

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 19, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 8:06 a.m., Tuesday, May 19, 1981 in Room 323 of the Legislative building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman
Senator James N. Kosinski, Vice Chairman
Senator Richard E. Blakemore
Senator Virgil M. Getto
Senator Wilbur Faiss
Senator James H. Bilbray

GUEST LEGISLATORS PRESENT:

Assemblyman James W. Schofield
Senator Lawrence E. Jacobsen

STAFF MEMBERS PRESENT:

Samuel F. Hohmann, Senior Research Analyst, Science and Technology
Fred W. Welden, Senior Research Analyst
Connie S. Richards, Committee Secretary.

ASSEMBLY BILL NUMBER 196

Assemblyman James W. Schofield explained that Assembly Bill No. 196 and Senate Bill No. 86 places hazardous chemical wastes in Assembly Bill 196, changing NRS 459 on the low-level radioactive waste and making certain that within the statutes the chemical and hazardous wastes are blended under the umbrella of the division of environmental protection within the department of conservation of natural resources thereby putting the low-level radioactive waste where it has been, and clarifying it within the statutes. The result is a hazardous waste management plan.

Mr. Samuel F. Hohmann, Senior Research Analyst provided a memorandum to the committee relative to the differences and similarities of Assembly Bill No. 196, Senate Bill

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No. 86, and Senate Bill No. 87. (See Exhibit C.)

Assemblyman Schofield suggested an amendment for Assembly Bill No. 196 to page 7, line 47: after the word "order", add the words, "issued exparte or after notice of hearing."

Mr. Vern Rosse, Waste Management Program Director, Division of Environmental Protection, Department of Conservation of Natural Resources said the department is in support of Assembly Bill No. 196 and urges its passage. Passage and approval of this bill provides the state with statutory authority to develop its own hazardous waste management program. The hazardous waste this bill proposes to manage does not include radioactive materials, but does include industrial waste, chemicals, pesticides, petrochemicals, solvents, paint wastes, and electroplating wastes among others. The bill proposes that the state environmental commission will adopt regulations governing all phases of management of hazardous wastes from the point of generation to the ultimate disposal of the waste, which involves the transportation, storage, and any treatment that may be involved. Regulations would provide for permitting storage treatment and disposal facilities and require that a manifest be used for any shipment or movement of those wastes off-site. With these regulations, the department will establish procedures for the implementation and an application will be submitted to the U. S. EPA and upon approval of the state program, it will entirely replace the federal program. The state program will be able to respond to the needs of 170 Nevada industries involving hazardous waste and also protect interests of the state through proper management of state waste as well as waste brought in to Nevada from other states. In addition to providing the authority to extend the federal program, this bill authorizes the licensing and users of the Beatty burial site and also establishes the authority to better regulate the use of that site. Finally, the bill separates properly, the management responsibilities of the environmental commission for hazardous waste from the board of health's responsibilities of radioactive materials.

Mr. Ace Martelle, Director, Department of Human Resources spoke in support of the intent of the bill but expressed a concern with several portions of the bill as follows:

section 36, paragraphs 1 and 2, lines 23 through 34, relative to monies received by the director of the department of

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conservation of natural resources for leases or agreements entered into. Language in subsection 1 appears to be permissive, while language in subsection 2 appears to be mandatory language in conflict with the fund set up for perpetual care of the Beatty site. Those funds are grossly inadequate and amount only to about \$660,000 total in that fund, which could be depleted in one incident. He said this language is unclear and may be in conflict with existing language in NRS chapter 374.

Mr. Martelle suggested lines 19 and 20 on page 10 be deleted as it is unclear what the meaning is and it appears that the division is responsible for the disposal of the waste, while in fact they are responsible for the regulations governing the safe disposal of those wastes.

The Chairman asked Mr. Martelle to submit recommended changes in writing to the committee.

Mr. Carl Cahill, Assistant Director, District Health Department, Division of Environmental Services spoke in support of Assembly Bill No. 196 and suggested some minor amendments. (See Exhibit D.)

Mr. Bob Warren, Executive Secretary, Nevada Mining Association spoke in support of Assembly Bill No. 196. He noted that there is an exemption at this time for certain of the industrial waste of the mining industry. The rationale for that exemption is that the federal government has not determined that those are hazardous wastes and there is a study currently being made to determine this and Congress has provided an exemption by law for those wastes.

The Chairman asked Mr. Warren why the State of Nevada should wait for Congress to make that determination when the state can make such a decision itself.

Mr. Warren said he feel that would be exercising a substantial burden on the state if it were required to make such a determination in which resources of the federal EPA would be involved.

Ms. Peggy Twedt, Representative, League of Women Voters, spoke in support of Assembly Bill No. 196. Ms. Twedt's testimony is listed as Exhibit E.

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Mr. Mike Sullivan, Supervisor, Environmental Affairs, Sierra Pacific Power Company spoke in support of Assembly Bill No. 196 and urged its passage.

ASSEMBLY BILL NUMBER 221

Mr. Howard Winn, spoke in support of Assembly Bill No. 221 (see Exhibit F).

