

Senate

PUBLIC RESOURCES AND ECOLOGY

Minutes of meeting

April 16, 1973

Senator Wilson in the Chair.

Committee members present: Senator Bryan
 Senator Blakemore
 Senator Dodge
 Senator Young
 Senator Hecht
 Senator Echols

Senator Wilson called the meeting to order at 7:25 p.m.

A.B. 951: Reorganizes structure of state and county
 fish and game administration.

Mr. Roger Teglia, Upland Game Committee, stated that this is a confusing bill and it does not improve anything. Mr. Teglia recommended that we forget this bill this Session. A nine-man commission is all that is necessary.

Senator Monroe stated that he would like to protest the passage of this bill, in that it would tie the Governor's hands. He would have no say in who he appoints. Senator Monroe felt that the Governor would not sign the bill even if it were passed.

Bill Embry, Nevada Fish & Game, stated that the commission working nicely as it is, and they are for the nine-man commission.

A.B. 680: Provides for dust-control measures in mining
 and related industries.

Paul Gemmill, Nev. Mining, stated that we should permit the operator to provide dust protection equipment in order to protect man's health.

Senator Wilson stated that after notification of Joe Dini, we would hear this bill tomorrow.

Senator Wilson asked of Ray Knisley if A.B. 489, A.B. 477 and A.B. 472 were structurally parallel. Mr. Knisley answered in the affirmative and further stated that the purpose of bringing A.B. 489 amendments before the committee was to show the purpose of A.B. 472.

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A.B. 472: Enacts Nevada Water Pollution Control Law.

A.B. 477: Provides commission with authority to promulgate engine and exhaust emission standards for motor vehicle pollution control.

S.B. 489: Changes and clarifies administrative responsibilities for control of air pollution.

(See Exhibit "B" for proposed amendments to A.B. 472 and Exhibit "C" for proposed amendments to S.B. 489)

Mr. Ernie Gregory, Division of Health, stated that there are two principle provisions to A.B. 472: One is for the planning authority - they have to develop a continuing process to maintain their construction grants. Currently, for fiscal year 1973 and 1974 they are speaking about 14.4 million dollars in federal funds for construction. This provides 75% funding to the municipalities for construction of sewage treatment. Also there is authority to permit point source discharges into the receiving waters or sewage collection system. Speaking both to A.B. 489 and A.B. 472, the pollution control people have to get into some aspects of the land planning.

Senator Wilson stated that some of these provisions are duplicating A.B. 489. Jan Wilson, Leg. Counsel Bureau, stated that that is what part of the amendments are addressed to, so that the definition is identical - this would conform them so they are identical.

Senator Blakemore asked why we have these amendments when this bill is dated March the 5th, has gone through the Assembly and we suddenly decide it needs an amendment - why?

Mr. Gregory stated that some of the provisions in A.B. 489 that this committee came up with are great and should be included in this one. To further explain this bill, Mr. Gregory stated that anyone that discharges toxic material to receiving waters, will have to have a permit and this permit will stipulate monitoring provisions and establish discharge requirements. The municipalities themselves will be permitted to discharge to receiving waters, with certain restrictions imposed on what they can discharge. Previously, they just had to report what was discharged. Senator Dodge asked why we are repealing Section 71, since they thought it was a good act two years ago. Mr. Gregory stated that there were no provisions for planning process.

At this point, the committee members with the assistance of Ernie Gregory, Ray Knisley and Jan Wilson perused A.B. 472 and the amendments. Mr. Gregory, Mr. Knisley and Ms. Wilson, upon request of the committee members, furnished input in regards to the proposed amendments. On Tuesday, April 17, 1973, upon request of the committee secretary, Ms. Wilson furnished copy of the revised amendments that were discussed at this meeting. (See Exhibit "D" for revised amendments).

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Upon completion of an extensive discussion period in which the revised amendments were obtained, Senator Bryan moved that we amend the bill and re-refer to the Ecology Committee, seconded by Senator Nichols.

Senator Wilson adjourned the meeting at 11:00 p.m. and stated that the committee would meet again tomorrow evening at 7:00 p.m.

