

6:00 PM

MEMBERS PRESENT

CHAIRMAN DINI
MR. BERGEVIN
MR. BEDROSIAN
MR. GETTO
MR. CRADDOCK
MR. ROBINSON
MR. HARMON
MR. FITZPATRICK
MS. WESTALL
MR. MARVEL

GUESTS (SEE ATTACHED)

MR. DINI CALLED THE MEETING TO ORDER AND ANNOUNCED THAT SINCE SENATOR WILSON WAS THE BILL INTRODUCER HE WOULD BEGIN THE TESTIMONY.

SB 323

SENATOR THOMAS WILSON told the committee that the bill was recommended thru the deliberations of the ad hoc committee meeting with regard to their hearings on THE LAKE Tahoe situation. He explained that what this bill does is eliminate gaming development at Lake Tahoe except for that which has already been approved or deemed approved. He said that the purposes are several the main one being that we should provide a unilateral policy decision by this state on gaming whether or not we negotiate with California on a compact. The basin can not tolerate anymore expansion and enough is enough. He hoped it would take gaming out of the negotiations with California as an issue. Simply put, it says there will be no more gaming. He spoke against an amendment that cited the floors on which gaming could be conducted. He said the rationale was that as long as gaming is going to be restricted the management needs some flexibility. While he agreed that a strong argument could be made for the amendment he did not support it. He closed saying that this bill is needed for many reasons; it is a responsible unilateral decision, long over-due, it speaks well for Nevada's ability to meet it's own problems, and although he has hopes it will remove gaming as an issue but that is not the primary reason. He reviewed for the committee's benefit the present bill which as amended, permits gaming on any floor which now has a public area. He would like to eliminate the convention center from the definition of public area.

Responding to Mr. Robinson's question, Senator Wilson conceded that this bill imposes a double standard but that we have to start somewhere to slow growth and gaming seems to be the monster to most people. Senator Wilson added that he hoped California would address similar problems on their side.

Assemblyman BOB WEISE testified that while he was appearing to support this bill, it was for opposite reasons as those cited by Senator Wilson. He said, "I believe this bill is necessary to remove gaming from being an issue with the Tahoe Regional Planning AGENCY. This is the most dramatic good faith move that could possibly be made." "We have isolated one industry and if California does not accept this in the

spirit with which it is offered, we will not have a compact. If that happens he said that he was prepared to come back next session and work for repeal. In reply to questions from the committee he said that he did not feel that gaming was the main attraction, rather the Lake itself, the recreational facilities, etc. He offered an amendment to Section 6, deleting the old section 6 and to read as follows: gaming conducted pursuant to a restricted gaming license is exempt from the provisions of section 5 of this act if it is incidental to the primary use of the premises. Sub-section 2 will say that "the provisions of section 5 of this act are intended only to limit gaming and not to limit any other property zoned for commercial use for the accomodation of tourists." He declared that there should not be any question of the intent of the Legislature to become involved in the zoning of property....just because we are removing gaming consideration, does not mean we are elminating commercial development. The counties and TRPA should be responsible for judging the merits of any project.

Mr. Marvel asked how many acres were left to be developed and if gaming seems to be the major obstacle. He was told that there is less than 30% of the land left to be developed and that gaming is the political obstacle.

Mr. Robinson asked if our demonstration of good faith would inspire California to make any concessions.

Mr. Weise said that by removing gaming we eliminate that issue and put it to rest. He said that his feeling is that we have more of a political issue than an ecological issue and expressed his concern for the Lake.

Senator Joe Neal requested that this bill be treated in the manner and spirit with which it was introduced. He stated that we cannot know at what point we may exceed the ecological threshold. He said that in recent years there has been a decrease in growth on the California side and an increase on the Nevada side. Senator Neal supported the proposed amendment of Senator Wilson.

Mr. Bergevin cited figures which refuted Senator Neal's information on the growth at the Lake, noting that only in the past year has the number of permits issued in California been fewer than those issued in Nevada.

Senator Neal said that regardless of whether the compact negotiations were successful he felt this bill is needed and he would not be in favor or repeal if it does not work.