Mr. Tom Young, Executive Manager, Nevada Environmental Action Trust spoke relative to Assembly Bill No. 221 (see Exhibit G).

Mr. Lewis Dodgion, Administrator, Division of Environmental Protection spoke in opposition to Assembly Bill No. 221 (see Exhibit H).

Mr. David Dietz, told the committee Douglas County is opposed to Assembly Bill No. 221.

Mr. Jack Derringer, Nevada Department of Wildlife spoke in opposition to Assembly Bill No. 221 (see Exhibit I).

Ms. Peggy Twedt, League of Women Voters spoke in opposition to Assembly Bill No. 221 (see Exhibit J).

A letter was presented to the committee from Churchill County indicating opposition to Assembly Bill No. 221 (see Exhibit K).

ASSEMBLY BILL NUMBER 392 (EXHIBIT L)

Dr. V. A. Salvadorini, Chairman, Washoe County District Board of Health spoke in support of Assembly Bill No. 392 (see Exhibit M).

Mr. David Henry, Representative, Washoe County spoke in support of Assembly Bill No. 392. He asked the committee to consider an addition to the bill that would allow for a concurrence of the appointment by the board of county commissioners on the grounds that they are the ones who put the budget together and support it in its entirety.

Senator Kosinski asked whether the board has that power now.

Mr. Henry replied that they do not.

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Ms. Carolyn Ford, Nevada Council of Health Educators spoke in opposition to Assembly Bill No. 392 (see Exhibit N).

Senator Blakemore moved to "Do Pass" Assembly Bill No. 392.

Senator Kosinski seconded the motion.

The motion carried unanimously.

Senator Lawrence Jacobsen asked the committee to consider Senate Bill No. 433 with some amendments.

There being no further business, the meeting adjourned at 10:30 a.m.

Respectfully submitted:



Connie S. Richards, Committee Secretary

APPROVED BY:



Senator Joe Neal, Chairman

DATE: May 25, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on Human Resources and Facilities , Room 323 .

Day Tuesday , Date May 19 , Time 8:00 a.m.

A. B. No. 196--Provides for regulation of hazardous waste.

A. B. No. 221--Makes various changes in provisions concerning water pollution.

A. B. No. 392--Changes qualifications for county and district health officers.

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



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LITH ASHWORTH, *Senator, Chairman*
ARTHUR J. PALMER, *Director, Secretary*

DONALD R. MELLO, *Assemblyman, Chairman*
RONALD W. SPARKS, *Senate Fiscal Analyst*
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ANDREW P. GROSE, *Research Director* (702) 885-5637

May 18, 1981

EXHIBIT C

MEMORANDUM

TO: Senator Joe Neal
FROM: Samuel F. Hohmann, Senior Research Analyst
SUBJECT: A.B. 196, S.B. 86, and S.B. 87

This memorandum is in response to your request for a comparison of Assembly Bill 196 regarding hazardous waste and Senate Bills 86 and 87 regarding low level radioactive waste and uranium mining respectively. Similar provisions in A.B. 196 and S.B. 86 are outlined in Table I; unique provisions of the two bills appear in Tables II and III.

There are essentially no provisions common to A.B. 196 and S.B. 87. The mining industry wastes are exempted from the provisions of A.B. 196 until such time as the federal government determines that they should be included. Senate Bill 87 merely allows for state regulation of the uranium mining industry in compliance with recently adopted federal regulations.

I hope this information is helpful. If you have any questions or would like additional information, please do not hesitate to contact me.

SFH:jlc.5.1.ABSB

TABLE I.

EXHIBIT CHAZARDOUS WASTE MANAGEMENT PROPOSAL (A.B. 196)
AND SIMILAR RADIOACTIVE WASTE LAW (NRS 459 AND S.B. 86)

| Provisions of A.B. 196 - Hazardous Waste Management | | Similar Statutory Provisions for Radioactive Waste Management (NRS 459 and S.B. 86) |
|--|--|---|
| <u>Section</u> | <u>Provision</u> | <u>Analogue Citation</u> |
| 3-12 | Definitions | NRS 459.010. |
| 13-14.3 | Adoption and scope of regulations | NRS 459.030; S.B. 86 Section 13 provides for radioactive waste transportation regulation. |
| 14.5 | Exemptions | NRS 459.040; S.B. 86 Sections 8 and 16. |
| 14.7 | Inspection fees, penalties, inspectors | NRS 459.040; S.B. 86 Sections 2 and 4. |
| 15 | State/federal coordination through the department | NRS 459.020 and S.B. 86 Section 8. |
| 16 | Enforcement/ implementation by department | NRS 459.030 and S.B. 86 Section 7. |
| 17-18 | Violations of permit regulations | NRS 459.040-459.045 and S.B. 86 Section 9. |
| 19 | Liability | S.B. 86 Section 9. |
| 20 | License fees | NRS 459.050 and S.B. 86 Section 2. |
| 24-25 | Reporting/ monitoring | NRS 459.050-459.060 |
| 34 | Disposal facility use fees | NRS 459.045 and S.B. 86 Section 9. |
| 35 | Facility siting agreements | Nevada Statutes 1961, chapter 374, Section 4. |
| 36 | Waste disposal fund | Nevada Statutes 1961, chapter 374, Section 5 and S.B. 86 Sections 5, 6, and 14. |

TABLE II.

