

The meeting was called to order at 2:05 p.m. Senator Neal in the Chair.

MEMBERS

PRESENT: Senator Joe Neal, Chairman
Senator Norman Glaser, Vice-Chairman
Senator Wilbur Faiss
Senator Lawrence Jacobsen
Senator Floyd Lamb
Senator Mike Sloan

OTHERS

PRESENT: Mr. Lawrence Werner, Public Works Director for Carson City
Mr. Dwight Millard, Carson City
Mr. Bruce Scott, Consulting Engineer
Mr. Jim Newman, Building Contractor
Ms. Debbie Sheltra, Virginia City Property Owners' Association
Mr. Bob Sullivan, Carson River Basin Council of Governments
Mr. Herb Witt, Carson Valley rancher
Mr. Matt Benson, Carson Valley rancher
Mr. Jack Warnecke, Carson City Supervisor
Mr. Frank Daykin, Legislative Counsel

Senator Neal announced that the committee would hear testimony on S.B. 478 and take action on other bills.

S.B. 478 - Requires approval of certain boards of county commissioners of applications for water to be used in counties other than that in which it is appropriated or currently diverted or used.

Mr. Lawrence Werner, Public Works Director for Carson City, spoke neither in opposition nor support of the bill. He felt there is already contained in the Nevada water law a provision that the county can protest under the normal procedural hearings held by the state engineer. This bill would make the process more cumbersome in obtaining a water right permit. Any county or individual can file a protest on any proposed application if they are concerned about the detriment it would have to the water basin or the surrounding water users.

Date: April 25, 1979

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Mr. Dwight Millard, a local builder, stated that he agrees with the previous testimony that there are provisions in the law presently for counties to file objections for standard hearings of the water engineer for the diversion and use of water in their county. S.B. 478 would be an added burden to the process.

Senator Neal stated that this bill was drafted in response to another bill which would permit Carson City to go outside of its boundaries to get water. In that particular bill, there was no notification process for the county that its water rights were being appropriated elsewhere.

There was some discussion as to what the bill was intended to accomplish. Senator Sloan felt that the bill goes too far in that it requires the county commissioners' approval for someone to get water.

Mr. Bruce Scott, consulting engineer and water rights surveyor, stated that he worked on the development of a state water plan for 4 years. He felt there were concerns with the bill which might apply to a larger area than just Carson City. There are presently several areas in the state which depend on inter-basin transfers for their water supplies. He felt the state engineer has been very effective in insuring that the state's interest is best served. In some areas, the state's interest could be limited or stymied by a small county who was not willing to give up water. He felt that decision should be a state decision, not a county decision.

Senator Sloan mentioned that if a decision was arbitrary or capricious, it is subject to reversal by the court. Mr. Scott remarked that if the county did not grant approval under the new bill, he was not sure how that would leave the state engineer's position.

Senator Glaser asked how the bill would affect the Humboldt River inasmuch as it flows across 4 or 5 different counties. Would the county commissioners of each county have to get together for approval? Mr. Scott stated that he had only considered the bill in light of a municipal water supply.

Senator Jacobsen asked Mr. Scott if he is aware of the Owens Valley situation, and if there is a possibility of the same thing happening in Nevada. Mr. Scott responded that he didn't feel that would happen at all, and felt the State Engineer has done a very effective job of protecting areas of origin when that situation comes up.

Senator Jacobsen stated that he reads the bill differently than those testifying before him. He discussed the bill with Mr. Roland Westergard who felt that he would still have jurisdiction. The bill would force the counties to communicate with each other and try to solve their mutual problems. The bill intends for the county commissioners to be involved since they are the ones who set the tax rates and they have jurisdiction with all the services. However, the jurisdiction over water is still with the state engineer whether the county commission approves or disapproves.

Mr. Jim Newman, Building Contractor, stated his opposition to this bill. He felt that the state engineer should not have his hands tied by a board of county commissioners or be restricted in his decision to prohibit the transfer of water from one basin to another. Mr. Newman presently has an application on file to transfer water from Douglas County to Carson City because the Douglas County Commissioners are not willing to have any growth in that county. He felt the water should be put where it is needed not left where it is not being used.

Ms. Debbie Sheltra, Virginia City Property Owners' Association and Franktown Hills Property Owners' Association of Washoe County, stated that the reason the bill was requested was because Carson City's charter change included a provision that Carson City could appropriate water outside of their own basin and there was no notice procedure involved.

Ms. Sheltra asked the committee to consider the effect the transfer to another county would have in a situation like the one in Washoe County. A subdivision of 6,000 homes has just been approved in Washoe and they are counting on the ground and surface water to supply that subdivision. However, the people are not there right now to put that water to beneficial use. If another county demanded that water right now, there would be no water left for that subdivision.

Senator Jacobsen stated that in reading the bill again he feels that it does require the county commissioners to have to approve the application before the state engineer can look at it. That is not what the bill was intended to accomplish.