Respectfully submitted,


Sharon W. Maher, Secretary

Thomas R.C. Wilson
Chairman

4-16-73

PUBLIC RESOURCES & ECOLOGY

NAME	REPRESENTING	ADDRESS
R.S. Leighton	SIERRA POWER POWER Co	Reno Nevada
RAY KNISLEY	OMBUDSMAN	801 No CARSON ST. C.C.
Jan Wilson	Dep. Legis. Council	St Legis Bldg
Bill Embry		NW. Fish Bldg
DICK SEROON	Bu. OF NEVADA HEALTH	201 So FALL ST
Fred EWright	Dept Fish & Game	Reno
Roger Teglia	upland game Committee	
Warren L. Morrow	Senate	
Mel G. Mansfield		
Elmo DeRocco	Dept of Cons.	
Ernie Gregory	Division of Health	201 south Fall ST, C.C.
Judy G. Bellis	Attorney General's Office	
Kate Butler		Las Vegas, Nevada
Samuel May		Carson City, Nev.
Laurie Palm		RENO, NEV.
Stan Leeman	Nevada Bell	Reno, Nevada
Robert F Guian	{ Nevada Motor Transport Assn - Nevada Franchised Auto Dealers }	{ Reno, Nev P.O. Box 7415 }
Jim Smith	INTERNS	

Robert

Amendment N^o 5556



Amend sec. 5, page 2, by deleting line 1 and inserting:

"Sec. 5. (Deleted by amendment.)".

Amend sec. 15, page 2, line 45, by deleting "health division" and inserting "department".

Amend sec. 20, pages 3 and 4, by deleting lines 28 through 49 on page 3 and lines 1 through 5 on page 4, and inserting:



"Sec. 20. (Deleted by amendment.)".

Amend sec. 21, page 4, by deleting lines 6 through 14 and inserting:

"Sec. 21. (Deleted by amendment.)".

Amend sec. 45, pages 8 and 9, by deleting line 50 on page 8 and lines 1 and 2 on page 9 and inserting:

"Sec. 45. A party aggrieved may file notice of appeal with the commission within 10 days after the date of notice of action of the department, except as otherwise provided by law."

Amend the bill as a whole by inserting a new section designated as sec. 45.1 following sec. 45, to read:

"Sec. 45.1. 1. Within 20 days after receipt of the notice of appeal provided for in section 45 of this act, the commission shall hold a hearing.

2. Notice of the hearing shall be given to all affected parties no less than 5 days prior to the date set for the hearing.

3. The commission may sit en banc or in panels of three or more to conduct hearings.

4. The attendance of witnesses and the production of documents may be subpoenaed by the commission at the request of any party. Witnesses shall receive the fees and mileage allowed witnesses in civil cases. Costs of subpoenas shall be taxed against the requesting party.

5. All testimony shall be given under oath, and recorded verbatim by human or electronic means.

6. Costs of transcribing proceedings of the commission shall be taxed against the requesting party."

Amend sec. 57, page 10, line 39, by deleting "state" and inserting:
"director,".

Amend sec. 57, page 10, line 40, by deleting "health officer,".

Amend sec. 60, page 11, by deleting line 27 and inserting:
"before the commission."

Amend sec. 60, page 11, by deleting lines 28 and 29.

Amend sec. 65, page 12, by deleting lines 36 through 38 and inserting:
"this act shall be held before the commission and comply with the provisions
of such rules and regulations as the commission may prescribe."

Amend sec. 67, page 12, line 47, by deleting "appeals board" and inserting:
"commission".

Amend sec. 67, page 13, line 5, by deleting "appeals board" and inserting:
"commission".

Amend sec. 67, page 13, line 9, by deleting "appeals" and inserting:
"commission".

Amend sec. 67, page 13, line 10, by deleting "board".

Amend sec. 67, page 13, by deleting line 14 and inserting: "commission.".

Amend the bill as a whole by inserting a new section, designated sec. 71,
following sec. 70, to read:

"Sec. 71. NRS 445.451 is hereby amended to read as follows:

445.451 1. The state [commission of] environmental [protection]

commission is hereby created [.] as a division of the state department of conservation and natural resources. The commission shall consist of:

(a) [The chief of the bureau of environmental health of the health division of the department of health, welfare and rehabilitation.

(b)] The director of the Nevada department of fish and game [.] i

[(c) The state highway engineer.

(d)] (b) The state forester firewarden [.] i

[(e)] (c) The state engineer [.] i

[(f) The director of the state department of conservation and natural resources.

(g) The secretary-manager of the state planning board.

(h)] (d) The executive director of the state department of agriculture [.]

(e) A member of the state board of health to be designated by that board; a

(f) Four members appointed by the governor who have a demonstrated knowledge and expertise.

