

MEMBERS PRESENT: Chairman Dini  
Vice Chairman Schofield  
Mr. Craddock  
Mr. DuBois  
Mr. May  
Mr. Polish  
Mr. Redelsperger

MEMBERS EXCUSED: Mr. Jeffrey  
Mr. Mello  
Mr. Nicholas  
Mr. Prengaman

GUESTS: Please refer to the guest list attached to the minutes of this meeting.

Chairman Dini called the meeting to order at 8:11 A.M. and stated that a quorum was present.

Senator Kosinski testified on SB 274. Senator Kosinski stated that the first reprint of SB 274 is a bill that I put together after two sessions of listening to complaints from members of industry about the manner in which various or some state agencies handle regulations and problems inherent in the development of regulations and particularly their impact on the affected industries. I will walk you through the bill and see if there are any questions afterward.

The bill attempts to address several concerns ranging from complaints from members of industry that they are not sure often what the intent of proposed regulations are all the way to the far end where they say sometimes that various agencies do not make any effort to determine the economic impact of their regulatory process.

Starting in Section 2 of the bill on Line 3, it requires first of all that when regulations are submitted to the legislative commission for review, that that submittal be accompanied by statements containing various information - pieces of information - as identified in Section 2 of the bill. Number 1 on line 6 mandates that it contain a description of how public comment was solicited, a summary of the public response and an explanation of how other interested persons may obtain a copy of that summary.

Secondly on line 9, it requires a description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of that summary.

On Line 12, the estimated economic effect of the regulation on the business which is to be regulated and on the public and in each case must separately provide both the adverse and beneficial effects on both the public and the business and both the immediate and long term

effects on both the public and the business and on line 17, finally, the estimated cost of the agency for enforcement of the proposed regulation.

We recently had an example where an agency came before our committee concerning a statutory change and the conversation led to a discussion of some regulations that they had recently adopted and the agency admitted that they did not have the money to enforce the regulations but still insisted that they have them on the books.

The rest of the bill - number 5 on line 19 is a description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

Starting with Section 3 it merely integrates this language into the rest of 233(b) in relation to the mechanical and procedural aspects of it and it says there that on line 22 if the adopted regulation is not accompanied by this information, the director of the legislative counsel bureau in his role in the process of legislative commission review is supposed to send the statement back - refuse to accept the proposed regulations and send them back to the agency advising the agency that the statement is missing and that they will not accept it for legislative commission review until the statement is prepared.

In Subsection 4 it merely provides within the notice requirements the mandate in the notice of what the need for and the purpose of the proposed regulations is and then down on lines 25 and 26 of page 2, the agency shall also solicit comments generally from the public and from businesses to be affected by the proposed regulations. That is the essence of the bill.

In putting the bill together prior to the session, I reviewed the so-called regulation reform acts which have been introduced in congress over the past three years, none of which have been passed incidentally, and I borrowed some of the ideas from those regulatory reform acts. Many states - several states - have, either through statute or through regulation, attempted to get involved. They are mandating fiscal impact statements from the various administrative agencies, as well, incidentally as from the legislature itself. We, of course, require on the face of every bill a statement as to whether or not there is any fiscal impact on either from local government or from state government. As you know we have had those for a number of years. I think the effect on local government mandate was put in on 1975 or 1977 and the one on state government has been in since the early seventies and we were a leader in the nation in requiring those fiscal impacts on our bills and now there are probably a half a dozen states who are experimenting with requiring the fiscal impact statements on regulations as well which is what this bill here attempts to mandate.

Senator Kosinski asked if the committee had any questions.

Senator Kosinski stated that we do have one committee that is reviewing federal regulations for whatever impact that might have.

Mr. Dini stated that we had sent the senate a meritorious bill yesterday, AB 146.

Senator Kosinski stated that he happened to be in the committee the day you had your hearing on that bill.

Mr. Dini asked if there were any other questions to ask of Senator Kosinski.

Mr. DuBois asked if the fiscal note would be developed by the agency that introduced the regulation. They would do their own cost analysis.

