

MEMBERS PRESENT:

Chairman Coulter
Vice Chairman Fielding
Assemblyman Bedrosian
Assemblyman Polish
Assemblyman Rhoads
Assemblyman Dini
Assemblyman Price
Assemblyman Bergevin

MEMBERS ABSENT:

Assemblyman Prengaman

Chairman Fielding brought this meeting to order at 2:08 p.m.

AB 618 - Authorizes delegation of water pollution functions to local agencies.

Mr. David J. Minedew, Director, Division of Environmental Services, Washoe County District Health Department, was first to testify on this bill. A copy of his letter supporting this bill is attached hereto and marked as Exhibit "A".

Daisy J. Talvitie, League of Women Voters was next to testify on this bill. A copy of her remarks in support of this bill is attached hereto and marked as Exhibit "B".

AB 572 - Provides for control of water pollution from diffuse sources.

Mr. Frank Daykin of the Legislative Counsel Bureau was asked to come before the committee to answer some technical questions about the wording of the bill, posed by Mr. John Connolly of Yerington. He had some problems with section six of the bill versus Section 11, lines 30 and 31. They deliberated at length and it was decided that Mr. Daykin would incorporate some amendments into the bill which would clarify the situation and report back to the committee with same.

AB 618 - Authorizes delegation of water pollution functions to local agencies.

Chairman Fielding turned the testimony back over to AB 618.

Howard Winn then testified on behalf of the Nevada Mining Association in regard to AB 618 and AB 619, as he feels they have a single purpose. They seem to result in a radical alteration in the structure of water quality control in Nevada and the responsibility for carrying out the objectives of water quality of the water quality program is shifted from the State to local governments. He stated that their association generally agrees that regulations are best carried out at the lowest possible level of government, however, due to several peculiarities of water pollution control, they have agreed that the best level of control for water pollution control is usually found at the State

level. Therefore, for those reasons, they are opposed to AB 618 and AB 619. He mentioned that after hearing Mr. Minedew's (the proponent of this bill) remarks, he realized that Mr. Minedew didn't intend to do all of the things that he indicated that he wanted to do in the bill. Mr. Winn stated that he does feel that if it is important for the Board of Health to have delegation of this authority, that he state exactly what authority he wants.

Mr. Minedew did voice his agreement with Mr. Winn's problem and perhaps they could work out some new language.

Mrs. Talvitie wanted to clarify her previous statement (Exhibit "B"). She said she had interpreted AB 618 as being permissive and she assumed that the department would exercise some judgment as to when it delegated. If it means that they are delegating everything, she said, then, no.

Mr. Ernie Gregery, Nevada Environmental Protection of the Department of Conservation and Natural Resources, and in this particular instance speaking for the Director of the Department, testified in opposition to this bill as currently proposed. The indication here to delegate the authority covers the entire water pollution control statute for which the Director is directly responsible, both legally and morally. There is no objection by the Department for delegation of specific authorities as far as investigative purposes or something like that. But the Director does not feel that administration of certain portions of the program should be delegated down to the lower level. He stated they would prefer that whatever authority they want, it should be guided by specific statute.

Mr. Jim Gans, Clark County Sanitation District, was next to testify on this bill. He stated that in essence, they agree with Mr. Gregery. However, dealing from an agency standpoint, they are very concerned as to the delegation of the specific responsibility; that they be outlined specifically in this bill.

AB 619 - Sets additional conditions on permits to discharge pollutants into waters of state.

Mr. W.W. White of Incline Village General Improvement District testified against this bill, noting that Incline Village has enormous problems now without adding permission for these various health departments. This bill duplicates existing regulations that are well established and approved federally.

Assemblyman Dini, noting that the Washoe County Health Department has withdrawn its support for this bill and they were the proponent of the bill, Mr. Dini MOVED to INDEFINITELY POSTPONE Assembly Bill 619, Mr. Bergevin seconded his motion. The committee unanimously approved the motion with Mr. Rhoads and Mr. Prengaman out of the room at the time of this vote.

AB 620 - Transfers administrative fines for violation of air pollution laws to board of health within whose jurisdiction violation occurred.