2. All gubernatorial appointees shall serve at the pleasure of the governor

3. The governor shall appoint the chairman of the commission [.] from among the nine members.

[3.] 4. Six members of the commission shall constitute a quorum and a majority of those present must concur in any decision.

[4.] 5. Each [of the members shall be] member is entitled to receive traveling expenses and subsistence allowances [in the amounts] as provided in NRS

31.160.

6. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by sections 2 to 69, inclusive, of this act is disqualified from serving as a member of the commission. This subsection shall not apply to any person who may receive significant income from the state or from any city, county or other public body which may be a holder of or an applicant for a permit required by sections 2 to 69, inclusive, of this act.

7. Any vacancy created in the commission because of disqualification under subsection 6 shall be filled by appointment by the governor.

[5.] 8. [Technical support and staff shall be provided the commission by the] The department of health, welfare and rehabilitation shall provide technical advice, support and assistance to the commission. [and may be provided by all] All state officers, departments, commissions and agencies, including but not limited to, the department of highways, the state department of conservation and natural resources, the Nevada department of fish and game, the University of Nevada System, the state planning board, the department of motor vehicles, the public service commission of Nevada and the state department of agriculture [.] may also provide technical advice, support and assistance to the commission."

Amend sec. 71, page 13, line 38, by deleting "71." and inserting: "72."

Amend sec. 71, page 13, by deleting line 45 and inserting:

380 and 445.385 are hereby repealed."

Amendments to ~~XXXXXX~~ / Senate

Bill / ~~Joint Resolution~~ No. 489 (BDR 40-366)

Proposed by Committee on Environment and
Public Resources

Amendment N^o 5528



Amend sec. 6, page 1, by deleting/^{lines} 11 and 12 and inserting:

"Sec. 6. (Deleted by amendment.)"

Amend sec. 11, page 3, line 11, by deleting "state" and inserting:

"commission".

Amend sec. 11, page 3, line 12, by deleting "health officer".

Amend sec. 12, page 3, line 14, by deleting "by the state health officer".



Amend sec. 12, page 3, by deleting lines 20 and 21 and inserting:

"conduct hearings."

Amend sec. 12, page 3, line 30, by deleting "appeals board" and inserting:

"commission".

Amend sec. 28, page 5, line 9, by deleting "game." and inserting:

game [.] ;".

Amend sec. 28, page 5, line 11, by deleting "firewarden." and inserting:

firewarden [.] ;".

Amend sec. 28, page 5, line 12, by deleting "engineer." and inserting:

engineer [.] ;".

Amend sec. 28, page 5, ^{deleting}line 17, and inserting:

ture [.] ;".

Amend sec. 28, page 5, line 18, by deleting "One" and inserting:

Amend sec. 28, page 5, by deleting line 19 and inserting:

board [.] ; and".

Amend sec. 28, page 5, line 22, by deleting "Gubernatorial" and inserting:

"All gubernatorial".

Amend sec. 28, page 5, line 24, by deleting "commission." and inserting:

commission [.] from among the nine members."

Amend sec. 28, page 5, by deleting line 27 and inserting:

[4.] 5. Each [of the members shall be] member is entitled to receive traveling".

Amend sec. 28, page 5, line 28, by deleting "in the amounts" and inserting:
"[in the amounts] as".

Amend sec. 28, page 5, following line 29 and inserting:

"6. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by sections 2 to 69, inclusive, of this act is disqualified from serving as a member of the commission. This subsection shall not apply to any person who may receive significant income from the state or from any city, county or other public body which may be a holder of or an applicant for a permit required by sections 2 to 69, inclusive, of this act.

7. Any vacancy created in the commission because of disqualification under subsection 6 shall be filled by appointment by the governor."

Amend sec. 28, page 5, by deleting lines 30 through 32 and inserting:

"[5.] 8. [Technical support and staff shall be provided the commission by the] The department of health, welfare and rehabilitation shall provide technical advice, support and assistance to the commission. [and may be provided by all] All state officers, departments, commissions and agencies,".

Amend sec. 28, page 5, line 37, by deleting "agriculture." and inserting:
"agriculture [.] may also provide technical advice, support and assistance to the commission."

Amend sec. 35, page 8, line 40, by deleting "[hearing.] appeals board." and inserting:
"hearing."

Amend sec. 48, page 15, line 9, after "1." and inserting open bracket.

Amend sec. 48, page 15, by deleting lines 11 and 12 and inserting:

"inclusive, are subject to judicial review."

Amend sec. 48, page 15, line 16, by deleting open bracket.

