.

There are a lot of parents who feel their responsibility and do something about it. They know where their youngsters are and what they are doing; and they have trained their children to have respect for the life and health and property of others. But there are also parents who do not accept their responsibility and let their children run wild on the streets. There is ample support for the argument that parents of the latter type are actually (though not directly) the cause of injury and damage to others. There is in the law the philosophy of the "dangerous instrumentality." If you have a dangerous machine under your control and you fail to control it and it does damage---you have to pay. There is no "top limit" of your liability like the \$2,000 limit in NRS. 41.470.

Isn't it fair to say that some youngsters are "dangerous instruments."

If any of the readers of this Report have differing views, (or supporting arguments), space will be made available for their publication.

Damaging conduct against public buildings cost the taxpayers more than a hundred thousand dollars last year. That's one reason Taxpayers are interested in fixing responsibility for that loss to them.

"Ecology" Bills Need Fiscal Notes.

Nevada has a procedure for requiring a statement of the fiscal impact of any bill which creates a cost to the Taxpayers. It is a good provision, but it isn't being used enough.

A "case in point" is SB-20 which is designated "The Environmental Quality Act of 1971. The measure, if passed, would require the generation of a mountain of reports to be submitted to whatever office is in charge of allocation of the money. Nothing in the act would prevent the allocation of the money. They just have to have the report. The weakness in the proposal is that no one has estimated the cost of preparation of the reports, or of filing them after they have been prepared.

Another, similar problem is contained in SB-118. That bill would require regis-

of any activity that created a waste water discharge; and the payment of a "surveillance fee" ranging from \$50 to \$9,000 to finance activities of the State Board of Health in its task of improving the quality of Nevada water. But a weakness is in Sec. 10 which says at "the cost of necessary surveillance of municipal discharges shall not be financed from revenues derived from surveillance fees but may be provided otherwise by law." No information is available as to how much that will cost or just who will "provide otherwise by law." The major cities insist that they have no money for that purpose. The State has no unallocated revenues. And, besides that, no one knows how much money would be required. A "fiscal note" is needed. Needed badly.

A representative of Agriculture at the hearings Tuesday asserted that enactment of these measures would "wipe out" all flood irrigation of agricultural lands in the state. And there is very little of any other kind of irrigation.

Two Constitutional Amendments Delayed Two Years

Two proposed constitutional amendments passed by the 1969 session of the Legislature and returned for consideration in this session have weaknesses so serious that it will probably be necessary to re-write the proposals and submit them to this and the 1973 legislatures and then to the people in 1974. No great harm will be done by the delay.

One of the measures would have confirmed in the constitution the view that the word "manufacturing" is the same as the word "process". The other would have made it possible for some personal property to be exempt from taxation. Added care in re-writing will assure that the measures when finally presented to the people will do what the legislature intended they should do.

Hearing Held on Judicial Article

A complete re-writing of the Judicial article of the Constitution is contained in SJR-23 of the 55th Session. That proposed Constitutional Amendment was approved by the 1969 Legislature and is now before the 1971 Legislature. A hearing on the proposal was held Friday by the Senate Judiciary committee.

The new constitutional article, if approved by this Legislature and by the people at the 1972 election, will provide for the selection of Justices of the Supreme Court and election of District Judges and County Court judges. It provides a Commission to hear and determine challenges to the fitness of judges and provides for their discipline, removal or retirement. The method is provided for employment of a Court Administrative staff which would (under the direction of the Supreme Court) develop a procedure by which the work load of the several judges would be balanced in order to provide a more timely hearing of cases.

The development of this Legislation is a model of public participation. Four years ago a large group of Nevada citizens undertook a study of the state's court system and engaged upon a thorough examination of the strengths and weaknesses of the administration of justice. The study groups composed of more than 200 representatives came together in two conferences (one in Reno and the other in Las Vegas) and examined the findings of four special study sub-committees. Eight representatives from each of the two regional conferences were given directions and assigned the task of preparing legislation to accomplish the results found to be desirable. SJR-23 was the result.

This plan of court organization is in use elsewhere, and has been found most desirable. It avoids the creation of political "debts" by Supreme Court candidates; it provides for the discipline, retirement or removal of judges who are or become incompetent. It provides an administrative capability to enable the Court system to cope with an ever-increasing work load. It enables the people to express their opinion about the work of each judge in the regular general elections.



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S. B. 20

Environmental Quality Act

WHEREAS, an official statement of policy would be helpful, and in some cases necessary, to encourage state and local agencies to consider environmental quality in their programs, and

WHEREAS, an environmental quality act would give the courts a firm foundation on which to base decisions protecting the environment, and

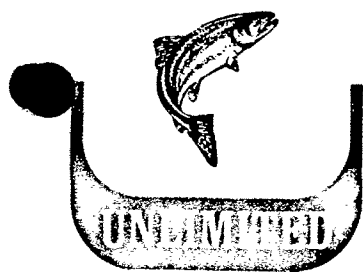
WHEREAS, the need for reasonable environmental protection guidelines is amply evident without further study, be it

RESOLVED, that the Nevada Chapter of Trout Unlimited endorses and urges passage of Senate Bill 20 with revisions to insure speedy dissemination of the reports required in Section 4.

Such revisions might require that:

1. Any report with the information outlined in Section 4 be given a special designation, for example, an "Environmental Impact Report."
2. A summary of the proposed project with the complete "Environmental Impact Section" be sent immediately after completion to the Bureau of Environmental Health which would send copies to its Las Vegas and Reno offices and, if the project is outside Clark and Washoe counties, to the county clerk in the county involved.
3. The Bureau of Environmental Health mail a monthly index of these reports to interested individuals, associations, and companies which will be able to subscribe to the index for a fee of \$5 a year.

Approved February 9, 1971



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S. B. 118

Waste Product Registration and Surveillance Fees

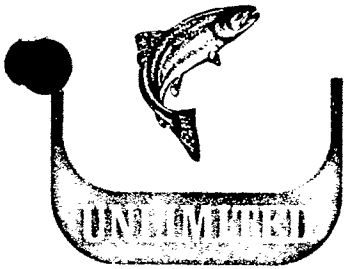
WHEREAS, discharge of wastes into streams and lakes is not a right but a privilege for the sake of convenience, and

WHEREAS, persons and companies should pay for the privilege by paying, in proportion to the pollution they create, for the surveillance and study of water pollution, and

WHEREAS, extensive surveillance and study is necessary to keep pollution within safe limits, be it

RESOLVED, that the Nevada Chapter of Trout Unlimited endorses and urges passage of Senate Bill 118 which would require surveillance fees and registration for waste discharges into waters of the state.

Approved February 9, 1971



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S. C. R. 8

Truckee River Basin Study

WHEREAS, the Truckee River, Pyramid Lake, and Lake Tahoe are of incalculable aesthetic, sport, and economic value as trout fisheries, in addition to all their other resource values, be it

RESOLVED, that the Nevada Chapter of Trout Unlimited endorses and urges passage of Senate Concurrent Resolution 8 which directs a legislative commission to study water quality problems of the Truckee River basin.

Approved February 9, 1971