

Joint Meeting
H E A R I N G

182

M I N U T E S -- 57th Session

SENATE ECOLOGY & PUBLIC RESOURCES COMMITTEE
&
ASSEMBLY ENVIRONMENT & PUBLIC RESOURCES COMMITTEE

March 7, 1973

	<u>Senate</u>	<u>Assembly</u>
Members Present:	Senator Wilson-Chairman	Chairman Bremner
	Senator Echols	Mrs. Gojack
	Senator Bryan	
	Senator Dodge	
	Senator Young	

Guests Present: PLEASE SEE ATTACHED GUEST LIST-EXHIBIT I

Senator Wilson called the meeting to order at 2:55 p.m. He stated that the purpose of the meeting is to hear testimony on S.B. 131--creating Nevada Land and Water Use Act, and S.B. 333--designating state land use planning agency and requires development of statewide land use planning process and land use program. He asked for those speakers to address their remarks principally to S.B. 333, since it would be the vehicle that they will probably proceed with. Senator Wilson also requested that the speakers make their remarks in reference to page and line item. He further announced that they will proceed hearings on these bills this coming Friday and next Wednesday, which will be March 14th.

Mr. Richard Miller, from the Advisory Board on Rare and Endangered Species, was first to speak on these bills. Mr. Miller based his comments on requested changes for S.B. 333. (This sheet of requested changes is attached as Exhibit 2.)

QUESTIONS:

Senator Dodge asked Mr. Miller if they had created any problems about this use of land within the city, and about the problem of the impairment of the use of private property. He asked if they would be running the possibility of criticism where the Governor could declare a moratorium. Mr. Miller answered that he really thinks they are creating a problem with this.

Senator Dodge then directed a question to Mr. Elmo DeRicco, Director of the Department of Conservation and Natural Resources. He asked Mr. DeRicco what he thought about this question. Mr. DeRicco answered that this plan is based by very solid facts and they have very strong and factual data on it. He added that if they prevent someone from doing what the people want, they had better have a back up of facts.

Mr. Miller went on and commented that he wouldn't like to deny Mr. DeRicco the right to make that threat, sometimes threats serve a purpose, but he thought that the Governor would be very judicious in using the authority. Believed that the Governor and Mr. DeRicco should have the opportunity to use this as a tool.

Mr. Ron Guidotti, representing the Sierra Club, was next to speak. He felt that strong, land use planning is a great credit to Nevada. But, Mr. Guidotti said that they should get something through this session, because if they wait another two years, it would be too late. Mr. Guidotti said that we need some comprehensive planning; something to avoid a hit and miss approach, which is being done in some areas now. Coordinate regional planning throughout this state, which would help the smaller counties who do not have the public resources or man power to staff & deal with large subdivisions that might be proposed for the area. He went on to say that the prologue of this bill, S.B. 333, states very clearly the problems and needs of the state, in this area. The Sierra Club wished to express its strong support of this bill, with the following modifications, and suggestions: Section 7, item 2:

"The Director may " changed to "The Director shall".

He said that we need to have as much public input as possible, since their end decision may effect all Nevadans either directly or indirectly. He stated that regarding the advisory council, the make up is not specified, other than to say that it will be made up of representatives of urban and non-urban areas. This is rather vague, and he would recommend that there would be some representation by individuals concerned with conservation and natural resource interest in this state. Mr. Guidotti said that this is spelled out more clearly in S.B.131. He was somewhat confused of the intent of item 1(b) of Section 11. Since it sounds like it is done all by the same agency, doesn't seem to be any check and balance. He also said that there should be something to specify the requirements of adequate quantity and quality. Another concern was Section 6, 3(d) about transportation, he questioned of which agency will have the final decision, the Highway Department or the agency. Provision should be made to get funding and staffing to enable implementation of the provisions of this bill, because without this no meaningful accomplishments could be expected. Mr. Guidotti urged strong support and considerations of the modifications for the committee.

Clint Salmon, Storey County Commissioner, confronted the committee next. He said that they seem to be having subdivision trouble in the past two years in his county, and they did have help from the legislature then, but did not seem to last very long. He says they have a sub-division right now that they cannot control and they really do not want it in the first place. They do not have the expertise, the smaller counties, and they need an assist to be able to regulate the sub-divisions. Mr. Salmon felt that if the state agency was the director or the governor who at least could declare a moratorium until is examined by experts, then that would be proper procedure.

QUESTIONS:

Senator Wilson asked if he thought this kind of bill would help the rural counties in helping with this problem, and Mr. Guidotti felt that it certainly would.