Ms. Sheltra asked if the committee takes out the reference to the county commissioners' approval, that they leave the provision for the public meeting forum in the bill and guarantee that this be held before the time of protest is up on the water application. The problem they have had is that when water rights are applied for, they have no way of knowing. They are not published in the paper of greatest circulation, they go in a paper of general circulation. Unless a person would subscribe to all the newspapers on a daily basis, there is no way of knowing what water rights have been applied for. She did feel there is a disparity between the state engineer and the ability of the county commissioners to master plan the lands in each county so that the population plan coincides with the water estimates.

Senator Neal asked Ms. Sheltra to comment on why the present notification procedure is not sufficient. Ms. Sheltra stated that the water rights are not covered under the public hearing provision. The public hearing would take place if there were a protest and the state engineer would decide to hold a hearing. However, the state engineer is not a public body and is not covered by the public meeting law. The state engineer has claimed that he does not have enough staff to send out agendas on any hearings that do take place.

Mr. Bob Sullivan, representing the counties of Carson City, Douglas, Lyon, Storey and Churchill, stated that he is not entirely sure of what the bill says in terms of implementation and intent. The aspects of politics negotiation are good and solid, but the committee would be better off to structure a bill that would increase the ability for negotiation to modify the notification process. The present negotiation process is not very good.

He believed that one county should have the benefit of being notified at the earliest possible point that another county wants to apply to transfer its water, but the arena for solving those negotiations is the state engineer's office.

Mr. Sullivan pointed out that Douglas County is the 5th fastest growing county in the nation on a per capita basis.

Mr. Herb Witt, rancher from Carson Valley, read the names of his neighbor ranchers who endorse this bill, or at least the intent of the bill. He stated that he and his neighbors are fearful of what effect pumping out of one basin into another will have on them. He stated that he is presently pumping water from 75 feet, but if he is drawn down to 150 feet it would not be economically possible for him to pump water for agricultural purposes.

He stated that it might be extreme to have a board of county commissioners have a decision right over the state engineer. However, he did not believe the state engineer always knows what is good for any county. He felt the notification process is much needed, and it could bring about a better working relationship between various entities.

Senator Lamb suggested that the bill be amended so that the state engineer would be mandated to notify the board of county commissioners that an application had been filed in a given area, but it would not give them any veto power. Mr. Witt felt that would be acceptable.

Mr. Matt Benson, rancher in the Carson Valley, stated that he is in general agreement with the statement by Mr. Witt. He was concerned mostly with the approval or disapproval of the county commissioners on an application. He felt that would end in legal entanglements.

Mr. Jack Warncke, Carson City Supervisor, agreed in general with the provisions of this bill. Although he has confidence in the water engineer, he felt that the elected officials should have some say about what happens to the assets in their political subdivision.

He felt the bill should also address where the water comes from as well as where it is accumulated.

Senator Neal closed the hearing on S.B. 458.

A.B. 15 - Defines fur-bearing animals as the property of the owner of the trap in which they are caught.

Senator Jacobsen suggested that this bill be returned to the form in which the committee first considered it, that is by returning the visitation period to one week. He stated that he had not been convinced by the testimony that 48, 72 or 96-hour visitations are necessary. He felt those people who provide food and products for consumption should be protected and trappers need the "tools" to continue their trade.

Senator Jacobsen moved that A.B. 15 be passed out of committee in the form it was received (without the 72-hour amendment) with the recommendation:
Do pass.

Seconded by Senator Glaser.

Yeas - (3)

Nays - Sloan, Faiss and Neal (3)

Motion failed.

Senator Neal announced that since the motion failed because it did not receive a majority vote, the bill would go back on the second reading file in the same form it was re-referred (with the 72-hour amendment).

Senator Lamb questioned the ruling of the Chair.

Senator Faiss suggested compromising by amending the bill to provide for a 96-hour visitation provision. Senator Neal stated that he would entertain a motion to withdraw from the previous amendment and put in a 96-hour provision.

Senator Faiss moved that the previous amendment be withdrawn and replaced by an amendment to provide for a 96-hour visitation.

Seconded by Senator Sloan.

Yeas - (3)

The vote would have been a tie again, so the Chair did not call for nays.

The committee had much discussion on how the bill was referred back to committee, whether the bill was in the committee's possession at the time the committee took the action to re-refer, and whether the committee can consider the bill except for additional amendment as was stipulated in the motion to re-refer. The committee asked Mr. Frank Daykin of the Legislative Counsel to give an opinion on the ruling of the Chair.

Senator Neal explained to Mr. Daykin that the committee could not reach an agreement on an amendment to A.B. 15, and it was re-referred from the Senate floor for the purpose of amendment. The Chair ruled that the bill has to go back to the second reading file the way it was taken off. Mr. Daykin stated in his opinion, it would take a majority of the committee to move the bill anywhere. If the full Senate is not satisfied with the inaction of the committee, a majority of the Senate can call the bill back as it stands. Senator Neal explained further that the bill was referred with a stipulation. He stated that Mason's Manual rules require that once a bill is re-referred to the committee with a stipulation, if the committee can not take care of that particular problem, the bill goes back to where it was. He cited two prior rulings in this area: One in 1973 and one involving Gerovital. He asked Mr. Daykin to check with Mason's Manual.