Daisy Talvitie, League of Women Voters, testified on this bill. A copy of her remarks are attached hereto and marked as Exhibit "C".

Mr. David J. Minedew, Director, District Health Department, was next to testify on this bill. A copy of his remarks is attached hereto and marked as Exhibit "D".

Mr. Ernie Gregery then wanted to make a statement in answer to a question posed earlier by Assemblyman Dini regarding putting it back into the County Commissioner's funds for the administration of the program. He stated that originally the act did provide for the funds to go back into the county and they found in the smaller counties all they were doing were wasting postage. They felt it could be put to more beneficial use by putting it in the school district for them to educate the children in this area.

Mr. Dick Serpoz, Air Quality, Div. Environmental Protection, next testified on this bill. He stated that over a period of 1973 to 1978, the average amount of fines levied and collected by the Commission was approximately \$1,000. Mostly all of them are minor fines.

Irene Porter, Southern Nevada Homebuilders, was next to testify on this bill. She noted that a lot of the fines in Southern Nevada do come from dust pollution. She stated that if you had from five to fifteen thousand dollars collected in a year from fines, perhaps the School District could develop a film on pollution. They do object to the large amount of fines, though. They would far prefer to see these fines go into the schools than it become easily a source of revenue for General Fund.

AB 621 - Authorizes local regulation of pollution from indirect sources.

Mr. David Minedew, Director, Division of Environmental Services, District Health Department, testified on this bill. A copy of his remarks are attached hereto and entered as Exhibit "E"

Daisy Talvitie, League of Women Voters, testified on this bill. A copy of her remarks are attached hereto and entered as Exhibit "F".

Allan Bruce, Associated General Contractors, was next to testify on this bill. A copy of his remarks is attached hereto and entered as Exhibit "G".

Irene Porter, Southern Nevada Homebuilders, was next to testify on this bill, concurring with many of the statements made by Mr. Allan Bruce (Exhibit "G"). She feels that this is a cosmetic approach to the problem. The problem is the automobile. She

reviewed the present situation in Clark County, i.e., the rapidly growing community, the housing problems, etc. She stated that the consumer is the one who ultimately pays for all of these delays on environmental issues. She said a change in planning direction is the way to attack this issue and that you cannot solve the problems in the cosmetic approach of delays on programming.

Assemblyman Dini asked of Mr. Minedew, regarding page two of Mr. Minedew's letter (Exhibit "E") wherein he stated "2. Delete any reference to federal indirect source regulations", he asked if he were talking about deleting that entire section. Mr. Minedew stated that what this does to the law is that it leaves it open so that the local agency could have some regulations.

AB 572 - Provides for control of water pollution from diffuse sources.

Mr. Tom Ballow, Nevada Department of Agriculture, testified on this bill as he did last week when the committee also had hearings on this bill. He thinks that the problem which he was concerned with is still in the bill and that is the reference to "permits". Assemblyman Bergevin advised Mr. Ballow that he has certainly requested that this be taken out of the bill. Mr. John Connolly of Yerington advised Mr. Ballow that as far as he understood his conversations with Mr. Frank Daykin of the Legislative Counsel Bureau, that the permit system is still required. Mr. Ballow advised the committee that if that were the case, he would ask that they vote against this bill.

Mr. Charles Zobell, City of Las Vegas, testified next on this bill, noting that they have six major areas of concern:

- 1) They find that this bill is only a skeleton bill and for that reason it is vague and somewhat ambiguous in some sections. They find that the Legislature may, in fact, be surrendering some of its law making authority to an agency rather than making the bill specific.
- 2) The bill offers no direct guidance on how these regulations should be drafted.
- 3) That a person must obtain a permit for non-point source water pollution and this must be obtained either through the State Division of Environmental Protection or through the county. He noted that he understands this is presently being amended out.
- 4) The definition of "diffuse source" is not specific enough.
- 5) This is their greatest problem with the bill, that being all of the authority to administer the program is given either to the Division of Environmental Protection or to those counties who may request this authority from the division. The cities are given no authorities within their own jurisdictions. The counties or state could then tell the local communities how to run their communities. They feel this is an infringement on the duties and responsibilities of duly elected local officials and deprives the residents of those cities of adequate and proper representation in these important matters.
- 6) Their last problem is they find the bill has no clear appeal process. He then

outlined for the committee what he felt was a better bill and that was the original draft of the bill. In an attempt to answer Mr. Zobell's questions concerning the difference between the original draft and the final bill, Mr. John Connolly of Yerington, Nevada, attempted to explain the history of meetings on this bill and the problems they encountered. Finally, Mr. Zobell proposed that perhaps the committee could look at the original draft of the bill and pull some things from it to amend the existing bill as he has outlined some of the problems.