Senator Dodge directed a question to Mr. DeRicco, if it was their intent to get into a detail type of zoning all over the state. Mr. DeRicco answered that we have to look behind this bill, and have got to comply with the federal legislation, which provides not just for state

program, but for local government programs, and to mix with the state program and matching funds. Certainly hopes this would help out quite a bit. Mr. DeRicco said that if they get into any works of the local government, they need to be a part of it themselves also.

Gene Milligan, from the Nevada Association of Realtors, spoke next with firm belief of the land use planning, but also said that the state should always keep in mind, the rights of private property ownership. He brought up the "Bundle of Rights" law, which gives the private property owners their rights. Mr. Milligan said that there are four powers of government that limits ownership. These are:

- 1) domain--right to condemn property for public benefit.
- 2) power to tax.
- 3) escheat power--where land refers back to government in case of no heirs.
- 4) police power--regulates property for public safety, health, and general welfare.

He said that this S.B. 333 would be under police power. Have to be careful on how the bill is approached, because it touches the rights of private ownership of every citizen of the state, and also this bill has a potential of steering a course in history, which is a great benefit to this and future generations. Because of the widespread application of this proposed law, Mr. Milligan thinks that a state land use plan should be developed with specific criteria, specific details involved with that plan and brought back to the legislature with final approval. If this bill is passed, this plan will and can be implemented without coming back to the legislature. The Association felt that instead of public hearings, that the bill be brought back as a definite plan. He concluded in telling the committee that they represent the citizens, so think that they should approve this plan before it is implemented.

QUESTIONS:

Senator Wilson asked if he thought that the plan should be planned and developed without public hearings. Mr. Milligan answered no, but was suggesting that hearings under the process of 233B are not as well attended or noticed because of the legal notices and such.

Senator Wilson asked Mr. Milligan if he thought the legislature is equipped to do this sort of thing, and Mr. Milligan said that they would be because of the information they would receive by the agency and the public. That right now as stated in this proposed bill, it gives a direct authority to establish areas of critical concern. For example: areas that are presently and potentially a regional benefit. He asked who defines the word "potential", which occurs a lot in this bill, and is a very dangerous term to put in this bill. Should this be implemented without coming back to the legislature, he thinks it could cause problems, very serious problems.

Senator Wilson established the fact that it would take years for complete planning and such.

Senator Bryan commented that in ratifying this plan, it would take

special sessions, and they have so many responsibilities at this time. Also there might be up to 1500 individual protestors descending upon them, which would usually be handled by the planning commission, and this also might consume 300 days of testimonies. Senator Bryan added that they cannot do it with all of the things that they have to take care of and deal with.

Senator Dodge said that they have no safeguards with this plan against the state superimposing a plan that maybe doesn't even concur with the sub-divisions' feelings. Ought to set up some type of regional plan, and he agreed with Mr. Milligan that it is very wisely developed. He thought that the state really needs to take over, and really need some type of safeguards.

Noel Clark, Chairman of the Public Service Commission, spoke next and said that the commission is a firm believer of water, air and land use. He brought up the California and the Washington Utility Plan Citing, which caused quite a few problems and cost quite a bit of money. Mr. Clark thinks this bill has application of preventing problems like this one, and this state should exercise its powers. The life of this state depends on water, gas, telephone and power, and the costs are growing astronomical for the plants, construction, and timewise. The commission would like to retain its jurisdiction under the utility plant citing act, which is in NRS 704, after zoning takes place.

QUESTIONS:

Senator Dodge asked where they would be able to fit that into the bill, and Mr. Clark answered that it could be put in on page 6, line 17 to 19. Also felt this section should be somewhat expanded and clarified. Mr. Clark went on in saying that once zoning is established, within the zoned areas, they would then have the jurisdiction. The state should take over all initiative in zoning, with the cooperation with the local political sub-divisions in arriving at some pattern with utilities only.

The next to testify was James Friedlander, from the Carson River Basin Council of Governments. He referred to section 11 (c) as one of their concerns. He said that they would like to have some assurance that they would have a voice in any district. Also, in section 8, in reference to the land use advisory council, he thought would be a good vehicle, with regional, local and state agency. Mr. Friedlander also mentioned that following section 17, he would recommend a clause 4, which would assign the director the additional task of preparing legislation, and the director to work with appointed committees of the legislature as well as other commissions such as county commissions, to get local input. It would be useful to have a continual input from the local level of government to the director regarding areas in which legislation should be developed.