Senator Kosinski stated yes. We had quite a bit of testimony from some agencies and some of the representatives may be here. I know Frank Holhauser from the Department of Human Resources and we discussed what some of the problems might be in preparing that fiscal economic effect statement and it was clear that the agency would be relying heavily on the industry. In other words, it would be anticipated that the industry would come in and say you are placing too heavy of a burden on us and here is why and through that kind of a process the agency would be able to develop their statement of the economic effect on the industry and on the public, so it is not anticipated that the agency will be going out cold in trying to gather the information, it will be a sharing process between them and the affected industry and the public.

Mr. DuBois questioned the cost of developing the fiscal analysis.

Senator Kosinski stated that Mr. Hannah was here and he is with the Environmental Commission and he testified that much of his work is in developing regulations - amendments to regulations and he proposed that it may cost him I think something like 24 man hours a year if I am not mistaken, just in developing the statements themselves. I can't remember - I think he was the only one who came in with any statements as to what specifically the man hours might be but he indicated that over a year's time that it would cost him 24 hours, in clerical and professional time in putting these statements together.

Senator Kosinski asked if he could correct a statement he had made. Mr. Hannah had indicated that it might take as much as 24 hours per regulation in clerical and staff time and I will provide the committee with a copy of his statement because maybe he does not plan on coming to this particular meeting and there were some question as to whether or not that was an actual reflection of the amount of hours that it might take. It is not clear what kind of a regulation he was looking at - 24 hours is a lot of hours - and it seems that much of the delineation that he has here would be part of the process anyway of engaging in the solicitation of information and in the give and take that goes on between the agency and the

affected industry but I will provide the committee with a copy of this.

Mr. Dini asked if anyone else wished to speak in favor of SB 274.

Mr. Frank Holsauer, Chief Planner for the Department of Human Resources. As Senator Kosinski has indicated we testified in favor of the bill. We had a few concerns and those concerns were corrected in the first reprint. I believe that there are a few technical things that our technical writer Phyllis may want to bring to your attention, but Dr. DeSibio who today will be his last day on the job full time, prepared a letter and submitted it during the testimony on the Senate side on this particular bill, and in the letter he indicated that his support for the concept of the bill and the need for this kind of action. Also he indicated in there that we in the Department of Human Resources have started this process and did start it long before the legislative session started. We initiated a directive out of the director's office in September of last year asking all of the divisions to submit to the director's office such information as is required in this particular bill. I think there was a technical problem with the bill, but other than that the rest of it were were very much pleased with in the first reprint.

Mr. Holsauer stated that they basically started this in September and they had very few regulations initiated since September, so we have no track record to go back on and say whether or not it worked. We asked that they provide to us prior to the implementation or even the development of final approval of the legislature, of any regulation information which would tell us the cost to the agency of implementing that regulation and the cost to the industry of that regulation being implemented upon them. We are saying also that a lot of times we want a cost on the industry as is apparent in Dr. DiSibio's move regarding the nuclear dumpsite, for instance. We like the regulation there that pays for the total cost of operating that dump site and anything that goes along with it. That is great and that is not a problem to us. But, on the other side, we may not want a cost to the industry in certain regulations, so that that's basically what we are looking at here. We want to know what it is going to cost. We are not saying that it is going to be adverse or not adverse to the actual implementation of the regulation.

Mr. Dini asked if anyone else would like to speak on SB 274.

Ms. Phyllis Otten, technical writer with the Health Division, testified next. She stated as Mr. Holsauer indicated, we are certainly in support of the intent of SB 274. I would just like to make one or two comments that I suppose are really questions. The large majority of the regulations that we have to adopt are mandated by the legislature. We don't have a choice and the example that Senator Kosinski gave of an agency

not being able to enforce a regulation and still have the regulation on the books, I don't know that this bill is going to correct that situation because as I say, it isn't the agency's initiation, it's the legislatures and I would respectfully suggest that if that is a problem, that perhaps some research in the statutes should be done and some of the musts or the shalls in the statutes should be changed to may's, because as far as the volume of regulation goes, we don't really have too much control over that. In our agency alone, and I presume that it would be a comparable ratio in other agencies, we have right now on the books 58 regulations and out of those only 14 are optional, the rest are mandated by the statutes. One other point that is really a question. Page 2, line 3. Unless the statement is supplied, the director shall not submit the regulation to the commission and the regulation never becomes effective. I am just questioning, I am not a lawyer, but I am questioning, is there a conflict there, between the fact that the statutes say we shall adopt a regulation, and the commission says you can't adopt a regulation. I don't know whether that's a technicality or not but I wanted to call it to your attention.

