

The meeting was called to order at 5:25 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 Mike Sloan

ABSENT: Senator Floyd Lamb

OTHERS

PRESENT: Senator James I. Gibson, Majority Leader
Senator Thomas R.C. Wilson, Assistant Majority Leader
Mr. Fred Welden, Senior Research Analyst, Legislative Counsel Bureau

Senator Neal announced that the committee would consider A.B. 503 and amendments necessary to improve the bill in preparation for a negotiated bi-state TRPA compact.

A.B. 503 - Changes structure and substantive requirements of Tahoe Regional Planning Agency.

Since Fred Welden was staff to the Ad Hoc committee, to the Assembly Committee on Government Affairs who introduced A.B. 503, and staff to this committee, he was asked to put together some recommendations which could accomplish goals for Nevada and get a compact through.

Fred Welden explained that in the handout he prepared comparing the Assembly-introduced version of A.B. 503, the Assembly-amended version of A.B. 503, and the California Assembly's version of California Senate Bill 82, he blocked out the sections he felt were advisable to pass, added some additional language, and marked out the sections he felt were not advisable. A reduced copy of that handout is attached as Exhibit A.

Page 1

On Page 1 concerning the Articles and Findings, Fred Welden explained that he marked in the same language as in the compact right now, contained in lines 4 through 16 on the left side of the page. The Assembly-amended version is recommended, which is found in the middle of the page, because it puts back in the phrase, "of resource conservation and orderly development." He suggested that be modified to be "consistent with environmental quality thresholds adopted for the region" because this would help in getting a compact through and an agreement with California.

Senator Jacobsen stated that although California Senator Garamendi stated that the changes they made were "to gain clarification and clarity", the term "environmental quality thresholds" was not clearly defined. Fred Welden stated that he had meant to use the defined term "environmental threshold carrying capacity." He personally found that the findings and declarations in the California bill were not acceptable because they are a set-up for a national recreation area and Nevada does not need to be on record with that kind of language.

Page 2

Mr. Welden explained that he marked out the California declarations and findings on this page also. The definitions are the same in both the California and Nevada bills, but he used the Nevada version because they are easier to draft from.

Page 3

Mr. Welden explained that there was no controversy on the definitions in f), g) or h). He picked up the definition of "project" in h) from the California version because later in the bill there is a section which gives the agency the authority to specify which types of projects would not have a substantial effect, and would therefore not need to be reviewed. He also used the California version's definition of (i) "environmental threshold carrying capacity" except for marking out the words "and traffic" because traffic is not an environmental parameter. The definition of "feasible" was acceptable in the California version, but the "public use area" was not because it is not used in S.B. 323.

Senator Jacobsen felt that the definition of "project" should include an exemption for single-family dwellings, as does the Assembly-amended version of A.B. 503. Senator Sloan recalled that it was Senator Garamendi's conception that most single-family dwellings would be excluded, but there might be a circumstance where a single-family dwelling causes substantial effects on the land, water, or other natural resource. Mr. Welden stated that a later provision added by the Assembly would allow the TRPA to define classes of projects they would not review so they could in some way define out whatever necessary by regulation and ordinance rather than by compact. Senator Jacobsen stated that they (TRPA) are presently questioning single-family dwellings and they are hanging their hats on the word "substantial."

Page 4

Fred Welden explained that Page 4 deals with the organization of TRPA. He suggested that both California and Nevada stay with a 3-3-1 ratio in their memberships; that is, 3 local, 3 state and 1 appointed by the other 6. The reason he suggested this is because a recent 9th Circuit Court opinion held that the state did not have liability because the TRPA was not a state entity because it had

more local members than state members. He felt it would be valuable to retain the 3-3-1 ratio rather than a 4-3 ratio in state control. Senator Sloan reminded the committee that Senator Garamendi was surprised that Nevada is attempting to amend the membership back to the way it was originally proposed (3-3-1) because California had changed their bill to a 4-3 ratio in response to Nevada's request. Senator Wilson felt the major concern to the ad hoc committee in this area was not the ratio as much as the problem of not "cutting" a decision which he felt would be provided by allowing the Governor to make an appointment in that case. He had no problem with the 3-3-1. Senator Gibson remarked that something that was not a big issue and was accepted by California should be retained so that the major differences could be narrowed down.

Mr. Welden suggested using the California language on the "economic interest" information.