In response to questions from the committee regarding the amount of traffic generated by gaming, Mr. Dini informed the members that the highway department study showed approximately 70% of those cars coming to the Lake are coming to gamble.

MR. GEORGE FINN told the committee that he was in favor of gaming, and especially at Lake Tahoe. He declared that the committee could not do what they were doing...IT IS UNCONSTITUTIONAL°! He reported that they could not pass a law in this state which would have general application and apply it to one sector of the state. Section 21 under the Legislative Branch of Government in the U.S. Constitution he quoted as saying that general laws shall have uniform operation throughout the state. He also quoted a section which says that the counties have absolute authority to operate their own business. He claimed that the supreme court would throw out any legislation based on the premise being proposed. He said that he would propose an amendment that would allow California to receive 20% of the taxes collected at Lake Tahoe and they would build casinos themselves. He informed us that the water quality at the Lake was excellent and all that would be needed to confirm this would be to get a report from Ernie Gregory. He said the basic issue is whether the local governments at Lake Tahoe had the right to control their own jurisdictions or whether we would leave it in the hands of a bi-state agency. He closed saying that this bill is special interest legislation for people who want to control gaming at the Lake.

MR. GARY SHEERIN, representing Harvey's Hotel Casino told the committee that they supported this bill as it now stands since it is apparent that something must be done this legislative session. He felt that internal control is not something the casino operators wish to concede. "If you start internal control of gaming in the Tahoe Basin, When do you do that same thing on the strip?" He further noted that there is actually room for 14 more casinos and those are being given up. He said that the amendment proposed by Senator Wilson would not be supported by his client. In fact rather than give all of the concessions which have occurred he said we should also have legislation which says gaming is not a nuisance. He said that the bill in it's present form is a responsible bill to the environmentalists, to the state and to the nation. He also noted that they did not object to Mr. Weise's amendment. He explained the limitations of the bill on gaming expansion inside & outside the present structures.

MR. JIM BREUNER, representing the League to Save Lake Tahoe passed out two amendments and said that one had been deleted on the floor of the Senate by an 11-8 margin which states "gaming must not be conducted on any story of the structure not so used or approved for use on that date." He felt that would go further to satisfy the intent of the original bill. He cited a report submitted by the Tahoe Palace which was prepared by Sierra Environmental Service, which breaks down the eifference between automobile trips generated for restaurant/showrooms, employees and hotel rooms from those attributable to casino space. Basically 70% of the trips were related to gaming. The other amendment he requested was a more closely defined statement of what public area consists. He also noted that the federal government has appropriated 12.5 million dollars as the first step in purchasing the development rights to the two approved casinos, and requested further, an appropriation measure of 6.25 million dollars to match the federal share with California. He feels that the limits of Lake Tahoe are already pushed to the limits.

Mr. Bergevin asked Mr. Bruner if he is a Nevada resident and Mr. Bruner told him that he lived on the California side; he also took exception to the report on the ratio of cars going to the Lake for gaming.

Mr. RAY KNISLEY spoke in favor of the bill but noted that he felt that the primary purpose was political expediency. He endorsed both amendments submitted by Senator Wilson and Mr. Weise saying that Mr. Weise is making a plea for the private land owner other than the casino owner, who has been overlooked. He also cited some history of the Lake saying that California had casinos at the Lake for over 60 years.

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GORDON DEPAOLI, representing Park Tahoe said that he is opposed to the amendments proposed by the League to Save Lake Tahoe and that proposed by Senator Wilson. He feels that gaming is receiving inequitable treatment and the figures quoted by Mr. Bruner could be juggled favorably or unfavorably depending upon which stand you support. He informed that this bill would amend NRS 278 which is concerned with NTRPA. See attached prepared statement and proposed amendments. He also noted that he did not feel that S.B. 323 should be inserted verbatim in the TRPA bi-state compact. He stressed his concern over the possibility that there are loop holes for law-suits although admitted that he may be paranoid on this subject. He said you must leave some room for enterprizes to breathe and operate. MR. Depaoli conveyed his belief that the state of California has as a goal, along with the League to Save Lake Tahoe, Sierra Club and others is to get gaming out of the Tahoe basin and that they will stop at nothing to achieve that end. He said that they themselves had made that statement and he is convinced that they will. He pointed out what he sees as an inconsistency in the bill on Page 2, Lines 27 thru 29 the language which states, "but may permit any external alteration, reconstruction or change of location which does not enlarge the cubic volume of the structure." He claimed that this may mean that a reconstruction may be required to go back and obtain all of the approvals again and subject it to all of the same lawsuits. He felt that deletion of those lines would make the bill clearer and subject reconstruction to fewer possibilities of law suits.

