

GOVERNMENT AFFAIRS COMMITTEE

Minutes of Meeting - February 9, 1977

Present: Chairman Gibson
Senator Foote
Senator Faiss
Senator Gojack
Senator Hilbrecht
Senator Raggio
Senator Schofield

Also Present: See Attached Guest Register

Chairman Gibson opened the ninth meeting of the Government Affairs Committee at 2:00 p.m. and the first order of business was the hearing on SB-153.

SB-153

Reorganizes functions of energy and natural resources conservation. (BDR 18-22)

Chairman Gibson informed the committee and those present in the committee room that this bill was developed from a concurrent resolution (SCR 8) in the last session.

Senator Wilson, on committee that studied this reorganization and helped created SB-153, informed the committee on the work that was done prior to initiation of the bill. He indicated that the heads of departments were asked many questions and their views were taken into consideration.

Senator Wilson stated that Mr. Bruce Arkell was a staff director in this study and would later testify as well. He felt that the bill contains serious implications and tried to explain their reasons for the way the reorganization was planned.

Senator Wilson indicated three points of view. 1) To leave the responsibility of policies with the Nevada Public Service Commission. 2) Leave it with the Governor's Office with line authority to give it proper emphasis and support. 3) Place it with the Department of Natural Resources.

The committee discussed all three of these points and finally decided to give it line authority directly into the Governor's office. We also have recommended dividing the present department of Conservation and Natural Resources into two departments. Taking Forestry and Parks and making them sister divisions in a new department of Conservation and adding to that the present department of Fish and Game and making it a division. We also suggested creating a division of Environmental Protection Services.

Senate

Senator Wilson stated that the rationale used regarding Fish and Game was that the personnel and policies of Fish & Game overlapped with Forestry and Parks. They felt that two couldn't operate without affecting each other, economy could be utilized in this area.

We added a fourth division within the department, Environmental Protection Services. They are presently housed in the Department of Human Resources, because staff is housed within that department.

The new department of Conservation and Environmental Services, as recommended, would have four divisions: 1) Division of Fish & Game 2) Division of Forestry 3) Division of Parks 4) Division of Environmental Protection Services.

Senator Wilson continued by noting that the Department of Natural Resources would retain the Division of State Lands, the Division of Conservation Districts, and presently there is an office for Water Rights. It was proposed to have this divided, the present jurisdiction over water and separate it functionally. Presently the State Engineer has jurisdiction both to adjudicate and regulate the matter of water rights and permits. The State Engineer also has the water rights for planning. Looking into the future the State Engineer's office will become increasingly burdensome and we are in hopes of getting some kind of State water planning authority. It was felt by the committee to separate into one division the jurisdiction to adjudicate and regulate water rights and permits and to separate jurisdictionally the matter of planning and the development of water.

Senator Wilson felt that the State ought to be in a position to take the initiative in exploring and urging on the political subdivisions regarding water shortages with regard to possible alternatives that may be available. There was also a recommendation with regards to the Colorado River Resources in that it might be best to retain the autonomy of the agency. We feel the division of Water Planning be comprised of two bureaus; 1) The Las Vegas Valley or the Bureau of Colorado River Resources - 2) the balance being vested with the State. It was agreed that an Advisory Board would be a good thing to have regarding the water situations.

Bruce Arkell, State Planning Coordinator, indicated that he was in agreement with Senator Wilson's comment but also added that the authorities of the Colorado River Resources concerning the land were transferred to the Division of Lands in an attempt to begin centralizing the State's land dealings. He further stated that what those two departments do is align the agencies based on their basic goals and missions.

Mr. Norman Hall, Director of the Department of Conservation and Natural Resources, spoke to the committee. He had a prepared written testimony and amendment suggestions. (See Attachment #A)

Howard Winn, Nevada Mining Association, spoke to the committee in favor of this bill. He was concerned about what happens to the Environment Commission with regards to the mining industry. Mr. Winn indicated that there was another bill out that would take the mining industry out of the Department of Natural Resources. We feel strongly that it should be left in as it is shown in SB-153.

There was a question from the committee regarding the fiscal note and Mr. Bruce Arkell indicated that the note is \$100,00. to set up one of the director's office.

