

SENATE FINANCE COMMITTEE  
MINUTES OF MEETING  
APRIL 22, 1977

The meeting was called to order at 9:30 A. M.

Senator Floyd R. Lamb was in the chair.

PRESENT: Senator Floyd R. Lamb, Chairman  
Senator James I. Gibson  
Senator Eugene V. Echols  
Senator Norman D. Glaser  
Senator Norman Ty Hilbrecht  
Senator Thomas R. C. Wilson  
Senator C. Clifton Young

OTHERS: Ronald W. Sparks, Chief Deputy, Fiscal Analysis  
Howard Barrett, Budget Director  
Cy Ryan, UPI  
Assemblyman Dean A. Rhoads  
Jack Hull, Attorney  
Julian Smith, Attorney  
Bob Alkire  
Frank Daykin, Legislative Counsel

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Senator Lamb asked Mr. Rhoads to speak on A. B. 653.

A. B. 653: Establishes legislative committee to review federal administrative policies, rules, regulations and related laws. Mr. Rhoads said that this bill sets up a review committee made up of four legislators; two assemblymen and two senators, to review and comment and really get into some of the problems that are present with federal rules and regulations coming from Washington. It only pertains to administration of public lands. He said that the three industries, mining, livestock and even recreation uses that this bill addresses itself to will finally have a piece of machinery that will effectively get the word back to Washington, that something is wrong in Nevada. He felt the state might agree with them sometimes and sometimes they might not. He had talked with the Attorney General's office and the Legislative Counsel and the Director of the Legislative Counsel Bureau. Mr. Rhoads said that he felt this particular committee is needed. He stated that he was a member of the State BLM Multiple Use Advisory Board, along with Senator Young, and this is not a board that advises the BLM, the BLM comes and tells them what they are going to do. Recently he said they had been notified from the White House that it is very possible that the State Advisory Board will be cancelled as the present administration does not feel that these boards are useful any more. The little contact they have had in the past is being taken away from them. He felt that it was very important that such a board should be initiated. He introduced Mr. Alkire to speak on the mining aspects of the bill.

Mr. Alkire said he represented Kennicott Copper Company, but he did not feel that he had to represent Kennicott on this particular bill, because they could take care of themselves. He had talked with the Nevada Mining Association and they would be present at the hearing except that they are having their annual meeting today. He said he wished he could bring to the committee the frustration and the rage and the confusion that you could have seen at BLM sponsored meetings in Elko, Las Vegas and Reno last month. At these meetings the small miners, and small land users and the small ranchers were trying to get a message to the BLM about what their problems were. Unfortunately these interests do not have the political clout, the money or the influence to fend off the big brother from Washington. They need help from whatever source they can get it and they look to the legislature, the administration and the state judiciary to give them some assistance in getting their message to the federal agencies that control the lands they use.

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He said the State of Nevada had been most helpful in trying to help all these entities. He felt the bill under discussion would give them assistance in dealing with their problems. He said they do need help in the legislative interim when they do not have anybody to talk to at the legislative level.

Mr. Hull spoke next. He said most of his law practice involved public lands and resource problems. He felt the bill under discussion came about primarily because of the problem that exists in the state of individuals or small business people being deprived of property and rights by federal rules and regulations when they cannot fund a contest. He cited inequities in the Wild Horse Act in which the Department of Interior, in implementing the act, provided added restrictions which put the burden on the private property owners. He said these restrictions resulted in the small business man being denied a right under the Wild Horse Act under administrative rule and regulation. He said he was not sure that the present bill would reach problems that people encounter with the U. S. Fish and Wildlife Service but there are problems in this area.

He felt it was time that the State of Nevada started looking at what the federal government is doing by rule-making process, to the rights of the people in the state and he felt they were also infringing upon the jurisdiction and the authority of the Legislature in many cases.

He said they understood that they could not regulate public lands, that is the domain of the federal government, but they can determine whether or not the rule-making process is being abused. He felt the bill was an important tool and that Washington would listen to the State of Nevada in this type of review more seriously than to individuals. Mr. Smith said much of his law practice was in the natural resource area. He said he felt the Committee being proposed would function as an interim watchdog committee with teeth. His observations of the conduct of the federal rule-making hierarchy and the federal bureaucracy is that while the Legislature meets, not only in Nevada, but in all the western states, they are on their best behavior. They come to Nevada to talk about the problems, the people in the higher echelon of the BLM, Forest Service and the other agencies come, they are very cooperative and congenial. When the Legislature goes home and they know they are gone for two years, things change again, they no longer come to the State to talk, he felt if the Legislature were to enact the bill and create the committee there would be a continuing respect from the bureaucracies that are passing these regulations. The provisions in the bill that authorize the committee to request of the Legislative Commission action against the federal government or the appropriate place to initiate law suits, is a very good whip to hold over the agencies. Adequate protection is in the bill to permit the Attorney General to initiate an action as he sees fit. It would not be unique that the Counsel would initiate such an action or be active in such litigation. This has happened in the past. The bill permits the Attorney General to act first and then the Legislative Counsel would not act.