Daisy J. Talvitie, League of Women Voters, next read her prepared remarks into the record. A copy of her remarks are attached hereto and marked as Exhibit "H".

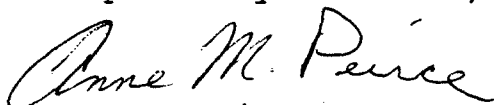
Mr. Ernie Gregery, Nevada Environmental Protection, testified on this bill. He stated that they concur with the amendments as proposed by Mr. Van Petersen in last week's hearings. However, they did note a couple of technical problems. He made reference to page four of the bill, line 24. They find the word "its" to be very ambiguous. They propose the words "the department". The other point he wanted to voice was directed to Mr. Zobell of Las Vegas. He advised that the statute itself addresses the municipality; it defines a municipality as a city, county or physical subdivision of the state. Therefore, they feel on the last page of the bill, line 23, the word "county" should be changed to "municipality".

Mr. Jim Gans, Clark County Sanitation District, testified on this bill. He noted that Clark County Sanitation District had the responsibility of preparing Clark County's 208 plan. Because of that, they would certainly support some type of law to implement that plan. They are not opposed to the purpose or concept of this sort of bill. However, they do share some concerns as expressed by Mr. Zobell as far as the ambiguity of the bill. They are not sure exactly who would have control, who had authority on diffuse sources and what was going to be accomplished. He then exhibited a legal opinion from their District Attorney. A copy of said letter is attached hereto and entered as Exhibit "I". He noted two problems in section five and section nine of the bill.

Mr. Howard Winn, Nevada Mining Association, again testified on this bill. He wanted to assure this committee that almost every word in this bill was carefully considered as to whether it would comply with Federal and EPA requirements and he assured them that almost every word will, in fact, comply.

There being no further business at hand, Vice Chairman Fielding adjourned this meeting at 4:12 p.m.

Respectfully submitted,



Anne M. Peirce,
Assembly Attache

WASHOE COUNTY

"To Protect and To Serve"



DISTRICT HEALTH DEPARTMENT

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PHONE: (702) 785-4290

April 10, 1979

Mr. Steve Coulter, Chairman
Committee on Environmental & Public Resources
Nevada State Assembly
Legislative Building
Carson City, Nevada 89710

RE: Assembly Bill 618


Dear Mr. Coulter:

The Washoe County District Health Department has been responding to oil spills and other direct threats to the quality of the Truckee River as the agency that is headquartered closest to this body of water and has the expertise to deal with such problems.

This bill would give the Director of the Department of Conservation and Natural Resources the authority to delegate formally some of his duties of investigation or response to these threats to water pollution if he deems it necessary.

HOWARD CLODFELTER
Administrator

By


DAVID J. MINEDEW
Director, Division of Environmental Services
DJM:hz

cc: Jack F. Fielding, Assemblymen
Tod Bedrosian, Assemblymen
Joseph E. Dini, Jr., Assemblymen
John M. Polish, Assemblymen
Robert E. Price, Assemblymen
Louis W. Bergevin, Assemblymen
Paul Prengaman, Assemblymen
Dean A. Rhoads, Assemblymen