Van Peterson, Associate President of the Conservation Department gave his testimony to the committee. (See Attachment #B) Mr. Peterson indicated that it was a good piece of legislation and shows extensive study. He had some suggestions for amendments and they are also part of his written testimony.

Herb Rountree, Manager of Walker River Irrigation District, feels that Water Conservation districts should play a very important part in the water quality program. Feels that with the water quality controls that are now being used within the State structure should remain the same with very little change.

Mr. Rountree indicated to the committee that they would make the changes they felt necessary and return them to the committee for its consideration.

Mr. Roger Trounday, Human Resources, displayed a chart and tried to explain to the committee and audience the difficulty in communication and flow of work in the present set-up. (See the attached example - #C).

Mr. George Zappettini, retired State Forester, spoke to the committee regarding the necessity for this type of legislation. Mr. Zappettini felt there was a tremendous need to provide for natural and renewable resources.

Bob Alkire, Kennecott Copper Corporation, testified that he had trouble keeping the organizational units in line. Doesn't understand the procedure in setting up what goes under these agencies. Mr. Alkire indicated that there was a movement in Congress to grant to the Environment Protection Agency the authority to conduct land planning through nondeteriation. There might be an instance where you have an Environmental Commission administering air and water quality which will suddenly come into the business of administering land quality. This will cause one federal act overlapping two departments. Feels that this will cause a great deal of trouble and wanted to bring it to the committees attention for their consideration.

Government Affairs
Minutes of Meeting No. 9
February 9, 1977
Page 4

Mr. George L. Vargas, Attorney representing major oil companies, gave written testimony to the committee. He further indicated the study was an excellent one but feels that the bill is somewhat misdirected. See the Attachment, #D for complete details.

Mr. Robert Guinn, Nevada Motor Transfer Association, & Nevada Franchise Auto Dealers. Has a question as a registered land engineer and land surveyor, with regard to the proposed amendments for provisions of the bill dealing with the Environment Division and the State Board of Health. Unless it is carefully done you might place the subdivider, land developer or engineer up against one more step in processing a subdivision plat before it can be presented to a governing body for approval. Hopes that the committee would appoint a single head for the two agencies and having deputies serving under this head and in charge of the responsibilities of that agency.

Ray Knisley, representing himself, felt that his experience in this area have given him some knowledge to the intent of the bill. Mr. Knisley felt it was a serious mistake to put the Fish and Game Commission into a department where the Director of that department has no authority or knowledge about the workings of Fish and Game. Unless you plan to make a bonafide division of government out of Fish and Game and operate it as you would other divisions of government you would be better off keeping it separate.

Mr. Knisley also indicated that water planning should be restricted to just that not Water Planning and Management. In the report the Colorado River Resources has been downgraded to a bureau and it was his opinion that it was much more important and should be considered with more priority.

Glen Griffin, Fish & Game, stated that their commission hasn't had adequate time to prepare a testimony at this time. They are concerned with the source of funding and amount on the fiscal note for Fish and Game.

At this point Chairman Gibson informed the committee and audience that the bill would be heard again on Wednesday, February 16th at 2 P.M. for those who would like to testify and give ample time to the Fish and Game people to work up their comments.

Senator Dodge spoke to the committee on SB-28 indicating that there was a sense of urgency on passing this bill out of committee. The people in Fallon need to know which way the legislature is going to go on the bill as they need to set up their plans for construction and sale of the land in question.

Senator Hilbrecht requested that the record reflect that the State has every right to look at the land in question with regards to a potential community college and the County Commissioners have no reason to become so adamantly against such a proposal.

Chairman Gibson suggested to the committee that if they so desired to take action they could attach a provisal on the appropriation for the community college to indicate a site.

Senator Dodge felt that inspite of their reaction there is a very serious interest in the community to do the right thing for the community in general. The number one preference of the community college people, including the University architect, is a piece of ground on the site belonging to the school district. This piece of ground, behind the fairground site (22 acres) is their second choice. Feels that before the decision has to be made they will be able to indicate that they have their choice of land and it would resolve this problem.