Page 5

Fred Welden explained that the rest of the California language regarding "economic disclosure" and "disqualification" is recommended, and then the Nevada language on the make-up of the governing body.

Page 6

Mr. Welden explained that this page deals with the voting structure. He suggested adding in a third voting structure. He used Nevada's basic structure which would be a simple majority for regular business, and added in a statement that adoption of the statement of threshold carrying capacities, regional plans, ordinances and regulations requires a two-thirds vote for passage. Then the project section is in the form of the Nevada bill requiring a simple majority and a majority of the members in the state where the project is located. When discussing the number of votes necessary to block, it would require 5 votes to block a plan or ordinance under the two-thirds provision.

Senator Wilson stated that he felt the real defect in the straight dual majority is that either state can veto. California expresses skepticism that Nevada will be sufficiently strict, yet the dual majority on the adoption of the environmental standards gives the state a veto, so he did not follow the logic of the dual majority in every respect. His reservation is that with a two-thirds majority on adopting a meaningful environmental threshold limit, it would be possible for a small number to block a meaningful standard. On the other hand, California will accept nothing less than a dual majority. He felt that between the two, the two-thirds would be more workable, although it is not the best alternative. He felt the simple majority is the best alternative.

Continuing on Page 6 with the advisory planning commission, Fred Welden suggested adding back in the provision which was taken out of the compact that at least half of the lay members shall be residents of the region.

Page 7

On page 7 concerning Personnel, the California version has one additional sentence which legally does not have any effect, so Fred Welden suggested that version be incorporated. The Planning sections are the same.

Page 8

Fred Welden explained that the Assembly version was chosen over the California version because of the drafting style, but the content is the same. In the section on air and water quality, Mr. Welden suggested adding the words "or stricter" after the word federal, and removing the reference to the state and local standards. This would eliminate the opportunity for the California TRPA, Douglas County, or some other entity to come up with a stricter standard and make it applicable region-wide. It gives the regional agency the power to set its own standards, as long as they are within the federal guidelines.

In the second paragraph regarding the implementation plan automatically being incorporated in the regional plan, Mr. Welden suggested adding the words, "for the part of the basin for which they are approved." This would remove the opportunity for the California state implementation plan to automatically become the standard for Nevada. He also suggested changing the "shall" to "may" in the next paragraph to allow the agency to adopt measures that are more strict.

Senator Sloan asked Senator Wilson what varying standard of compliance is being put on the people at the Lake. There has been concern that they can not presently maintain or attain the existing federal and state standards. Senator Wilson asked Fred Welden if they are bound by the federal standards. Mr. Welden replied that in his judgement, they are bound by the federal standards whether it is provided in the compact or not. In some cases, Nevada has stricter standards. The way the California version was worded, the regional plan would have to take a state or local standard that was stricter.

Page 9

Fred Welden stated that he suggested accepting the California elements concerning the transportation plan, except for inserting after line 30 the Assembly-amended position that within one year after the effective date, the State of California would undertake the completion of the loop road. There are planning reasons why they should not be required to complete it, and there are other reasons which are just as valid in light of the existing plan why it should be done. The committee discussed whether the loop road issue should stand by itself or be made a part of the total transportation plan.

Page 9 Continued

Fred Welden stated that the key issue on this page is the May 1, 1979 date which is being changed in the California bill under subsection e). Discussions with Senator Garamendi about the date for the adoption of the California TRPA plans and ordinances indicated that he wanted the date to be on the effective date of the compact because all of their plans and ordinances are being dramatically revised right now. They wanted that date because of the gaming section date being on the effective date of the act, but now the date for the gaming bill will be within the next couple of days. That is why the date has been changed to May 1, 1979.

Page 10

The Nevada language at the top of the page is the same as the California language. Then in the language on public facilities, Mr. Welden tried to draw a middle of the road position by eliminating some language so that new subdivisions shall not be created and highways shall not be expanded prior to the adoption of the ordinances at the end of the planning section. Then new language is added, which is basically the same as the amendment by the Assembly, for construction or expansion of sewer treatment plants or sewage trunk lines unless essential to meet the needs of present inhabitants or projects approved. Senator Sloan suggested adding another exception to make clear that the prohibition on highways does not apply to the loop road. Fred Welden felt that might be necessary if the committee chooses to go with his suggested language.