Mr. Fitzpatrick asked about the possibility of requiring a performance bond, since anyone can tie up the opening of any casino and the loss of revenue to the state is tremendous.

MR. FRAN BREEN, representing Oliver Kahle opposed the bill outright. He said that all of the seven lawsuits against his client had been won in the lower court and all but one has been affirmed on appeal and that one is presently pending in the 9th circuit. None of them ever went to trial, they were thrown out because the complaint did not state a cause of action. He claimed that it is now up to California to show good faith by completing the loop road, putting a ban on motels on their side of the line. He informed the committee that every time Mr. Kahle had started site work he was stopped with an injunction. He said that California has approved a Motel 6 on a flood plain and that this bill is a reward for someone who has already established a bad track record. He announced that Mr. Kahle would be in a position to contribute a substantial portion of his property to the state of Nevada because of having acquired his

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property in 1955 and therefore having a very low base. This would lessen the portion that Nevada would have to come up with.

He also mentioned that without the taxes generated by the casinos at the Lake Nevada would have to do without many things: ie: the Douglas sewer plant. He also approved of the suggestion of giving the court the authority to require that a bond be posted and that all law suits must be filed in Carson City or Douglas Co.

JOHN GIANOTTI, representing Harrahs commented that he would support the bill as it stands. He requested the privilege of running the internal operations for management and therefore did not support Senator Wilson's amendment. "I don't think this bill should be amended at all, we all agreed to it and we would support it."

Lee Snyder, representing the Sierra Club said that he feels this bill is a step in the right direction even though it cannot solve all of the problems with the pollution of the Lake. He mentioned that he was disappointed that none of the bills introduced have said anything or taken steps to isolate the traffic and parking away from the Lake.

FRED WELDEN of the LCB, presented the technical amendments recommended by staff (see attachment) He also refuted the problems concerning reconstruction and said that changing may to shall would definitely cause a conceptual problems.

Mr. Dini explained that this bill was born of the ad hoc committee and is part of the plan to show that we mean business in restricting gaming at the Lake and secondly, it is in NTRPA which is Nevada law that can be changed during any session and further stated that Mr. Welden had presented the technical amendments at his direction because when the bill was amended at the Senate level many technical things arrived on the scene and he wanted an examination of the bill.

The Chair called for a five minute recess.

Mr. Dini turned the committee over to Mr. Harmon and moved for an amend and do pass on S.B. 323. Mr. Bergevin Seconded.

UNANIMOUSLY APPROVED--AMEND AND DO PASS.

(This includes the Technical amendments recommended by staff, the addition of Page 2, lines 16-20 affirmative or default, and the amendment proposed by Mr. Weise) (ALL ATTACHED AS EXHIBITS 1,2, & 3.

Mr. Dini discussed A.B. 513 which provides additional circumstances for extending powers and duties of Nevada Tahoe regional Planning agency. He had taken care of the Language regarding the trigger for NTRPA by deleting 8 thru 11 on Page 3. On Page 4 Line 34, after local governmental jurisdictions, add local and regional. Lines 40 & 41, delete individuals and put persons in. Line 42, insert 1 before the. Amend Section 11 Page 4 by inserting between line 47 and 48 "2. The agency shall cooperate with the owners of unimproved real estate within the basin in order to perfect exchanges of their property for unimproved real property owned by the United States outside the basin. The agency shall maintain a current list of real property owned by

Assembly Committee on.....

Date: 4/9/79.....