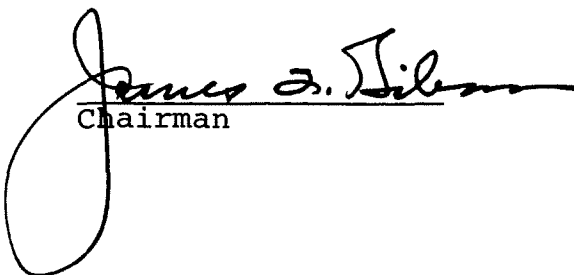
Motion of Do Pass by Senator Hilbrecht, seconded by Senator Raggio. Motion carried unanimously.

With no further business at this time and due to the fact that there would not be adequate time to discuss SB-39 the meeting was adjourned at 4:30 p.m.

Respectfully submitted,


Janice M. Peck/Committee Secretary

Approved:


Chairman

GUEST REGISTER

GOVERNMENT AFFAIRS COMMITTEE

DATE: 2-9-77

THOSE WISHING TO TESTIFY SHOULD IDENTIFY THEMSELVES BEFORE GIVING TESTIMONY.....

PLEASE SIGN REGARDLESS IF YOU ARE TESTIFYING

NAME	DO YOU WISH TO TESTIFY	BILL NO.	REPRESENTING
Roland D. Westergard			State Engineer & Env. Comm.
Bill Newman			Division of Water Resources
KEN BOYER			ENVIR. COMMISSION
BOB CLARK			DNR PIO
Fred Walden			Div of State Lands
Robert Steele			NR
Gerallene Tyson			Interested citizen
Wilma LaFoye			State Environmental Protection
Verne Rosse			" "
Paul Gemmill			New Mining Ass'n, Reno
Howard W. Kim	Yes ✓	153	" " " "
Tom Young	No		Sierra Pacific Power Co.
Van P. Lewis	yes ✓	153	Nevada Association Comm. District
Marilyn Petersen	no		Interested Citizen
Herb Rowntree	yes ✓	153	Walker River Irrigation District
Roger Sunday	Yes ✓	153	Dept. Human Resources
DON PAFF	No	153	Div. of Colo. River Resources
Ken Griffith	NO	153	Fish & Game
Fred E. Wright	NO	153	" "
R. ZAPPETTINI	no	153	Interested Citizen
Louise V. Smith		153	NEV DIV OF FORESTRY
Henry Zappettini	yes ✓		Retired State Forester
P. Fitzgerald			PH. C/O
Norman Hall	yes ✓	153	Dept. Conservation & Nat. Resources
Bruce Askell	yes ✓	153	State Planning Coordinator
Steve Robinson	NO	153	Dept C + N.R.
Janne Lembo	no		Tahoe Basin League
G. Allen			Kenneth Coppen
Marilyn Jasey	no		Interested citizen
R. W. Berger	no		Nevada Cattlemen Assn

NORMAN HALL, Director
STEVE ROBINSON, Assistant Director

MIKE O'CALLAGHAN
Governor

DIVISIONS

- LANDS
- FORESTRY
- STATE PARKS
- WATER RESOURCES
- CONSERVATION DISTRICTS
- OIL AND GAS CONSERVATION
- STATE ENVIRONMENTAL COMMISSION
- COLORADO RIVER RESOURCES

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STATE OF NEVADA
Department of Conservation and Natural Resources

OFFICE OF THE DIRECTOR
CARSON CITY, NEVADA 89710

S.B. 153 - Senate Government Affairs Committee Hearing
February 9, 1977

My name is Norman Hall, Director of the Department of Conservation and Natural Resources.

We support the intent of Senate Concurrent Resolution No. 8 of the 1975 Session of the Legislature, and the resulting bill, S.B. 153. I am prepared today to offer administrative and technical suggestions to S.B. 153, however, I feel that the policy issues of placement and organization must be addressed by the Legislature.

We are in an era of limited natural resources in Nevada where population increases are increasingly placing added demands on air, land and water resources within the State. The resource agencies must be in a position to provide vigorous and dynamic leadership in the next decade.

Whatever legislative policy direction you give us, I hope it will improve our ability to manage natural resources and give us the best possible administrative tools to meet future needs.

Attached are technical comments from the Division of



2.
February 9, 1977 - S.B. 153

Water Resources, Division of Colorado River Resources,
Division of Parks, Division of Lands, Division of Forestry,
and Division of Conservation Districts. If you desire, I
can read each one of these comments on an individual basis.