Joe Midmore, representing the Builders Association of Northern Nevada and the Housing Industry, spoke very much in opposition to S.B. 131, but about S.B. 333, he said that the committee pretty well told them that they would have to live with one or the other. Mr. Midmore said that this bill seems to put a tremendous amount of work

on Mr. DeRicco's Department. There is no fiscal note, so does that mean it would not cost any money, which sounded peculiar to Mr. Midmore. But Senator Wilson explained to him that the funding would be supplied by the federal government if the planning of the program proceeds. Another problem is the possibility that this bill gives for inverse condemnation. He said that he can see a line-up at Mr. DeRicco's door full of people who just know of areas of critical environmental concern. The minute an area is declared as a critical concern, it would be assumed that they are saying to the man that he cannot use that land, and how would the man be reimbursed. Mr. Midmore says that he fears very much that this is going to happen. In regards to section 7, he hoped that there would be no danger of any moratorium, and hopes this bill comes close to the standards needed to meet with the Jackson Bill, which had been discussed by the Senators at a previous meeting.

Senator Wilson said that they ought to ask for specific suggestions about critical areas, and asked Mr. Midmore if he could give them some affirmative suggestions about definitions of critical areas, and Mr. Midmore agreed to have them at one of the other scheduled hearings on this bill.

Pam Wilcox asked to be heard next. She is a member of the Property Owners Association, speaking very much in favor of S.B. 333. This association felt that this kind of action is needed, not today but yesterday. Ms. Wilcox mentioned about section 7, and felt that it should be "the director shall" not "the director may." And the public should be allowed to participate before they get to the point of public hearings. For public notices, they should have a 1/2 page ad of the newspaper for everyone to see.

Senator Echols asked if she realized how much it would cost, and also asked if they, as an organization, had good press coverage. Ms. Wilcox answered that the federal government should pay for the newspaper ad, since it is in the effect of land use planning, and to the latter question answered that sometimes they do have good press coverage.

Ms. Wilcox continued her testimony and said that section 9 was not clarified to her, about the advisory board, and she thought that maybe the words could be changed around to at least urge the director of the agency to consider and take the advise of the advisory council. Also, her comment was that the bill does not talk about water as much as it should. When it says land planning, it should also say water planning with it. She referred the committee to section 6, where it says nothing about water at all, and it is a fundamental importance that it should be there, and considered it as crucial. Ms. Wilcox brought up the word "potentially" and said that it should be defined more clearly. Section 11 was also brought up, and she asked if that meant that no aspects of a conscientious land use planning of this state cannot go into effect until all of the steps of the land use processes are completely finished.

QUESTIONS:

Senator Wilson, in regards to her last statement, said that this is stated in the Jackson Bill, and he did not know exactly when they

could start the planning processes, and Ms. Wilcox said that she hopes they could try to get into effect as soon as possible, because the state cannot wait that long.

Senator Dodge said that land planning is valid and automatically concerned water also.

The next speaker was Bill Adams, Assistant City Manager of the City of Las Vegas. He asked if he could also be heard at a later date. He commented on section 13, that specifies that sections 6,7,11, and 12 be implemented. He said that there seems to be an interchange of the words "planning", "program", and "process"; where does the planning begin, what is the program, and what is the process, were his questions. He thought that this part be amended, because the state is well behind in the total overall use plan, and in this plan it is talking about speaking of the actual use of land the designation of where zoning would apply for single family homes, apartments, agricultural use, and done so in a literal sense and a map of the area. Definitions should be put in the way so that there is not any type of problem with it, and think that they further recognize the use of the words planning and zoning, because they will create an emotional reaction of the public.

QUESTIONS:

Senator Wilson asked Mr. Adams when he would want to testify again, and Mr. Adams said that next Wednesday sounds good, which would be March 14th.

Ralph Cramer also spoke, but wanted to be heard another time, to have more time to study the bill, since he only received it the night before. He said that he would try to make it the following Friday, and if he could not make it then, he would make it next Wednesday.

John Meder, Executive Secretary of the Nevada Association of County Commissioners, spoke next. He commented that usually when they get on a local planning board, or even on a state agency, somebody has to approve the action that comes from them. He referred to section 12(c) which says that standards could be set at this point. He did not find any place in the bill that anybody other than under the direction of the Governor actually has to approve, and not going so far as to suggest that the legislation should do it, but maybe there is some organization with the air pollution and environmental connection that would like to take on the approving responsibility. Mr. Meder said that he does not think that the intent of this bill is to supersede the government.

Senator Dodge directed a question to Mr. DeRicco about other states' adoptions of this sort of bill, and legislation. Senator Young brought up the Florida Bill on this, and said that it would come closest to the legislation of this state.