Senator Gibson felt that the language Mr. Welden suggested would restrict further the wording the Assembly used in regard to public services and facilities. Because they are not mentioned, schools would not be an exception. Fred Welden responded that he felt, and had intended to provide, that if schools or any other public facility were not mentioned at all, they would not be restricted at all.

Senator Jacobsen asked Mr. Welden if the 3,000 lots would not be restricted. Mr. Welden replied that if they need a sewer trunk line or a sewer treatment plant, those could be built, but he felt that California would not accept this provision.

Mr. Welden further explained that he considered the statement made by Senator Garamendi that the 4 growth inducers were subdivisions, sewage treatment plants, sewer trunk lines and highways. Mr. Welden's suggestion was that of the 4 growth inducers, the bill would limit 2 of them completely, and the other 2 would be limited to present inhabitants and approved projects.

Senator Gibson asked why the wording mentioned "projects approved affirmatively or by default" rather than "projects approved." Mr. Welden answered that the discussion in the Assembly committee was there were several projects approved by default. Senator Wilson asked if permits were issued in cases where the projects were approved

by default. Senator Jacobsen felt that the sanction was there, but not the permit. Several committee members and Fred Welden felt there were permits issued, but were not entirely positive.

Page 11

Fred Welden explained that this page deals with the remainder of the plans and ordinances section and the agency's powers. The substantive change begins in the Assembly-amended version with subsection (b) on line 8. The addition of the wording at the bottom of that provision gives the agency the authority needed to come up with a list of what is to be reviewed, and would allow them to come up with an exemption for certain single-family dwellings or whatever they deem reasonable. Anyone who does not like the exemptions can sue them because their list is not adequate, not because each single project needs to be halted.

Senator Wilson asked why the California language was changed from the Nevada Environmental Commission to N-TRPA. Mr. Welden stated that when S.B. 323 was incorporated, it changed all references to N-TRPA rather than the Environmental Commission. So every place in the bill where the Environmental Commission is mentioned must be changed to N-TRPA.

In the California version under subsection (b), Fred Welden explained that he removed the reference to the President's Council on Environmental Quality because he felt they should not be required to cooperate. He changed the two years to 18 months, and provided that the agency adopt "a comprehensive statement establishing" environmental standards for the region so that the agency would not have to adopt the one and the only standard.

In (f), Fred Welden marked out some of the language because it has been previously stated that there will be a review of every project, a regional plan, etc. It is not necessary to tie it down again and again since it just gives someone more places to shoot at.

Page 12

Fred Welden suggested removing the reference to the two years because it was basically an incentive to make sure the things referred to were carried out. He felt that it is time to eliminate the incentives, and if the provisions are not carried out within two years, the alternative is to drop out of the compact.

The remainder of that page would be exactly the same as S.B. 323, plus some technical changes.

Page 13

Fred Weldon explained that this page pertains to trials, venue and that type of information. Everything is typical jurisdictional language. Senator Sloan felt it incorporates the Administrative Procedures Act. Fred Weldon assured the committee that California would object to the provision that no action be taken after 25 days from the date of the notice because they have a 3 or 4-year provision in their law. Senator Sloan felt this should be changed to provide the same time frame that is in the Nevada Administrative Procedures Act, 30 days. Senator Neal agreed.

Page 14

Mr. Welden stated that he used the California language on public works projects. He stated that in the Assembly-introduced version it stated that all public works projects would be reviewed and approved by the agency, but the Assembly amended that to state that the projects be reviewed but could be constructed as proposed anyway. It was Mr. Welden's opinion that the agency should review and approve all projects, including public works. He included the wording, "conditionally approved" in the place of "modified" in the California version.

Regarding the fines, the Assembly suggested going to \$50,000, but Fred Welden felt it is not a big item. He added the Assembly-amended language about any action imposing a fine would have to be brought in the county where the violation occurred. This would be a court-imposed fine.

Senator Neal questioned if the amended language would change the venue from the state level down to the county level. He felt this would be important in terms of getting compliance. Senators Wilson and Gibson felt it would be in a state court (district court). Senator Sloan suggested the language "in the judicial district where the alleged violation occurred." Senator Gibson stated that the language provides that half the fine goes to the general fund of the county in which the violation occurs so he saw no problem. Mr. Welden mentioned that he questioned the proposal about half the money going to the general fund in the county being unconstitutional since in Nevada, all the fines have to go to the distributive school fund. Senator Gibson stated that is probably true. Senator Wilson felt that because California's law may be different, some general language should be used to make whichever is applicable govern. Mr. Welden remarked that California has accepted this language, so he will get a legal opinion regarding Nevada's position.