Senator Young mentioned how much it has cost the state already in the Truckee River litigation, about \$300,000. He asked if the Legislature would not be getting in something pretty deep when they want to start litigating against the federal government. He asked if the state had gained any respect in all the suits that have been filed so far. He said the suit against the Wild Horse Act resulted in language that was more detrimental than was the case before the Act was tested in court. He said there had been a number of cases filed in behalf of the stockmen against the Taylor Grazing and he believed they had lost

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every one. He said he didn't believe you gain respect with the federal government for filing law suits that you lose and which are expensive.

Mr. Rhoads said when someone is being harrassed every day and every year and he doesn't do anything, the government owes a right to the people of Nevada to protect their interests.

Senator Young said that presumably that is what the Congressman and the Senators of the state are doing back there, protecting the state's interests.

Mr. Rhoads said this bill would help the Congressional delegation, the Governor's office and others. He asked Mr. Daykin to speak as he knew Senators Wilson and Hilbrecht had questions about the bill.

Senator Echols said that according to the fiscal note there would be a couple of meetings a year anticipated. He asked if they really thought there were any inroads that this sort of a Committee could make on the myriad of federal rules and regulations or any kind of a realistic understanding reached by meeting two days in a year.

Mr. Smith said he thought the great benefit of the bill is that the Legislature has a committee available to act during the interim. Mr. Rhoads said he felt that in some years they would be meeting a lot more than that. In other years there might not be any problems.

Senator Echols questioned the expenses involved and Senator Gibson said the legal staff would be the greatest expense of the committee. Mr. Daykin said that the only point he would make is that the bill would permit this Committee to direct his office to appear in an action; it does not preclude the Attorney General from commencing, intervening or appearing. It merely provides someone else who is directly answerable to this proposed committee to give it legal representation. He did not feel that that interfered with the constitutional duties of the Attorney General. The alternative, to have the Committee direct the Attorney General, he felt, would be unconstitutional. Or if it had been drafted so as to require the Attorney General to associate the Legislative Counsel in the performance of his duties, he said he would have constitutional misgivings there. All the bill does is to propose to add independent counsel when the Committee called for it.

Senator Hilbrecht said a resolution was enacted a while back that established a committee for very much the same purpose, only the tone of that resolution seemed to be a little more productive, it was not designated to litigate things, it was designated to try to do some negotiating on behalf of the state in this area. He asked how this committee would interface with the already existent committee in the other area. Mr. Daykin said the other committee had a limited scope and he felt a temporary mandate, while he felt this committee would be, initially, awaiting the outcome of the first committee's negotiations, and then being the continuing watchdog of whatever had been arranged. Senator Lamb said he had seen a lot of committees and some produce and some don't. When an industry is subject to the whim of some bureaucrat, suing him is expensive and not suing him is also expensive. He said the ranchers cannot stand this expense of fighting people like this. He said often when you get all the facts out in the open you can win. He felt a committee could help in areas like this.

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Senator Young said he just did not see what a four man committee could do. He said he has served on some of these advisory committees and he felt this bill had the potential of getting the state involved in law suits. In his experience he found that if you furnish someone with free lawyers they will sue everybody in sight no matter who it is. He felt they were opening a Pandora's box here. He said the stockmen get \$350,000 a year out of the grazing fee. That has been used in litigation in the past.

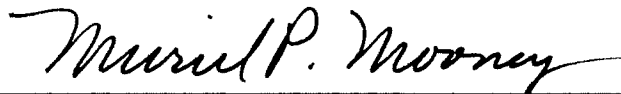
Senator Lamb said they had listened to the story on the bill, and the Committee had not received the bill yet and when it comes to the Committee, they will take action on it. He thanked them for appearing.

Senator Gibson said he wanted to talk about the professional salaries for doctors etc., that they have been concerned about. In order to speed the process he would like to have some amendments that he had adopted at this meeting. He said the bill had not come to Finance but the bill is in Government Affairs and they have checked with the subcommittee of Finance on the bill. The bill will lift the limit on doctors' positions etc., the special categories; it will also write into the Act the bill that Senator Raggio introduced which would give an escape hatch for those who are both state and local who were impacted by any of the 95% and rules that they could come in a proper procedure to Interim Finance. This committee agreed that exception could be made to the 95% limitations. This suggestion came in the hearings in the Government Affairs Committee where they had originally written into the Act "the Board of Examiners", but they indicated that this would put an added burden on them as they are already loaded down. He said he wanted to acquaint Senate Finance with this in order to speed things up. The Welfare Administrator has been written into it, setting his salary at \$31,000. He said that what they had done was to pretty much follow the 5 1/2% format except for the highest salaries. They limited the top one to \$43,000 on those they set and put the other limitation in. If the Finance Committee did not object they would go ahead and get the amendments in the bill so it will be reprinted by Tuesday and then the Committee can look at it. This is a key bill.


Senator Lamb said they were doing this so that when it appeared before the Finance Committee it would not be post-amended as they did not have the time. The Committee agreed to go along with the subcommittee action and would review the bill on Tuesday with the added amendments. Senator Lamb said they had an authorization act that would be introduced today. Mr. Sparks said there might be some amendments and asked if they wanted to go through the amendment procedure on the bill. The Committee agreed that the authorization act should be introduced.

The meeting adjourned at 10:05 A. M. They will meet again at 8:30 on Tuesday.

RESPECTFULLY SUBMITTED:

  
MURIEL P. MOONEY, SECRETARY

APPROVED:

  
FLOYD R. LAMB, CHAIRMAN