Attachment

DIVISION OF WATER RESOURCES

There are references in the bill to the Colorado River Basin and Colorado River and its tributaries. Tributaries to the Colorado River in the State of Nevada are specifically excluded from the Colorado River water allocations. The bill, for example on line 5, page 103, would appear to extend the authority of the Bureau of Colorado River Resources.

I know it is customary to show new material in italics. Perhaps this is not done when a completely new chapter is to be added. It may not be clear, however, to persons reviewing the bill that all of the material beginning on page 94, line 9 through page 97, line 17 is new legislation.

DIVISION OF COLORADO RIVER RESOURCES

Section 46, page 18, subsection 5, suggest addition of Subsection 6 to read as follows:

6. While engaged in official business of the division, the members of the advisory group shall receive per diem allowance and travel expenses provided by law. This would allow the advisory group to be compensated for travel if required which is not currently allowed.

Section 251, page 85, subsection 3, this portion of the policy statement may conflict with those authorities of management vested in the Bureau of Colorado River Resources. Suggest that the exemption of duties of the Bureau relating to acquisition, sale, and management be exempted as was identified for the Public Service Commission in Section 257, subsection 1. Perhaps a definition of the term "management" would be helpful.

Section 254, page 86, subsection 5, suggest lines 13 and 15 be revised as follows:

(13)...states energy resources make recommendations to the appropriate...

(15)...solar, wind and geothermal resources within the State.

This suggested modification broadens the technical areas beyond the geothermal potential.

Division of Colorado River Resources (cont'd)

^{Section}
~~Page~~ 262, page 87 and 89; to provide information and perhaps clarity to Section 259 as written, suggest adding:

b) One member who is a representative of the Bureau of Colorado River Resources. (COMMISSIONER FROM PUBLIC SERVICE COMMISSION)

Modify line 1, page 88 as follows:

c) Five members who are representatives of the general public.

Section 294, page 96; suggest the following be added:

5. The attorney general's office shall provide legal services for the division. The division may, however, in cases of emergency or in special cases, from funds available to it, retain additional counsel to assist the office of the attorney general.

Section 316, page 102, Subsection 3; suggest line 27 be revised as follows:

...federally operated dams... This is the wording on the existing statute and conforms to Subsection 8.

DIVISION OF PARKS

S.B. 153 does not have any major affect on the technical operation of the Division of Parks. The major technical changes are limited to obtaining the Director's concurrence before acquisition and agreements can be made. This amendment formalizes the procedure that is already being used.

DIVISION OF FORESTRY

The Division of Forestry has reviewed S.B. 153, and sees no conflict to their operations.

DIVISION OF LANDS

Page 20, line 8; after third word "Nevada". The State of Nevada through its State Lands Division, shall have the authority to review and evaluate the policies and activities of the Federal Government with respect to Federal lands and may represent and coordinate the interest of the State and its local or regional entities, or both, as these entities are affected by policies or uses made of Federal lands all within its staff and funding capabilities.

SENATE BILL 153

Division of Lands (cont'd)

Page 21, line 41, section 60; the State Land Use Planning Agency within its staff and funding capabilities shall review and evaluate land use policies and activities for lands in Nevada which are under Federal management, and may represent and coordinate the interests of requesting citizens of the State as these interests are affected or challenged by Federal land use policies and activities.

DIVISION OF CONSERVATION DISTRICTS

On Page 112, line ²⁷ ~~27~~ through 31 appears to be deleted in S.B. 153. We feel that this is not the intent of the Committee and is a drafting error.

NEVADA ASSOCIATION OF CONSERVATION DISTRICTS:

The Nevada Association of Conservation Districts is a voluntary association of the Supervisors of Nevada's 31 Conservation Districts. There are 200 locally elected Supervisors working to promote the conservation and wise use of natural resources throughout the state, mostly through programs of voluntary conservation with over 3,000 cooperators. These supervisors are not paid for their work.

The NvACD wishes to compliment the legislative committee that worked on SCR-8 over the past two years. As committee members will recall, conservation district supervisors appeared at the many hearings held throughout the state, to ensure that the districts are able to continue their work in the future.

The NvACD is generally satisfied with this proposed legislation. We do feel that there are two problems, both of which are apparently due to misunderstandings.