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EXHIBIT A

STATEMENT OF LEAGUE OF WOMEN VOTERS RE A.B. 618

Basically, the League of Women Voters supports A.B. 618, believing that the ability to delegate some functions to a local qualified agency would be beneficial as a means of supplementing the enforcement capability of the State agency. For example, in Clark County, we have been faced with the problem of state inability to keep abreast of our problems and take needed enforcement action due to lack of state personnel in residence in Clark County and readily available at the times when problems are most apparent. This has become of major concern to us living in Clark county in recent months when it has become apparent that toxic substances are being discharged into the Las Vegas Wash with resulting hazardous situations in some areas. When this is found and reported to the State, the problem often is temporarily disguised or undetectable by the time a state agent is notified, flies to Las Vegas, etc.— only to be found again by local investigators a few days later. If the State cannot be given adequate funds and adequate personnel to do the necessary monitoring and investigative work, then certainly some of that work should be delegated to a local body having the necessary expertise to make the investigations. However, we feel the right to delegate should not permit delegation of authority to a local governing body which would that a local agency holding an NPDES permit can police itself as opposed to state policing of the source.

STATEMENT OF LEAGUE OF WOMEN VOTERS RE A.B. 620

The League of Women Voters has always questioned the policy of requiring fines for violation of air pollution ~~violations~~ being deposited into school funds without at least requiring that the school use those funds for purposes of environmental education. We, therefore, favor a change in that state policy. However, we wonder why only those fines collected by the commission are included in the bill. First of all, in those counties having boards of health, almost all enforcement actions and penalties levied are imposed by local hearing boards. ~~Why, then,~~ Are those local fines also to go to the Board of Health? And where do fines go that are levied by the Commission against violators in areas of the State having no local Boards of Health? One also must raise the question of whether or not giving local fines to the Board of Health would have the effect of using the fine authority as a means of increasing revenues as opposed to their real purpose of controlling air pollution. The League has supported in the past the approach of giving the fines to the general fund of the county where the pollution occurs, but we have no objection to there being given to the local Health district to be used for general health purposes. If you, as a committee, do not choose to make that change, then we would suggest that the school district receiving the fines be required to use the money generated for support of environmental education.

WASHOE COUNTY

"To Protect and To Serve"



DISTRICT HEALTH DEPARTMENT

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April 10, 1979

Mr. Steve Coulter, Chairman
Committee on Environmental & Public Resources
Nevada State Assembly
Legislative Building
Carson City, Nevada, 89710

RE: Assembly Bill 620

Dear Mr. Coulter:

Local Air Pollution Control Programs are established under NRS 445.546 in those communities in the State of Nevada that have a population of 100,000 or more. Because these local Air Pollution Control Programs are the responsibility of the district boards of health, county boards of health or boards of county commissioners, we feel that the administrative fines should go to these entities to help support their continuing efforts to provide a cleaner air environment.

HOWARD CLODFELTER
Administrator

By 

DAVID J. MINEDEW
Director
DJM:hz

cc: Jack F. Fielding, Assemblymen
Tod Bedrosian, Assemblymen
Joseph E. Dini, Jr., Assemblymen
John M. Polish, Assemblymen
Robert E. Price, Assemblymen
Louis W. Bergevin, Assemblymen
Paul Prengaman, Assemblymen
Dean A. Rhoads, Assemblymen

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EXHIBIT D

WASHOE COUNTY

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DISTRICT HEALTH DEPARTMENT

April 10, 1979

Mr. Steve Coulter, Chairman
Committee on Environmental & Public Resources
Nevada State Assembly
Legislative Building
Carson City, Nevada 89710

RE: Assembly Bill 621

Dear Mr. Coulter:

The Truckee Meadows and the Las Vegas areas are in non-attainment status for the air quality constituents carbon monoxide, ozone and particulate matter. As NRS 445.493 currently reads no regulations which pertain to indirect sources of air pollution such as highways, airports and parking facilities may be enforced since the Environmental Protection Agency delayed the effective date of their regulation past January 17, 1977.

Because carbon monoxide and ozone levels relate to the use of automobiles and parking facilities the local district board of health wants the option of promulgating rules and regulations which could help control emissions from indirect sources. These regulations would be directed toward planning for better traffic flows in these areas of potential traffic congestion.

We believe the changes described below to Assembly Bill 621 would better give the local air agencies the ability to deal with air pollution problems at the local level:

1. Change the paragraph beginning on line 16 to read:
2. The governing body of any county, incorporated city or district board of health may adopt and enforce within its jurisdiction, regulations governing indirect pollution sources.