Mr. Dini asked if anyone else would like to testify on this bill.

Mr. Tom Young, Executive Manager of Nevada Environmental Action Trust, testified next. He stated that he would like to see this bill passed and become effective and I would like to give you an example of what has happened in the past in Reno and Washoe County because of this type of action. About a year ago we sat down with the Washoe County Board of Health and reviewed some regulations that they were talking about putting in as new regulations in addition to what was already in existence. We asked them to give us time to review those regulations and make an analysis of the impact on our industry. We figured that the impact would be substantial but we had no idea exactly how great that impact really was going to be. It was several million dollars for one project. We took a 20 acre development and calculated the impact of these new regulations. The impact was over fifty million dollars. We found out that most of the regulations that were being proposed were already in effect. But they were not applying them. Our people were not basically aware of what the regulations were and they were not actively enforcing those regulations so it was just repetitious, so if we can get some tool that will require communications flow between the agency that is enforcing the regulation or proposing the regulation and those people that are going to be directly impacted by that maybe we can find that there has just been a lack of communications in the past and there are already existing regulations to do that job, so I would like to encourage support for this bill.

Mr. Dini asked if there were any questions from the committee.

There was no further testimony on SB 274.

Mr. Dini indicated that the next bill the committee would consider would be AB 371.

Assemblyman Robert Barengo, Speaker of the Assembly, testified next. He stated that this bill comes from that often heard phrase that we have to do this because the federal government required us to do it and consistent with the new administration's policy of trying to do away with federal requirements, it seemed to me only logical that we should have a statute in our books that mandates that our agencies which have adopted regulations pursuant to those federal requirements immediately withdraw those regulations. That is all this would do. Often times we have heard our agencies say we don't really to do this but the federal law says we have to do it. Well, when the federal requirement goes away, what do they do. Do they go back in and take that regulation off? I suspect they don't. This at least will mandate that they must do it. In addition it will give someone from the outside who is being regulated when the federal requirement lessens or goes away, the ability to say, you have done that, you must now take that off. I believe it will be beneficial both to private industry and also to the citizens of the State of Nevada. I think that today seems to be the day for reviewing the regulations and this would fit into all of the ones that you have discussed.

Mr. Dini asked if there were any questions for the Speaker.

Mr. Dini asked if anyone else wished to testify on AB 371.

Mr. Frank Holsauer with the Department of Human Resources testified next. This particular bill will greatly assist us because when federal regulations are relaxed, generally the federal dollar is relaxed and when the federal dollar is relaxed, it is next to impossible for us to carry out certain functions. We don't believe first off that this bill may go far enough. We are looking at a review currently of all of the statutes that govern all of the various divisions of our department where we may be mandated to law rather than in regulation to carry out a particular function which is only there because the federal law says we should do that. What we are trying to do, and we had a meeting, I was not able to be there the other day with all of the division administrators at which time our new director who will be on board next week, Mr. Martell, has directed that each division administrator review those pieces of NRS which affect their division and to come back to him as soon as possible, stating which statutes may be impacted if the federal law were relaxed. Now a lot of times what has happened is that an agency has come in and requested a particular statute and it sounds reasonable at the time because the federal law is thus and so and as things have been going in the past it has been a gradual building of a lot of various programs through this kind of action. Now we are looking at it from a point of view of what happens and one of them in particular, what happens if a particular entire federal program is eliminated from federal funding. Do we still have to carry out all of those particular functions within the state. A lot of times we may want to do that. And it may be the desirable thing to do, but again unless there is some state

legislative backing for that action, I don't think we should have to do it, and if it is in the law that says we are empowered to carry out a federal act, that is great if they repeal that act but what happens if they only cut back on that act, in funding only, then we really run into some problems and we are reviewing that very carefully right now. We should have all that material back some time later next week. Hopefully we can give that to you when we get back. On this particular bill, I think this is a great step at least the first setp necessary for us to get started in this way because we don't know what we are going to do if they relax regulations and start cutting back on funding too. There are a lot of areas we will get stuck in a real bind.