On the bottom of the page, California provided that every record be open to the Legislature. Fred Welden eliminated that provision because he felt that personnel records and other private records should have more control. He suggested the language in the Assembly-introduced version. Senator Neal pointed out the language pertains to an audit function. In that case, the auditors should be able to look at all records.

Page 15

Fred Welden explained that this page deals with voting procedure again, and the lead-off language is the same except that the number of days in the present compact is 60, the Assembly version is 90, and the California version is 180 days. He suggested using the 180 days in the introductory language, then using the Nevada provision that if no action is taken within 180 days, the project is rejected. Then the voting procedure would be a simple majority and a majority of those members in a state where the project is located.

Fred Welden explained further that the Assembly-amended version deleted the reference in line 44 to the construction being "diligently pursued." On line 45 in reference to the project being the subject of a legal action, the Assembly also deleted the phrase "the purpose of which is to prevent or modify the project." Mr. Welden felt that he could make a planning argument as well as a financial argument on either side. Senator Neal suggested that the "diligently pursued thereafter" be amended back into the bill to prevent someone from laying a few bricks at a project to meet the criteria of the 3 years and not doing anything else. Fred Welden stated that the "diligently pursued" language is typical planning language used in other areas. The Assembly deleted it because there are proposals at the Lake where there could be lawsuits filed that would attack the agency plan but not for the purpose of modifying the project. Senator Wilson asked if there is a provision that if a project is deferred by litigation, either against the project or the agency, it would extend the time allowed. Mr. Welden answered there is such a provision. Senator Wilson felt there should be a diligently pursuit requirement and the committee agreed.

On the environmental impact statement, Mr. Welden explained that he took all of the California language, except Section 2 which the ad hoc committee and this committee has been opposed to, words like "unquantified environmental amenities."

Page 16

Fred Welden proposed that the California language be retained, except to eliminate the additional reference to environmental threshold carrying capacities. The old language would suffice.

Page 17

Fred Welden explained that the California version included the language from their California Environmental Quality Act. He had a problem with the words "public interest" on line 25. He felt it would not have to be a public consideration for a project to be approved because of the other matters.

Page 18

On Finances, Fred Welden took the Assembly-introduced version. He had problems with California not specifying an amount for state payment or making the state payment mandatory. Senators Gibson and Wilson did not understand why California objects to that provision. Senator Wilson made a statement that Nevada should make sure that the payments due from Nevada be paid whether California pays or not. Presently, payments are being withheld from TRPA. The Nevada proposal would mandate a minimum payment.

Fred Welden mentioned that California objects to paying 2/3 and Nevada only paying 1/3, and asked if there could be an even split. He preliminarily agreed to that. He told the California staff that he did not feel the compact would be held up over \$50,000.

Page 19

There is no provision in the bill for dropping C-TRPA. Fred Welden stated that the C-TRPA plans and ordinances are floored in on the California side. At any point, the governing body could change those by a two-thirds vote. There is no end date on that provision.

Senators Gibson and Wilson complimented Fred Welden and the Chairman on the presentation, stating it was very effective and put together well.

Senator Neal suggested the committee vote on the bill page by page.

Senator Sloan moved that pages 1- 5 of the markup be approved for adoption.

Seconded by Senator Faiss.

Motion carried. (Lamb - Absent).

On Page 6, Senator Sloan suggested amending the bill back to the language as introduced, providing for a simple majority. He felt it is better procedure, and could not understand California's objections to having an affirmative vote of the majority of the members of the two states. Senator Glaser expressed his preference for the simple majority method also.

Senator Sloan moved the original language in A.B. 503 be adopted indicating a simple majority for the purpose of constituting a quorum for the transaction of business by the agency in page 6 and that page be approved.

Seconded by Senator Jacobsen.

Yeas - (4)
Nays - Neal (1)
Absent - Lamb (1)

Motion carried.

The committee agreed that they did want to make a specific exemption for the loop road on Page 10, line 8, in the California language.

Senator Glaser suggested changing the language pertaining to "an action being commenced for seeking judicial review after the expiration of 25 days" to allow 30 days.

Senator Glaser moved to adopt the amendment suggested and approve pages 7 to 13.

Seconded by Senator Sloan.

Motion carried.