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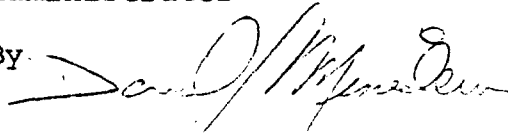
EXHIBIT E

Assembly Bill 621
Page Two
April 10, 1979

2. Delete any reference to federal indirect source regulations.

HOWARD CLODFELTER
Administrator

By



DAVID J. MINEDEW
Director, Division of Environmental Services
DJM:hz

cc: Jack F. Fielding, Assemblymen
Tod Bedrosian, Assemblymen
Joseph E. Dini, Jr., Assemblymen
John M. Polish, Assemblymen
Robert E. Price, Assemblymen
Louis W. Bergevin, Assemblymen
Paul Prengaman, Assemblymen
Dean A. Rhoads, Assemblymen

STATEMENT OF THE LEAGUE OF WOMEN VOTERS RE A.B.. 621

As presently written, A.B. 621 accomplishes nothing. On page 1, lines 16 through 19 gives to the governing body of any county or incorporated city the authority to adopt regulations over indirect sources of pollution more stringent than those adopted by the state. However, on page 2, lines 7 through 11, the cities and counties are denied permission to enforce any regulation more stringent than federal regulations. With the state unable to review new indirect sources only to the extent required by the federal regulations, and the cities and counties also unable to enforce anything other than those required by the federal government, the authority granted on page 1 is nullified. It is the League's belief that review of indirect sources by the local governments and by the State would be an asset in controlling pollution from the automobile in urban areas—particularly as they relate to hot spots created by traffic congestion, idling of cars, etc. But we must caution that it takes expertise to do the reviews; it takes personnel; it takes funds. Therefore, the Fiscal Note effect on local government is correct only if the local government chooses not to use the permissive authority which A.B. 621 purports to give.

STATEMENT OF THE ASSOCIATED GENERAL CONTRACTORS ON AB 621

My name is Allan Bruce, representing The Associated General Contractors in southern Nevada. My appearance today is for the purpose of making a brief statement urging the Committee's opposition to AB 621.

By way of some background on the issue of regulating indirect sources, some of you probably will recall the controversy which developed during the 1975 legislative session over a measure which eventually was passed by both houses of the Legislature. That bill (AB 480) provided that authority in Nevada for regulating indirect sources would expire in January 1977, in the event the United States Environmental Protection Agency delayed it's enforcement of indirect source regulations beyond that time.

Considerable testimony in behalf of the construction industry was presented in hearings before this Committee as well as the Senate Committee to support the case for removal of these regulations. The thrust of these arguments, at the time, centered on the fact that no substantial convincing evidence existed to prove that the regulation and pre-construction review of construction projects was necessary for protecting public health.

During the period from 1973 through 1975, the Federal EPA was in a holding pattern and continued to delay implementation of indirect source regulations due principally to the fact that no hard scientific data existed to substantiate the need for such regulations.

Subsequent to that time, the Federal EPA has never enforced it's proposed indirect source regulations; and in fact, Congress has refused to provide funding for such enforcement. Opposition to the control of so-called indirect sources over the past several years has been based not only on the lack of a demonstrated need but also on other factors including:

1. Such regulations place absolute control of growth in the hands of a regulatory agency instead of elected officials.
2. They require that land use decisions be made solely on the basis of air quality considerations.
3. They halt or discourage private investment in raw land due to the impossibility of a land purchaser knowing what types of development may or may not be allowed.
4. They discourage new construction because of the delays and heavy costs involved in a developer having to provide an environmental impact study for pre-construction review.

At this point in time, the abandonment at the Federal level of the concept of regulating indirect source, in our view, sustains the position that our industry has maintained over the last several years, namely that such controls lack any proven benefits and would impose costly and unnecessary obstacles hindering economic growth.

Thank you.

April 11, 1979

STATEMENT OF LEAGUE OF WOMEN VOTERS RE: AB 572

by
DAISY J. TALMITIE

The League of Women Voters is in agreement with the intent of A.B. 572 to establish authority for the control of diffuse or non-point sources of water pollution. However, we have major concerns about the specific manner in which this bill attempts to accomplish that goal. We also object to some proposed changes in the state water pollution control law and state policy which have been included which would be applicable to point sources as well.