Mr. Dini asked if there were any questions.

Mr. Dini asked if anyone else wished to testify on AB 371.

Mr. Tom Young of the Nevada Environmental Action Trust testified next. This law does not necessarily say that you absolutely have to repeal but it says you may modify or repeal and I don't think it is a question of when they will or if they will start to change federal law, but when and in some cases that has already started, but even though the federal law has been repealed many cases our hands our tied by improving our own laws because something like this does not stimulate somebody to go ahead and do it and I think this would be a tool to help us improve our own situation locally.

Mr. Dini asked if anyone else woud like to testify on AB 371.

The testimony on AB 371 was completed.

Mr. Dini announced that Senator Gibson was here and the committee would hear SB 352.

Senator Gibson stated that this bill was requested by the City Council and it is a charter amendment. In the charter, the present language indicates the wards should be established based on the number of registered voters and I don't know how we overlooked this, but in reapportionment you probably know that the courts have ruled that registered voters is not a proper basis for apportionment and the bill would change that to actual number of people in those areas. The council has requested it, and it too late for this - they would like to have it affect this election. I think they have 30 days ahead of the election to make the adjustment. I don't think there is any controversy on it though.

Mr. Dini stated that he believed the small counties reapportioned on registered voters.

Senator Gibson stated that it is not a recognized basis for reapportionment. I guess as long as nobody challenges it you are all right.

Mr. G. P. Etcheverry, Nevada League of Cities, testified next. He stated that he came before the committee in support of SB 352.

This is clean up legislation for the City of Henderson and it is needed and as Senator Gibson indicated they would like to get it done as soon as possible in order to make it in time for the primary election coming up in those cities. In answer to the other question, yes it does create a problem in some of the rural counties because in fact we might be in violation of law, and I ask for your support of SB 352.

Mr. Dini asked if anyone else wished to testify on this bill.

Testimony on SB 352 was concluded.

Mr. Dini stated that SB 171 would be the next bill heard by the committee.

Mr. Dini stated that this bill had been heard previously.

Ms. Esther Nicholson speaking for the League of Women Voters in Nevada. Ms. Nicholson stated that the League has been interested since the 1977 session in the so-called sunset legislation. We opposed the bill in 1977 because we felt it was completely unworkable that it affected far too many agencies and commissions and so forth. We supported Sue Wagner's bill last session and of course her original bill was very much cut down, but we supported it as a pilot project. We have been very interested in how the review of the two agencies affected in that bill went on. We attended the senate hearing on SB 171 in which Senator Kosinski who was very much involved as you know in the three affected agencies, gave a full report. This bill is one of the two bills affecting sunsets that has so far surfaced this session. This bill in itself simply incorporates the improvements that Senator Kosinski and the other people involved in the review process felt were important and necessary to improve the process. Because of that the League strongly supports it. We hope that the sunset process can go ahead slowly but surely and this would be a step in the right direction. We therefore urge your support of this bill.

Mr. Dini asked if anyone else wished to testify on SB 171.

Testimony was concluded on SB 171.

Mr. Dini indicated that the committee would take a recess until 9:00 A.M.

Mr. Dini called the meeting back to order and stated that Mr. Bob Warren would like to testify on SB 274.

Mr. Bob Warren, Executive Secretary of the Nevada Mining Association testified on SB 274. Mr. Warren stated that he appreciated the courtesy of the delayed testimony. He indicated that he had a small



emergency at home and I missed your schedule. Mr. Warren stated that you see on your bill under fiscal note, it says effect on local government - no. That is very important I think because there is a parallel between Senator Kosinski's bill and the bill that was introduced some years ago by Assemblyman Dini and then Speaker of the House Keith Ashworth and that bill said if there is an economic impact on local governments of the activities of the legislature in excess of \$2,000 that the state fiscal analyst shall prepare an economic impact statement. That was passed overwhelmingly following the leadership of Mr. Dini and Mr. Ashworth in both houses. It was one of the first bills in the nation to identify the economic impacts that the activities of the legislature have upon local communities. It was introduced at my request when I was Director of the Nevada League of Cities and I had a very personal interest in it, because at that time New York was on its knees, Cleveland and others were threatened and it looked like the cities of America and possibly the counties were doomed to grievous income problems, so there was an effort made to reduce the cost of the city and county governments - local governments. That bill, I think went a long way over these intervening years in holding down the cost of government in Nevada, because your actions and the actions of the legislature and the administrative agencies are now carefully scrutinized to determine what the economic impact is and when the bill comes out and it has an economic statement on it, you look at it carefully, and if it is something that is substantial and will impact on local governments you give it careful consideration.