1. Page 112, lines 27-31 should not delete NRS 548.550, section 3. We have been advised that this deletion could impair the legal obligations of contracts.
2. Page 112, line 47 and lines 9-12 should not delete NRS 548.410 - 548.510. The problem with these sections is one of terminology, and we suggest, as a solution, that the words "Land Use Regulations" found throughout these section be changed to "Conservation Management Regulations", which is closer to the intent of the statute and avoids the confusion with the counties' powers to control land use, which are not in any way affected by these sections.

ENVIRONMENTAL PROTECTION SERVICES

Suggested Amendments to SB 153
February 9, 1977

Section 4 - Page 1 Qualifications of Director should be amended to provide:

The director shall not be a person who receives or has received during the previous 2 years 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 NRS 445.131 to 445.354, inclusive. The disqualification provided in this subsection does not apply with respect to significant income received from any department or agency of state government which may be a holder of or an applicant for such a permit.

Reason - The Director of Conservation and Environmental Protection, under authority, administers the waste water discharge permits required by the National Pollutant Discharge Elimination System of Public Law 92-500. Federal regulations require this 'conflict of interest' provision for all individuals involved in the administration of the permit program.

Page 8 - Line 31 Amend to read:

(e) Be approved by the health division of the department of human resources concerning [sewage disposal, water pollution] water quality and water supply facilities; and in conjunction with the environmental protection division of the department of conservation and environmental protection concerning sewage disposal and water pollution.

Page 9 - Line 16 Amend to read:

(a) The health division of the department of human resources showing that the [health division has approved the] map or plan is approved concerning [sewage disposal, water pollution,] water quality and water supply facilities[.]; and in conjunction with the environmental protection division of the department of conservation and environmental protection concerning sewage disposal and water pollution.

115 C

Page 16 - Line 30 Amend to read:

(a) The health division of the department of human resources showing that the [health division approved the] final map is approved concerning [sewage disposal, water pollution,] water quality, [and] water supply facilities[.] and in conjunction with the environmental protection division of the department of conservation and environmental protection concerning sewage disposal and water pollution.

Reason - Water pollution authority is vested in the State Environmental Commission and the Director of the Department of Conservation and Environmental Protection. The above amendments are intended to avoid any conflict in the exercise of that authority.

Memo

Re: S. B. 153

At the present time, Chapter 2~~3~~³²NRS, creates five departments, in addition to the state committee on federal land laws. The first of these departments is the Department of Conservation and Natural Resources.

S.B.153 would expand this bureaucracy by the creation of two additional departments. These are: (a) Department of Conservation and Environmental Protection to be headed by a Director; and (b) Department of Energy, Conservation and Management, also to be headed by a Director. Hence, in this area, we would have three departments with three directors, plus their respective staffs, instead of the present one Department of Conservation and Natural Resources.

The new Department of Conservation and Environmental Protection would include Fish & Game; forestry, parks; environmental protection divisions; and such other divisions as the director may from time to time establish.

The Department of Natural Resources would include the water rights; water planning and management; state lands; conservation; and such other divisions as the director might establish.

The Department of Energy, Conservation and Management, established by Section 253, P. 85, would not

S.B. 153

include any additional divisions.

The Conservation and Environmental Department, hereinafter called Department 1, includes, among other things, the Fish & Game Division, but for reasons unknown, Section 7 makes an exception of the responsibilities of the director for functions of this division, as well as the State Environmental Division. Subsection 4, Section 7, provides that no powers or duties delegated to the Fish & Game Commission or the State Environmental Commission are conferred upon the director. Fish & Game funds are also excepted from direct legislative appropriation.

Section 248, p.82, is a page and one-half amendment of NRS 522.020, making only an insignificant amendment. However, the bill may contain conflicts between Chapter 522 "Oil and Gas Conservation" and the proposals with reference to the new Department of Energy, Conservation and Management. For instance, by Chapter 522, the Nevada Oil and Gas Conservation Commission has power to, and I believe does require the making and filing of reports, well logs, directional surveys, etc., with the specific proviso that logs of exploratory and "wildcat" wells marked "confidential" shall be kept confidential for six months after the filing thereof, unless the owner gives permission to release such logs at an earlier

S.B. 153

date. By Section 252, et seq, p. 85, of the bill, the Energy, Conservation and Management Division is charged with the mandatory duty of acquiring and analyzing information relating to "the supply, demand and conservation of energy resources"; to utilize all available public and private means to provide information to the public about energy problems; to review, etc., information identifying energy resource trends and permits forecasting of the energy situation. This forecast includes information on the amount of energy resources available, forecasts on supply levels, encouragement and development of energy resources, and the department is to serve as a central depository for the state in the collection and storage of data or information relating to energy and energy resources.