Amend sec. 48, page 15, line 17, after closed bracket inserting:

Any party to a proceeding before the commission which is instituted under the provisions of sections 2 to 69, inclusive, of this act who is aggrieved by a final order, permit, air quality standard or emission standard or other final determination issued by the department/^{or} promulgated by the commission, may obtain judicial review thereof by filing a petition for review in the appropriate state court within 30 days after issuance or promulgation of the final order, permit, air quality standard or emission standard or other final determination.

.. The findings of the commission as to the facts, if supported by substantial evidence, are conclusive; but if any party requests the court to admit additional evidence and shows to the satisfaction of the court that such additional evidence is material and that reasonable grounds for failure to introduce such evidence in the proceedings before the commission existed, the court may admit such additional evidence on any terms and conditions which the court deems proper.

3. Filing a petition for judicial review shall not, unless specifically ordered by the court, operate as a stay of the final determination of the commission."

Amendment N^o 5570

"Replaces Amendment No. 5556."

Amend sec. 5, page 2, by deleting line 1 and inserting:

"Sec. 5. (Deleted by amendment.)".

Amend sec. 8, page 2, line 5, by deleting the period and inserting:

"or his designee."

Amend sec. 15, page 2, line 45, by deleting "health division" and inserting

"department".



Amend sec. 20, pages 3 and 4, by deleting lines 28 through 49 on page 3 and lines 1 through 5 on page 4, and inserting:

"Sec. 20. (Deleted by amendment.)".

Amend sec. 21, page 4, by deleting lines 6 through 14 and inserting:

"Sec. 21. (Deleted by amendment.)".

Amend sec. 35, page 7, line 26, by deleting "other than" and inserting: "including".

Amend sec. 35, page 7, by deleting lines 27 and 28 and inserting:

"the application of the best practicable control economically achievable."

Amend sec. 37, page 7, by deleting lines 41 through 45 and inserting:

"Sec. 37. (Deleted by amendment.)".

Amend sec. 38, page 7, by deleting lines 46 through 48 and inserting:

"Sec. 38. (Deleted by amendment.)".

Amend sec. 45, pages 8 and 9, by deleting line 50 on page 8 and lines 1 and 2 on page 9 and inserting:

"Sec. 45. A party aggrieved may file notice of appeal with the commission within 10 days after the date of notice of action of the department, except as otherwise provided by law."

Amend the bill as a whole by inserting a new section designated as sec. 45.5 following sec. 45, to read:

"Sec. 45.5. 1. Within 20 days after receipt of the notice of appeal provided for in section 45 of this act, the commission shall hold a hearing.

2. Notice of the hearing shall be given to all affected parties no less than 5 days prior to the date set for the hearing.

3. The commission may sit en banc or in panels of three or more to conduct hearings.

4. The attendance of witnesses and the production of documents may be subpoenaed by the commission at the request of any party. Witnesses shall receive the fees and mileage allowed witnesses in civil cases. Costs of subpoenas shall be taxed against the requesting party.

5. All testimony shall be given under oath, and recorded verbatim by human or electronic means.

6. Costs of transcribing proceedings of the commission shall be taxed against the requesting party."

Amend sec. 48, page 9, line 13, by deleting "commission" and inserting: "department".

Amend sec. 49, page 9, line 17, by deleting "commission" and inserting: "department".

Amend sec. 50, page 9, line 28, by deleting "commission" and inserting: "department".

Amend sec. 56, page 10, by deleting lines 32 through 37 and inserting: "Sec. 56. (Deleted by amendment.)".

Amend sec. 57, page 10, line 39, by deleting "state" and inserting: "director,".

Amend sec. 57, page 10, line 40, by deleting "health officer,".

Amend sec. 60, page 11, by deleting line 27 and inserting: "before the commission.".

Amend sec. 60, page 11, by deleting lines 28 and 29.

Amend sec. 62, page 11, line 49, by deleting "be".

Amend sec. 62, page 11, by deleting line 50 and inserting:

"pay a civil penalty of not more than \$10,000 for each day of such violation.

The civil penalty imposed by this subsection is in addition to any other penalties provided pursuant to sections 2 to 69, inclusive, of this act."

Amend sec. 63, page 12, by deleting lines 17 through 19 and inserting:

"under section 60 of this act is guilty of a gross misdemeanor."

Amend sec. 63, page 12, line 21, after "person" and inserting "is guilty of a felony and".