Senator Neal stated that Page 14 will be adopted with the understanding that Fred Welden will check with legal counsel on whether the provision for the fine being deposited with the county and state general funds can be done in Nevada.

Senator Sloan moved the adoption of Page 14 with the instructions specified.

Seconded by Senator Glaser.

Motion carried.

Senator Jacobsen wanted to propose an additional amendment to lower the fine to \$50,000 on line 40 on Page 14. Senator Neal stated that he would accept such a substitute motion to change the amount to \$50,000.

Senator Jacobsen moved to adopt an amendment to lower the fine to \$50,000.

Seconded by Senator Glaser.

Yeas - (2)
Nays - Neal, Sloan and Faiss (3)
Absent - Lamb (1)

Motion lost.

Senator Sloan suggested amending the language in the Assembly-amended version of A.B. 503 on Page 15 by inserting "and diligently pursued thereafter" after the word "time" on line 45. He felt it was an essential requirement to prevent a person from doing a minimum amount of work after the project had been undertaken. He remarked that there is an exception for computing the time for any legal action taken, which was broader language than either the California version or the original Assembly-introduced version. Senator Jacobsen questioned the definition of "diligently pursued" and felt that it could be too broadly applied.

Senator Sloan moved to adopt Page 15 with the amendment to insert the words "diligently pursued thereafter" in line 45.

Seconded by Senator Faiss.

Yeas - (3)
Nays - Jacobsen and Glaser (2)
Absent - Lamb (1)

Motion carried.

Senator Neal stated that he would accept a motion to approve Page 16 and 17. On Page 18, Senator Sloan suggested exploring an amendment with Legislative Counsel insuring that if one state does not pay, the other state should continue to pay and have a cause of action therefrom. Senator Neal stated that the page can be approved with the special instructions to staff.

Senator Glaser moved that Pages 16, 17, and 18 be adopted with the provision for special instructions on Page 18.

Seconded by Senator Sloan.

Motion carried.

There were no objections to Page 19.

Senator Sloan moved that Page 19 be adopted.

Seconded by Senator Faiss.

Motion carried.

Senator Neal announced that he would entertain a motion to take final action on the bill. Senators Glaser and Sloan felt that the bill should be amended and sent back to the committee for the purpose of reviewing the amendments as printed.


Senator Glaser moved that A.B. 503 be passed out of committee with the recommendation: Amend, and do pass as amended. Re-refer to the Committee on Natural Resources.

Seconded by Senator Faiss.

Motion carried.

There being no further business, the meeting was adjourned at 7:32 p.m.

Respectfully submitted,


Eileen Wynkoop
Committee Secretary

APPROVED:



Joe Neal, Chairman

ASSEMBLY BILL NO. 503—ASSEMBLYMEN DINI,
MELLO, MAY, WAGNER AND WEISE

MARCH 5, 1979

Referred to Committee on Government Affairs

SUMMARY—Changes structure and substantive requirements of Tahoe
Regional Planning Agency. (BDR 22-1950)

FISCAL NOTE: Effect on Local Government: Yes.
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 the Tahoe Regional Planning Agency; changing the composition of its governing body and the requirements for making decisions; restricting certain gaming activities to certain places within the region; changing penalties; 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. NRS 277.200 is hereby amended to read as follows:
2 277.200 The Tahoe Regional Planning Compact is as follows:

3
4 TAHOE REGIONAL PLANNING COMPACT

5
6 ARTICLE I. Findings and Declarations of Policy

7
8 (a) It is found and declared that the waters of Lake Tahoe and other
9 resources of the Lake Tahoe region are threatened with deterioration
10 or degeneration, which may endanger the natural beauty and economic
11 productivity of the region.

12 (b) It is further declared that by virtue of the special conditions and
13 circumstances of the natural ecology, developmental pattern, population
14 distribution and human needs in the Lake Tahoe region, the region is
15 experiencing problems of resource use and deficiencies of environmental
16 control.

17 (c) It is further found and declared that there is a need to maintain
18 an equilibrium between the region's natural endowment and its man-
19 made environment, to preserve the scenic beauty and recreational oppor-
20 tunities of the region, and it is recognized that for the purpose of
21 enhancing the efficiency and governmental effectiveness of the region, it
22 is imperative that there be established an areawide planning agency with
23 power to adopt and enforce a regional plan, [of resource conservation

Original bill is 18 pages long.
Contact the Research Library for
a copy of the complete bill.