All of these provisions are without any protection whatsoever as to "confidentiality", and to the extent that the present law places these responsibilities in the Nevada Oil and Gas Commission, may constitute a very confusing duplication. Certainly, there would be a sharp conflict as to the "confidentiality" already provided by statute with reference to some of this information.

There is also substantial confusion between the current statutory authority in the Oil & Gas Commission to

S.B. 153

require the filing of various reports and the provision of Section 254.5, p. 86, of the bill, that the new department shall serve as a central depository for the state in collection and storage of any information relating to energy and energy resources. Again, no confidentiality is provided as to any such data or information.

In these respects, it is suggested that the bill should be amended so as to remove confusion and remove conflict with the existing powers and authorities of the Nevada Oil & Gas Commission as those powers relate to energy and energy resources in the area of fossil fuel. It is believed that this new department would be most effective in designing and encouraging conservation programs. Since petroleum supply considerations cross state boundaries, it is felt that this new department could have little impact on the supply area. No refineries, for example, exist in Nevada.

Serious thought should be given to continuing the provisions of Section 253 of the bill, requiring the department to expend the time and effort on attempting to estimate the level of energy demand in the state for five, ten and twenty year periods, as such forecasts may be of little value on a statewide basis. In performing these responsibilities, the director is required to use all available public and private

S.B. 153

means to provide information. Perhaps the statute should provide that the director should primarily use such outside sources as the FEA or private consulting firms, working in these areas to limit expenditures which might otherwise be encountered in a shotgun approach in attempting to comply with these responsibilities.

Another area of consideration, if this bill is to be adopted in its present form, is the possible conflict with A.B. 28, and even the present law as contained in NRS 702.260. Presently, the law permits, but does not require, the Public Service Commission to perform practically all of the functions which in this bill would be placed in the Energy and Conservation Management Department. A.B.28, if adopted, would make it mandatory for the Chairman of the PSC to perform almost precisely these same duties.

Finally, there appears to be what is perhaps another practically unworkable set of provisions in connection with this Department of Energy, Conservation and Management. These provisions start with a change in the composition of the current State Energy Resources Advisory Board, Section 261, p. 87, of the bill. This board, whose members are not entitled to any compensation, is charged with what could be very time consuming duties, in recommending to the director

S.B. 153

(1) a state energy policy; (2) registration and regulations to promote conservation, economic utilization, production and distribution of energy resources and supplies; (3) appropriate steps to alleviate and resolve short time energy balances, and (4) long range, comprehensive plans for energy utilization to improve the efficiency and to reduce the negative environmental impacts of such measures.

Note that these are current statutory requirements as to the current State Energy Resources Advisory Board. However, as a practical matter, these statutory provisions have been and will continue to be wholly unworkable. This Advisory is uncompensated. It has no staff, and actually no facilities for carrying out these duties. Some rather long time after its original creation, I believe it was finally supplied with a secretary, but I am told by its first Chairman, John Collins, that its lack of staff, lack of adequate funding, lack of full time compensated policy people, rendered the whole scheme utterly futile and he indicated to me that he might even suggest its abolition. In spite of these circumstances, it is now reincorporated in this new department and apparently the bill would require rather heavy reliance upon its effective functioning in assisting the Director of this new department in carrying out his statutory obligations.

SENATE

AGENDA FOR COMMITTEE ON GOVERNMENT AFFAIRS

Date 2-9-77 Time 2 PM Room 243

Bills or Resolutions to be considered	Subject	Counsel requested*
SB-153	Reorganizes functions of energy and natural resource conservation (BDR 18-22)	
SB-39	Transfers environmental protection function to new division in department of human resources and makes state environmental commission part of that division. (BDR 18-31)	

*Please do not ask for counsel unless necessary.