There is no doubt that there should be enabling authority for state control over nonpoint sources of water pollution. The 208 Water Quality Management Studies conducted over the past few years in both the designated and nondesignated areas of the state clearly identify these agricultural and urban run-off sources of pollution and indicate that they can be controlled through best management practices. Much fruitful work has gone into the production of a Best Management Practices Handbook by the State Conservation Commission which can provide a basis for the necessary controls. But the language of A.B. 572 has a number of deficiencies and can result in creation of a number of problems for the State. We therefore submit the following specific comments and recommendations for amendments:

1. Throughout the bill, the League prefers use of the term "nonpoint" sources used rather than "diffuse sources. The term "nonpoint" sources is used in all the 208 Water Quality Management studies and is more easily understood.
2. We recommend adding to the bill a definition of Best Management Practices and then using this terminology where appropriate in the bill, for example, in certain sections found on page 4. We recommend the following definition:

Best Management Practices are measures, methods of operation, or practices which are reasonably calculated or designed to prevent, eliminate, or reduce nonpoint source water pollution."

3. Page 1, lines 8 through page 2, Line 5. The League has serious objections to the deletion of the existing state water quality policy. The existing language comes from section 101 of the federal law and is, therefore, consistent with federal law. The terms in this section which some groups claim are too general and unclear have been defined in regulation and through litigation in the several years since passage of PL 92-500 in 1972 whereas the proposed language is actually less clear than the existing language. The proposed state policy is a much more limited approach to water pollution control in that the proposed wording limits state policy to maintenance of water quality consistent with several specific uses which are mutually exclusive. The existing state policy looks to not only maintenance but to restoration and enhancement of the waters of the state as well as the prevention, reduction, and elimination of pollution. On page 2, lines 1 through 3, the proposed new policy merely "encourages" and "promotes" the use of methods of waste collection and pollution control as opposed to the positive commitment found in existing policy. There may also be problems in defining "significant" sources of water pollution, particularly in regard to natural sources. On proposed state policy on P. 2, lines 4 and 5 "to require that reasonable methods be used in carrying out this policy" is a "when did you last beat your wife" statement which muddies the waters even further because the statement is superfluous. If the methods were unreasonable, the commission and department would very quickly find themselves in court under the existing policy.

The League urges retention of the existing policy of the state. This position on our part is further strengthened upon examination of section 5 of the bill which we

EXHIBIT H 131

will discuss later.

4. Page 2, section 3, lines 12 through 20--the proposed redefinition of water quality standard we support as an improvement over the existing statutory definition.

5. Page 2, line 39. ~~Requires the~~ 6 Allows the Commission to require permits for specified classes of nonpoint sources. This permit provision may be both cumbersome and expensive to administer for agricultural sources and unnecessary if the controls can be established through Best Management Practices. On the other hand, such permits may be quite necessary for non-point sources related to old mine tailings or other non-agricultural sources. It seems to us that any one storing or stockpiling toxic wastes, for instance, should be subject to a permit to make certain that practices are followed that prevent leaching such toxics into the waters of the State.

6. Page 2, Section 5, beginning with line 47. The League believes that the proposed deletion of existing basis for adoption of water quality standards is dangerous. We believe the new language found on page 4, lines 5 through 8, falls far short of the requirements of federal law and will make it impossible for the Commission to adopt standards approvable by E.P.A. under the requirements of Section 303(c)(2) of the Clean Water Act, 33 U.S.C. § 1313 (c)(2), which states:

"Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation."

The language which Section 5 proposes to delete was specifically written into Nevada statutes to require the State Commission to adopt water quality standards which would meet the requirements of federal law. With inability to adopt standards meeting those requirements, the State of Nevada would become subject to standards written and adopted and imposed upon us by E.P.A. The League does not believe we want to be in that position.