This bill carefully parallels that in what its long term beneficial impacts will be. If this were enacted, I think that the economic impact and the other impacts of the other regulations that must be evaluated would have the same beneficial impact to the State of Nevada and for the public purse that the Dini/Ashworth bill did some years ago that set up what may have been the first in the nation. That is the statement that I did want to get into the record because I think Senator Kosinski's bill will have the same beneficial impact if it is supported and enacted and I strongly support its enactment.

Senator Kosinski's attachment to the minutes of this meeting is annexed to the minutes of this meeting as EXHIBIT A.

Mr. Dini asked if there was a motion from the committee with regard to AB 371.

Mr. Schofield moved for a Do Pass on AB 371, which was seconded by Mr. DuBois. The motion carried unanimously.

Mr. Dini stated the committee would take action on SB 352.

Mr. Polish moved for a Do Pass on SB 352, which was seconded by Mr. Schofield. The motion carried unanimously.

Mr. Dini indicated the next bill to be discussed by the committee would be AB 323. Mr. Dini stated that we did not need this bill. Mr. Dini asked for a motion to Indefinitely Postpone AB 323.

Mr. Schofield moved for Indefinite Postponement of AB 323, which was seconded by Mr. May. The motion carried unanimously.

The next bill to be discussed by the committee was AB 324. Mr. Dini stated that this bill has been encompassed into AB 145 and AB 201. Mr. Mello moved for Indefinite Postponement of AB 324, which was seconded by Mr. Schofield. The motion carried unanimously.

The next bill discussed by the committee was AB 402. Mr. Dini stated that this bill was incorporated in another bill and this one was not needed. This was a metro proposal but has been incorporated in another bill.

Mr. Schofield moved for Indefinite Postponement of AB 402 which was seconded by Mr. Mello. The motion carried unanimously.

The next bill discussed by the committee was SB 274.

Mr. DuBois moved for a Do Pass on SB 274. The motion was seconded by Mr. Redelsperger. The committee then discussed the bill further. Mr. Dini asked if Mr. Craddock would talk to Frank Daykin on this and the committee would hold the bill for a day or so.

Mr. Dini indicated that the committee should now discuss SB 171.

Mr. Dini asked if the committee would refer back to the minutes of March 24 and specifically to Jack Kenney's testimony during that meeting.

Mr. Dini asked the committee members to turn to page 2, line 28 (f). Mr. Dini stated that he thought that they ought to delete the whole section.

Mr. Mello moved to amend and delete Section F on page 2 in its entirety, which was seconded by Mr. May. The motion carried unanimously.

Mr. Redelsperger moved for an Amend and Do Pass on SB 171, which was seconded by Mr. DuBois. The motion carried unanimously.

The committee discussed SB 165 next. Mr. Dini stated that this is a clean up bill.

Mr. May moved for a Do Pass on SB 165, which was seconded by Mr. Mello. The motion carried unanimously.

Mr. Dini indicated that he would like to hold SB 194.

The committee next discussed SB 174.

Mr. Redelsperger moved for a Do Pass on SB 174, which was seconded by Mr. DuBois. The committee then discussed the bill further. The committee decided to hold SB 174.

The committee next discussed SCR 14. Mr. Mello moved for a Do Pass on SCR 14, which was seconded by Mr. Schofield. The motion carried unanimously.

Mr. Dini stated that on Monday the committee would take up SB 274 again.

Mr. Dini stated that we still did not have a name for the data processing agency. Mr. Redelsperger asked what was wrong with the name "Department of Data Processing". Mr. Mello stated that there may be a reason that we cannot use it, but he would check on it.