Senator Wilson said that they would schedule Elmo DeRicco, and any other relating departments for Friday, March 9, in the same room. If they have an afternoon session then the meeting will start after adjournment, but if they do not, then they will meet at 1:00 or 1:15 p.m.

Meeting was adjourned at 5:20 p.m. until Friday.

Exhibit I

Name - Print	Organization
Samuel Shaver	Washoe Pines Ecology Ranch
R G Miller	Advisory Comm. on Rare & Endangered Spec
BRUCE ROBB	UNION PACIFIC RAILROAD COMPANY
Emil W. Grier BRUCE ARKELL	League of Women Voters State Planning Coordinator
DONALD M. BAYER	REGIONAL PLANNING COMM WASHOE CO
Frank W. Groves	State of Nev - Dept of Fish & Game Flowers
Gene Chesney	Nevada State Planning Board
John Spiebel	Storey County Commissioner
Clint Salmon	Dept of Conservation
Elmo DeRico	" " "
Norman Hall	" " "
D. Michael Cohen	Sierra Pac. Power Co.
Harold O. Miller	" " " "
R. S. Leighton	Trusta Institute
Tom Nappe	Sierra Club - Toiyabe Chapter
Ron Guidotti	Yw. R. R. Assoc.
Case A. Goddard	TAHOE REG. PLANNING AGENCY
RAY KRISLEY	Nev. Division of Water Resources
Bruce Sutt	Public Service Comm.
Neal A. Kent	Representing So. Nev. Homebuilders Assn
Ralph Kramer	
John Meder	
Robert Miller	

Exhibit 2

RICHARD MILLER-- Requested changes for S.B. 333

Page 3, line 9, Section 6 (f)--Rural Development, taking into consideration future demands for and limitations upon products or services (uses) of the land; and

Pg. 4, line 8, Sec. 7 (2)--air, water, noise, or other quality (environmental) standards.

Pg. 4, line 19, Sec. 7 (2)--The director [may] shall:

Pg. 4, line 42, Sec. 9--...applies to all lands, and waters within the boundaries of the state.

Pg. 4, line 26, Sec. 8--paragraphs 2 and 3 --Members of the council shall be selected on their demonstrated concern for community, land use and environmental matters [suggest a representation of groups, of users, and experts, or with a technical advisory board of specialists of pertinent competence.]

Pg. 6, line 20, Sec. 20 (e)--Areas which are presently or potentially required as the native habitat of indigenous plants or animals, for the location of natural or wilderness areas, for wildlife refuges or management areas of equivalent reserves: Instead of -- areas which are presently or potentially suitable for the location of wilderness areas, wildlife refuge or new communities.

Pg. 7, line 6, Sec. 16 (3)--The (director)/Governor is hereby authorized to declare a moratorium in any land use or practice as he may deem necessary and for a stated periods of time of until criteria or procedures can be defined which cover the circumstances not otherwise provided for, in protecting the intent of this act: This should be added as an extra clause to Section 16.

JOINT HEARINGWITH

SENATE ECOLOGY & PUBLIC RESOURCES COMMITTEE

AND

ASSEMBLY ENVIRONMENT & PUBLIC RESOURCES COMMITTEE

March 7, 1973
Room 213
P.M. Adjournments

BILLSUBJECTS.B. 131

Creates Nevada Land and Water Use Act.

S.B. 333

Designates state land use planning agency and requires development of statewide land use planning process and land use program.

A.B. 449

Designates state land use planning agency and requires development of statewide land use planning process and land use program.

ENVIRONMENT AND PUBLIC RESOURCES & FISH AND GAME COMMITTEE
57th Session

BILL NO.: A.C.R. 17 DATE: March 6, 1973
SPONSOR: Lowman, Ashworth, Mrs. Ford, Schofield, Bremner, Demers, Robinsc
SUBJECT: Authorizes an immediate legislative feasibility study of
public ski operation in Lee Canyon.

COMMITTEE ACTION DATE: March 7, 1973
AMENDMENT: YES X NO _____
AMENDMENT PROPOSED BY: Mr. Lowman
SECONDED BY:

COMMITTEE VOTE	YES	NO	EXCUSED	ABSENT	NO VOTE
BREMNER	X				
FORD	X				
GOJACK	X				
BANNER	X				
BROADBENT	X				
CRAWFORD	X				
JACOBSEN	X				
LOWMAN	X				
SMALLEY	X				

DISPOSITION: DATE: March 7, 1973

DO PASS: Motion: Mr. Lowman
DO PASS AS AMENDED: X Second: Mrs. Gojack
INDEFINITELY POSTPONED:

NOTES:
This bill was a "do pass as amended" deleting the last paragraph.