Page: SIX.....

the United States and known to be available for exchange and shall participate in negotiations between the United States and the other owners to perfect exchange of property. Page 6, Line 33, Insert 1. Between lines 34 & 35, add the Tahoe Regional Compact set forth in NRS 277.200 is hereby repealed. That is the repealer to the TRPA. This is the trigger because under the compact we must withdraw by formal legislative action. This is that action whenever something goes drastically wrong this goes into effect. Page 7, delete lines 19 & 20 and insert of a withdrawal from the TRPA by the state of California or by his finding that the TRPA has become unable for lack of money or for any other reason to perform its duties or to exercise the powers provided by the compact. IF this happens NTRPA is kicked in automatically.

Mrs. Westall moved an AMEND AND DO PASS ON A.B. 513. Mr. Fitzpatrick SECONDED. CARRIED UNANIMOUSLY.

AMEND AND DO PASS A.B. 513.

It was suggested that a BDR for posting of bonds in the filing of law suits be required in any environmental suit.

Meeting adjourned.

Respectfully submitted,

Barbara A. Carrico
Committee Steno.

AMENDMENT TO S.B. 323

Explanation - Matter in italics is new; matter in brackets is material to be omitted.

Page 2, lines 16 - 20 :

SEC 5.1. Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an affirmative or default approval by the Tahoe Regional Planning Agency if that litigation was pending on January 1, 1979, the agency shall recognize as a permitted and conforming use:

1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION	SENATE ACTION	ASSEMBLY	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to	SENATE
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Bill No. <u>323</u>	Joint Resolution No.
Date:	Date:	BDR <u>22-2022</u>	
Initial:	Initial:	Proposed by <u>Committee on Government</u>	
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>		<u>Affairs</u>
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		
Date:	Date:		
Initial:	Initial:		

Amendment N^o 544



Amend section 6, page 3, by deleting lines 1 through 3 and inserting:

"Sec. 6. 1. Gaming conducted pursuant to a restricted gaming license is exempt from the provisions of section 5 of this act if it is incidental to the primary use of the premises.

2. The provisions of section 5 of this act are intended only to limit gaming, and not to limit any other use of property zoned for commercial use or the accommodation of tourists."

To: E & E
 LCB File
 Journal
 Engrossment
 Bill ✓

Date 4-8-79 Drafted by FWD:ab

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

EXHIBIT



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April 9, 1979

M E M O R A N D U M

TO: Assemblyman Joseph E. Dini
FROM: Fred W. Welden, Senior Research Analyst *FW*
SUBJECT: Technical Amendments to S.B. 323 (First Reprint)

A couple of technical amendments to S.B. 323 would be useful in my opinion. They are as follows:

ok
Page 2, line 21

(a) Every structure housing licensed gaming under a nonrestricted license which existed as a

ok
Page 2, line 44

or other public areas to be constructed elsewhere in the basin outside the structure.

Lake Tahoe Region
Page 2, line 47

2. Any structure housing licensed gaming under a nonrestricted license may be rebuilt or replaced

Page 2, line 40-42

Either delete the sentence "Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency" or delete the word "external" from the sentence. Deletion of the entire sentence leaves control of external modifications in subsection (a). Deletion of the word "external" gives the N-TRPA permit authority for internal modifications that require a local permit.

FWW/jld

AMENDMENTS TO S.B. 323:

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Amend Section 5, Page 2, line 40 to read:

.... this act. "Gaming must not be conducted on any story of the structure no^so used or approved for use on that date."

Amend Section 5, Page 2, line 46 to read:

.... this act. "Public use area" means restaurants, convention meeting rooms, cocktail lounges, showrooms, gaming areas, and retail sales and rental areas.'

STATEMENT TO ASSEMBLY COMMITTEE
ON GOVERNMENT AFFAIRS REGARDING SENATE BILL 323

I. INTRODUCTION

Mr. Chairman and members of the Committee - I'm Gordon DePaoli of the law firm of Woodburn, Wedge, Blakey, Folsom and Jeppson. I represent Park Cattle Co., the owner of the Park Tahoe Hotel and Casino. Today I am spokesman for a group consisting of representatives of the Park Tahoe, Harrah's Lake Tahoe, Harvey's Wagon Wheel, the Sahara Tahoe, Barney's Club, the South Tahoe Nugget and the approved Tahoe Palace Hotel and Casino.