Mr. Mello stated that the Department of Data Processing Services would be good.

Mr. Mello called Mr. Daykin with regard to the name that would be used.

Mr. Daykin indicated that the name "Department of Data Processing" would be all right.

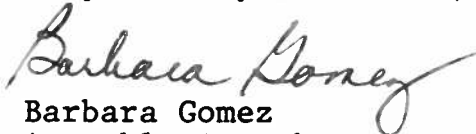
Mr. Mello told Mr. Daykin that Dave (Stankow) had the rest of the amendment and would Mr. Daykin instruct him to insert that in. Mr. Mello indicated that Mr. Daykin did not say that we could not use that, but that he did not like it.

The committee next discussed SB 274. Mr. Craddock moved for a Do Pass on SB 274, which was seconded by Mr. Redelsperger. The motion carried unanimously. Mr. May was not present at the time of the vote.

Mr. Mello stated that the Consumer Advocate bill was supposed to have been delivered yesterday but still has not been delivered. We will have it over the weekend.

There being no further business to come before the meeting, the meeting adjourned at 9:32 A.M.

Respectfully submitted,

  
Barbara Gomez  
Assembly Attache



STATE OF NEVADA  
ENVIRONMENTAL COMMISSION

EA  
SB274

MEMORANDUM

To: Senator Kosinski  
From: James R. Hannah, Executive Secretary *JRH*  
Subject: SB - 274 - Estimated Economic effect on this agency.

Date: March 2, 1981

SB 274 Requires statement of effect of proposed administrative regulations.

IN COMMITTEE ON GOVERNMENT AFFAIRS

After a regulation is adopted, a statement would be required to be submitted to the Legislative Commission accompanying the regulation stating (1) the need for and objective of the regulation; (2) a declaration that public comment and comments of affected businesses were solicited; (3) summaries of the public and business responses and instructions for obtaining a copy of the summaries; (4) estimated economic effect on the public, business and the agency of enforcement; (5) a declaration of non-duplication or non-overlap with existing regulations; and (6) a description of any overlap or duplication with other state agency or government agency regulations with a statement of why duplication or overlap is necessary.

FISCAL NOTE

Over the last 2 years, the Environmental Commission has considered petitions involving regulatory additions or changes that involved 17 actions in 1979 and 20 actions in 1980 (an average of 18 for the 2 years past).

The requirements of this bill would add administrative procedures for processing regulations beyond that which we now perform. If the bill were to become effective, the minimum estimated economic effect on the Environmental Commission would be as follows:

(from Section 2 and the numbered sub-sections in the bill)

Section 2

Sub-section	Time Required For		Total
	Preparation	Typing	Time (in hours)
1. Need and Objective	1 hour	1 hour	2
2a. and 3a. Solicitation Description	0.25	0.25	0.5
2b. and 3b. Summaries of Public and Business Responses	4	2	6
4, 5, and 6. Estimated Economic Effect On:			
Business	2 (if known)	1	3
Public	2	1	3
Enforcement Agency	2	1	3
7. Non-Duplication Non-Overlap	0.5	0.5	1
8. Why duplication or overlap is necessary, etc.	3 (if known)	1.5	4.5
SUB-TOTALS	14.75	8.25	23.0
Xerox and collate the above for distribution			1
		TOTAL	24 hours per regulation

Assuming an average of 18 regulations per year requiring administrative processing with an estimated minimum of 24 hours per regulation of staff time involved in preparing, typing and distributing the statements required in this bill, an additional 0.24 man years would be necessary to adequately implement these new procedures at a minimal level.

$$\begin{array}{r} 24 \text{ hours per regulation} \\ \times \quad 18 \text{ average regulatory changes per year} \\ \hline 432 \text{ additional hours per year} \end{array}$$

Assuming 1800 working hours per person per year:

$$\frac{432}{1800} = 0.24 \text{ man years}$$

This estimate is a minimal one and does not take into account regulatory changes that were brought to public hearing, but tabled or disapproved and which would have had a substantial amount of time involved in preparation for adoption and review by the Legislative Commission. Pre-adoption information gathering could possibly involve 10-18 hours of staff time that would not be formalized and distributed if the regulation were tabled indefinitely or disapproved.