Amend sec. 63, page 12, line 22, by deleting "\$50,000 for each violation" and inserting: "\$5,000".

Amend sec. 63, page 12, line 23, by deleting "2" and inserting: "6".

Amend sec. 63, page 12, after line 24, by inserting:

"3. The penalties imposed by subsections 1 and 2 are in addition to any other penalties, civil or criminal, provided pursuant to sections 2 to 69, inclusive, of this act."

Amend sec. 64, page 12, line 25, before "Any" by inserting "1".

Amend sec. 64, page 12, line 32, by deleting "shall be" and inserting "is"

Amend sec. 64, page 12, by deleting lines 33 and 34 and inserting:

"guilty of a gross misdemeanor.

2. The penalty imposed by subsection 1 is in addition to any other penalties, civil or criminal, provided pursuant to sections 2 to 69, inclusive, of this act."

Amend sec. 65, page 12, by deleting lines 36 through 38 and inserting:
"this act shall be held before the commission and comply with the provisions of such rules and regulations as the commission may prescribe."

Amend sec. 67, pages 12 and 13, by deleting lines 47 through 50 on page 12, and lines 1 through 14 on page 13 and inserting:

"Sec. 67. Appeals before the commission shall be conducted pursuant to the provisions of chapter 233B of NRS."

Amend sec. 68, page 13, line 15, by deleting "affects,".

Amend sec. 68, page 13, by deleting lines 16 through 18 and inserting:

shall be construed to amend, modify or supersede the pro-".

Amend the bill as a whole by inserting a new section, designated sec. 71, following sec. 70, to read:

"Sec. 71. NRS 445.451 is hereby amended to read as follows:

445.451 1. The state [commission of] environmental [protection] commissio
is hereby created [.] as a division of the state department of conservation
and natural resources. The commission shall consist of:

(a) [The chief of the bureau of environmental health of the health division of the department of health, welfare and rehabilitation.

(b)] The director of the Nevada department of fish and game ; [.]

[(c) The state highway engineer.

(d)] (b) The state forester firewarden ; [.]

[(e)] (c) The state engineer ; [.]

[(f) The director of the state department of conservation and natural resources.

(g) The secretary-manager of the state planning board.

(h)] (d) The executive director of the state department of agriculture ; [

(e) A member of the state board of health to be designated by that board;

and

(f) Four members appointed by the governor who have a demonstrated knowledge and expertise.

2. All gubernatorial appointees shall serve at the pleasure of the governor

3. The governor shall appoint the chairman of the commission [.] from
among the nine members.

[3.] 4. Six members of the commission shall constitute a quorum and a majority of those present must concur in any decision.

[4.] 5. Each [of the members shall be] member is entitled to receive traveling expenses and subsistence allowances [in the amounts] as provided in NRS 281.160.

6. Any person who receives or has during the previous 2 years received a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by sections 2 to 69, inclusive, of this act is disqualified from serving as a member of the commission. This subsection shall not apply to any person who may receive significant income from the state or from any city, county or other public body which may be a holder of or an applicant for a permit required by sections 2 to 69, inclusive, of this act.

7. Any vacancy created in the commission because of disqualification under subsection 6 shall be filled by appointment by the governor.

[5.] 8. [Technical support and staff shall be provided the commission by the] The department of health, welfare and rehabilitation shall provide technical advice, support and assistance to the commission. [and may be provided by all] All state officers, departments, commissions and agencies, including but not limited to, the department of highways, the state department of conservation and natural resources, the Nevada department of fish and game, the University of Nevada System, the state planning board, the department of motor vehicles, the public service commission of Nevada and the state department of agriculture [.] may also provide technical advice, support and assistance to the commission."

Amend sec. 71, page 13, line 38, by deleting "71." and inserting: "72."

Amend sec. 71, page 13, by deleting line 45 and inserting:

"380 and 445.385 are hereby repealed."

Amend the bill as a whole by inserting new sections .- designated as sections 73 and 74 following sec. 71 to read:

"Sec. 73. The terms of the following members of the state commission of environmental protection shall expire on July 1, 1973:

1. The chief of the bureau of environmental health of the health division of the department of health, welfare and rehabilitation.
2. The state highway engineer.
3. The director of the state department of conservation and natural resources.

Sec. 74. The legislative counsel shall, in preparing the supplement

to Nevada Revised Statutes with respect to any section which is not amended by this act or is added or further amended by another act, if reference is made to the state environmental commission by its former name as the state commission of environmental protection, substitute the new name."