Representatives of each of those businesses have met on several occasions. Most recently, the group met to consider the Bill you have before you today, S.B. 323.

Tonight I intend to speak to S.B. 323 as a matter of Nevada law only. It is my understanding that this Committee will hold another hearing on A.B. 503 which contains proposed amendments to the Tahoe Regional Planning Compact. I will hold my remarks on the gaming portion of A.B. 503 until that hearing. Suffice it to say that the industry's position on Compact provisions concerning gaming is different than what it can live with as a matter of Nevada law.

II. ANALYSIS OF BILL AS A MATTER OF NEVADA LAW

A. Introduction

Insofar as Nevada law is concerned S.B. 323 would amend

Chapter 278 of the Nevada Revised Statutes. That Chapter deals with the Nevada Tahoe Regional Planning Agency (NTRPA) which has limited authority to consider and approve, approve with conditions or disapprove any application for the development of a gaming establishment at Lake Tahoe. Presently the development of a gaming establishment at Lake Tahoe requires approval of at least three governmental agencies. A county, the NTRPA and the TRPA.

I intend to go through each section of the Bill and give you our understanding of it.

B. Section 5.1.(a)

Gaming establishments approved in recent years have been subjected to endless litigation. Section 5.1 recognizes as permitted and conforming uses all gaming establishments existing or approved for construction before January 1, 1979. Those projects approved before January 1, 1979 but not yet built may be built to the extent permitted by court order in lawsuits attacking Tahoe Regional Planning Agency approval and pending on January 1, 1979. No new lawsuits challenging that approval could be filed after January 1, 1979. We propose that lines 16-19 be amended to read as follows:

SEC. 5.1. Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an affirmative or default approval by the Tahoe Regional Planning Agency if that litigation was pending on January 1, 1979, the agency shall recognize as a permitted and conforming use:

That change recognizes that approvals may be secured by an affirmative vote of the TRPA governing body or by a failure to achieve a dual majority within 60 days. All of the approvals for gaming projects were secured by default. The change also makes that portion of Section 5.1 consistent with lines 23-24 of the same section.

Section 5.1.(a) prohibits the NTRPA from approving any new structures to house nonrestricted gaming. The expansion in cubic volume of existing and approved structures housing nonrestricted gaming is also prohibited. Those who have gaming located within their structures are prohibited from expanding their structures to accommodate new rooms, restaurants, bars, and convention facilities etc. There is no like ban on the expansion of similar businesses anywhere else in the Tahoe Basin. I seriously doubt whether any other business in all of America is faced with such a restriction.

Although the industry questions the logic of creating what this Bill's chief architect admits is a double standard, it is willing to live with that restriction as a matter of Nevada law. The industry simply recognizes that no new gaming establishments or expansion of present gaming establishments could be approved now or in the foreseeable future with or without S.B. 323.

C. Section 5.1. at lines 37-46

That paragraph freezes area which may be open to public use to that existing or approved for public use on the effective date

of the act. Within that public area the gaming establishments are given needed flexibility. They are free to move or add slot machines or tables, expand or contract restaurants or bars, etc. without being required to get NTRPA approval and without being exposed to harassing and delaying litigation. In other words they are free to operate their establishments in a manner which allows them to provide a proper mix of public facilities.

Again, the industry will live with the public area freeze. The freeze does nothing more than put to rest the irrational fear that the gaming businesses at Tahoe would convert hotel rooms and parking structures to gaming area.

External modifications which require a permit from local government will also require agency approval. That provision is acceptable.

D. Sec. 5.2

This section permits structures housing licensed gaming to be rebuilt or replaced to their existing or approved cubic volume and land coverage. It permits reconstruction or replacement for whatever reason whether it be some sort of disaster or simply obsolescence.

III. CONCLUSION

As I noted at the outset, the industry will accept this Bill as a matter of Nevada law. I look forward to appearing before you

again when you hear A.B. 503 in order to explain why S.B. 323 should not be simply inserted verbatim into the Compact.