7. Page 3, lines 16 through 20. Relates to authority of the commission to establish water quality standards for individual segments of streams or bodies of water which would vary from recognized criteria if such variations were justified circumstances of particular places. We recognize the necessity to have such authority to deal with natural sources of pollution which cannot be controlled. However, the language found here is not restricted to natural sources and is, therefore, subject to misuse by those seeking exemptions. The language also does not meet the requirements of federal law and does not take into account the necessity to protect waters downstream. We recommend this section be amended on line 20:

other appropriate studies, and so long as the separate standard does not
~~prevent attainment and maintenance of water quality standards of downstream users~~
waters, prevent attainment and maintenance of water quality standards of downstream
waters.

8. Page 3, Sec. 9, line 49. This section says that the water quality may be lowered if it has been demonstrated that the lower quality is "justifiable because of

economic or social development." It is our belief that this language is in conflict with federal law 40 C.F.R. §130.17 (e) (2) and CFR 130.17 (c)(3)(iii). Those sections require that the State adopt an anti-degradation policy which requires maintenance and protection of high quality waters unless the State chooses "after full satisfaction of the intergovernmental coordination and public participation provisions by the State's continuing planning process, to allow lower water quality as a result of necessary and justifiable economic or social developments." and also includes the language "because it would otherwise result in substantial and widespread adverse economic and social impact." Rather than the murky language found in the bill which lends itself to interpretation that any economic or social development could take precedence over maintenance of high water quality, the League suggests use of the federal language in establishing their non-degradation policy.

9. Page 3, line 48. Certainly the department should not be the one to make the decision as to what is necessary and justifiable economic development or what would result in substantial and widespread adverse economic and social impact. This authority should be given to the Commission. It is the Commission who is responsible, after public hearings, for establishing the standards and it should be the Commission that is the appropriate body to determine a variance from those standards to determine any case of degradation with the question fully exposed to public view.

10. Page 4, lines 7 and 8. Although this section requires the use of highest and best degree of waste treatment for new and increased point sources of pollution and what amounts to Best Management Practices for nonpoint sources, the requirements are qualified by lines 7 and 8 by the "economic capability of the project or development." Does not this qualifying phrase make the economics of the project the determining factor in requiring controls rather than the necessity to control water pollution and protect the quality of waters of the State? The League cannot support legislation which would permit new sources of pollution to pollute because it would be uneconomic for that new project to put in the necessary treatment works or to follow prescribed best management practices. Economics are always a subject of debate at every hearing and are automatically subject to consideration. But adverse consequences in terms of public health and downstream users in terms of economic costs to them would be burdensome and an unwarranted transfer of responsibility to placing the burden on those who are not, in any way, responsible for the pollution problem. Any need to lessen the degree of controls can be accommodated under Section 9, page 3. lines 46-49 amended as we have suggested.

11. Page 4, line 15. The language, "The department may apply controls" indicates the department could be expected to implement the controls itself and also does not specify what types of controls are to be used. The League recommends this sentence be amended to read:

"The department may require Best Management Practices for control of nonpoint sources as follows:

12. Page 4, line 23. The language requires the department to delegate to each county the administration of controls of nonpoint sources simply upon the request of that county for such delegation. While the League supports delegation to local authority under some circumstances, we believe that such delegation should take place only when the County requesting the authority has the necessary expertise, qualified personnel, and funds to adequately do the job. We suggest the following amendment:

".....of nonpoint sources, if the department finds the county has the necessary funds and staff to effectively administer the program."

The League wishes to emphasize the necessity to establish authority for the State to control non-point sources of pollution. With the amendments we have suggested, we would urge the passage of A.B. 572. But let us not lose much that is good in existing law or create new problems in the process.



RECEIVED

A.M. P.M.

APR - 4 1979

FACILITIES DEVELOPMENT
SECTION

Office of the District Attorney

CLARK COUNTY COURTHOUSE
LAS VEGAS, NEVADA 89101
(702) 386-4011

April 2, 1979

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CHIEF INVESTIGATOR

KELLY W. ISOM
ADMINISTRATIVE OFFICER

TO: BRUCE W. SPAULDING,
County Manager

FROM: VICTOR W. PRIEBE,
Deputy District Attorney

Re: A.B. 572

You have asked what our position is on A.B. 572. By that question we assume you desire to know whether the bill, if enacted, would be constitutional and enforceable and what the impact would be upon this office.