The discussion of this bill will be deferred until Mr. Daykin has an opportunity to examine the facts and report back.

S.B. 458 - Provides for conservation of energy by limiting use of appliances with pilot lights.

Senator Neal explained that he received an amendment from Noel Clark's office which clarifies that the bill would only apply to new appliances.

Senator Sloan moved that S.B. 458 be passed out of committee with the recommendation: Amend, and do pass as amended.

Seconded by Senator Glaser.

Motion carried (Absent - Senators Faiss and Lamb).

S.B. 478 - Requires approval of certain boards of county commissioners of applications for water to be used in counties other than that in which it is appropriated or currently diverted or used.

Senator Glaser suggested amending the bill so that it would require the state engineer to notify the board of county commissioners involved that there is an application to appropriate water across county and state lines.

Senator Glaser moved that S.B. 478 be passed out of committee with the recommendation: Amend, and do pass as amended.

Seconded by Senator Jacobsen.

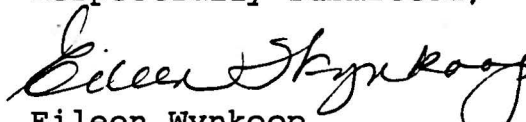
Motion carried (Absent - Senator Lamb).

Frank Daykin appeared before the committee again to give an opinion on the ruling of the Chair on A.B. 15. He stated that the bill was referred back for the purpose of an amendment. There is a senate rule which specifies that a bill may be re-referred before final vote for purposes of amendment. That rule does not say what happens after that. He felt that in order to amend the bill it would take a majority vote. If unable to muster a majority, the bill would remain in committee until a majority is mustered, or the full senate by majority calls it out.

Because the bill was not referred without limitations, Senator Neal announced that he would ask the President of the Senate for a ruling on the next legislative day.

There being no further business, the meeting was adjourned at 4:00 p.m.

Respectfully submitted,


Eileen Wynkoop
Committee Secretary

APPROVED:



Joe Neal, Chairman

SENATE BILL NO. 478—SENATOR JACOBSEN

APRIL 17, 1979

Referred to Committee on Natural Resources

SUMMARY—Requires approval of certain boards of county commissioners of applications for water to be used in counties other than that in which it is appropriated or currently diverted or used. (BDR 48-1818)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the appropriation of public waters; requiring approval of certain boards of county commissioners of applications for water to be used in a county other than that in which it is appropriated or currently diverted or used; providing a procedure to obtain the approval; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 533 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 1. *Except as provided in subsection 2, if water for which a permit*
4 *is requested is to be used in a county other than that county in which it is*
5 *to be appropriated, or is to be diverted from or used in a different*
6 *county than that in which it is currently being diverted or used, then*
7 *except as provided in subsection 2, the state engineer shall not approve*
8 *an application to appropriate the water or to change the place of diver-*
9 *sion or use of the water without written approval of that appropriation,*
10 *or change of place of diversion or use by:*
11 *(a) The board of county commissioners of the county in which the*
12 *water for which the permit is requested will be appropriated or is cur-*
13 *rently being diverted or used; and*
14 *(b) The board of county commissioners of the county in which the*
15 *water will be diverted or used.*
16 2. *The provisions of subsection 1 do not apply if:*
17 *(a) The water is to be appropriated and used; or*
18 *(b) Both the current and requested place of diversion or use of the*
19 *water are,*
20 *within a single, contiguous parcel of real property.*

SENATE BILL NO. 458—COMMITTEE ON
COMMERCE AND LABOR

APRIL 12, 1979

Referred to Committee on Natural Resources

SUMMARY—Provides for conservation of energy by limiting use of
appliances with pilot lights. (BDR 46-1792)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to energy resources; authorizing the director of the department of energy to specify, by regulation, which appliances must not have standing pilot lights.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 523 of NRS is hereby amended by adding
- 2 thereto a new section which shall read as follows:
- 3 *The director may adopt regulations specifying which appliances must*
- 4 *not have standing pilot lights.*

ASSEMBLY BILL NO. 15—ASSEMBLYMEN DINI AND GETTO

JANUARY 16, 1979

Referred to Committee on Environment and Public Resources

SUMMARY—Defines fur-bearing animals as the property of the owner of the trap in which they are caught. (BDR 45-739)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to hunting, fishing and trapping; defining fur-bearing animals as the property of the owner of the trap in which they are caught; requiring the adoption of certain regulations; providing for the enforcement of certain criminal statutes which are violated by the taking of traps or fur-bearing animals caught in them; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 503 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 4, inclusive, of this act.
3 SEC. 2. *All fur-bearing animals which are caught in a trap are, from*
4 *the time they are caught, the property of the owner of the trap.*
5 SEC. 3. *The department shall adopt regulations requiring the regis-*
6 *tration and identification of each trap used to take a fur-bearing animal.*
7 SEC. 4. *Each game warden, in addition to other peace officers, is*
8 *responsible for enforcing all statutes prohibiting larceny which are vio-*
9 *lated when a trap or fur-bearing animal caught in a trap is taken.*