I

In our opinion Sec. 5 of the bill would not allow the State Environmental Commission to adopt water quality standards for waters of the United States which would be sufficient to meet the requirements of Section 303(c) (2) of the Clean Water Act, 33 U.S.C. §1313(c) (2). Section 303(c) (2) says:

"Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water, and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation."

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X-FILE			

EXHIBIT I

April 2, 1979

Bruce W. Spaulding
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It is apparent that the language which Sec. 5 of A.B. 572 would delete from NRS 445.244 was intended to require the State Environmental Commission to adopt water quality standards which would meet the requirements of Section 303(c) (2) and be approved by E.P.A. It is our opinion that under Sec. 5 of A.B. 572 the State Environmental Commission could not adopt water quality standards which could be approved by E.P.A.

Subsection (1) of Sec. 9 of A.B. 572 appears to conflict with 40 C.F.R. §130.17(e) (2). Subsection (1) of Sec. 9 of the bill says in effect that the quality of water may be lowered if it has been demonstrated to the department that the lower quality "is justifiable because of economic or social development." 40 C.F.R. §130.17(e) (2) requires that the State adopt an anti-degradation policy which requires maintenance and protection of high quality waters unless "the State chooses, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, to allow lower water quality as a result of necessary and justifiable economic or social developments."

Although the problems with Sec. 5 and 9 of A.B. 572 would impact primarily on the State, the County could be affected. If E.P.A. cannot approve Nevada's water quality standards, it may adopt federal standards. As you know, it is easier for the County to deal with the State instead of the feds.

We do not foresee any significant impact upon the operation of this office if A.B. 572 is passed.

VWP:nw


VICTOR W. PRIEBE
Deputy

WASHOE COUNTY

"To Protect and To Serve"



DISTRICT HEALTH DEPARTMENT

WELLS AVE. AT NINTH ST.
POST OFFICE BOX 11130
RENO, NEVADA 89520
PHONE: (702) 785-4290

April 10, 1979

Mr. Steve Coulter, Chairman
Committee of Environmental & Public Resources
Nevada State Assembly
Legislative Building
Carson City, Nevada 89710

RE: Assembly Bill 619

Dear Mr. Coulter:

Because this bill goes beyond the original intent for which it was drafted and because Assembly Bill 541 if amended should serve to delegate sufficient authority to local health districts to regulate the installation of package sewage treatment facilities in their areas of jurisdiction, the Washoe County District Health Department no longer supports the passage of this bill.

HOWARD CLODFELTER
Administrator

By 

DAVID J. MINEDEW
Director, Division of Environmental Services
DJM:hz

cc: Jack F. Fielding, Assemblymen
Tod Bedrosian, Assemblymen
Joseph E. Dini, Assemblymen
John M. Polish, Assemblymen
Robert E. Price, Assemblymen
Louis W. Bergevin, Assemblymen
Paul Prengaman, Assemblymen
Dean A. Rhoads, Assemblymen

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ENVIRONMENT AND PUBLIC RESOURCES COMMITTEE

GUEST LIST - 4-11-79

NAME

REPRESENTING

WISH TO SPEAK

(Please print)

Yes

No

✓	W. W. White	APB 619 IUGIB	✓	
✓	Charles Zobell	City of Las Vegas	✓	
✓	Tom Ballou	Nev. Dept of Agric.	✓	
✓				
✓	Allen Bruce	(AB 621) Associated General Contractors	✓?	
✓	Bill Jameson	Tonyabe National Forest		✓
✓	Red P. Zedure	STATE CONSERVATION COMMISSION		✓
✓	Wendell D. McCurry	State Div. Env Prot		?
✓	Joyce Hall	State Div. of Mineral Resources		✓
✓	W. H. Wain	Nevada Mining Association	✓	
✓	Les Beckman	IUGIB		
✓	Ernie Gregory	Nevada Enviro Prot	✓	
✓	Dave Menden	Washoe County Dist. Health	✓	
✓	Jim Gans	CLARK COUNTY SANITATION DISTRICT	✓	
✓				
✓	Brian Wright			✓