EXHIBIT CPROVISIONS OF A.B. 196 NOT INCLUDED IN TABLE I.

| <u>Section</u> | <u>Provision</u> |
|----------------|--|
| 12.5 | Prohibiting overlap with water pollution control and radioactive material regulation. |
| 21 | Decontamination expenses/funds. |
| 22 | Facility modifications. |
| 23 | Negotiable standards. |
| 27-33 | Departmental response to imminent health hazards/judicial remedy/violations/penalties. |
| 37-41 | Clarification of division of environmental protection authority and responsibility. |

TABLE III.

PROVISIONS OF S.B. 86 NOT INCLUDED IN TABLE I.

| <u>Section</u> | <u>Provision</u> |
|----------------|--|
| 3 | Removal of radioactive material from commercial disposal facility. |
| 10-12 | Route designation. |
| 15 | Grandfathering new statutory provisions into previous agreements. |

WASHOE COUNTY

"To Protect and To Serve"



DISTRICT HEALTH DEPARTMENT
DIVISION OF ENVIRONMENTAL SERVICES

May 18, 1981

WELLS AVE. AT NINTH ST.
POST OFFICE BOX 11130
RENO, NEVADA 89520
PHONE: (702) 785-4280

EXHIBIT D

The Honorable Joe Neal
Committee On Human Resources & Facilities
Nevada State Senate
Legislative Building
Carson City, Nevada 89710

RE: AB 196

Dear Mr. Chairman:

The Washoe County District Health Department urges positive review and consideration of AB 196 with only limited amendment to the current bill.

Infectious materials and pathological wastes have been under the jurisdiction and control of the State, District, County and Local Health Departments. This control has and is continuing to meet the health and safety requirements of the citizens of the State of Nevada. Chapters 439 and 444 of the Nevada Revised Statutes have provided the mechanism for this control.

We therefore request the following changes be made to AB 196:

Page 2 Lines 16 & 17

1. Because of its quantity or concentration or its physical or [,] chemical [or infectious] characteristics may:

Page 11 Lines 6, 7, & 8

mercial and industrial [.] *infectious and biological and pathological wastes.* [and hazardous wastes including explosives, pathological wastes, chemical waste and herbicide or pesticide waste.]

Thank you for your favorable consideration in this matter.

Sincerely,

DAVID J. MINEDEW
Director

By

Handwritten signature of Carl R. Cahill in cursive.

CARL R. CAHILL
Assistant Director
CRC:hz

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League of Women Voters of Nevada

A.B. 196

EXHIBIT E

The League of Women Voters of Nevada supports AB 196. In the last few years the League has concentrated much of its energy on studies of hazardous waste problems both in Nevada and nationwide. Our research has included research of numerous documents, statutes, and regulations. It has included review of Congressional investigations and interviews with state, local and EPA personnel. The League's conclusion is that AB 196 is an absolute "must pass" bill.

The hazardous waste problem has been declared by Congress as having reached a crisis situation - as one of the most serious threats to domestic welfare of the U.S. today. To quote from the Congressional Committee report "This problem cannot be overstated. Even an extraordinary effort, commenced immediately, cannot achieve protection for the American public for years to come. Industry has shown laxity, not infrequently to the point of criminal negligence in soiling our land and adulterating our waters with its toxics." Today much of our nation's groundwater is being contaminated to the point in many areas that they are no longer usable. There are areas where public water supply systems are contaminated and may have to be rebuilt. There are areas where citizens have suffered death, sterility, serious nerve and kidney disorders, cancer, and other major health problems from hazardous waste exposure due to improper disposal. Millions of dollars in property damage has occurred and clean-up of hazardous and abandoned sites is costing multi-millions. While Congress has acted with the passage of the Resource Conservation and Recovery Act, commonly referred to as RCRA, Congress also recognized that the federal government alone cannot accomplish the task before us. It will take a concerted effort by the federal government, the states, industry, and all citizens working together to bring the problem under control.

The subcommittee which worked on AB 196 is a good example of this process in action. Diverse interests came together and amended this bill to its present form. The League is pleased with the result and urges your passage of AB 196.

ASSEMBLY BILL 221

Committee on Human Resources and Facilities

W. HOWARD WINN

My name is Howard Winn and I am here to speak for myself in an effort to conclude some unfinished business that began four years ago. It was during the 1977 session that two legislators formed a task force to review Nevada laws relative to the protection of water quality and to recommend changes which would provide for a workable system for control of water quality including control of diffuse or non-point sources.

After nearly two years of study involving more than 30 concerned people, a proposal was made to the 1979 Legislature which included several major changes to the then existing water quality law. I agreed to act as spokesman for the task force and joined the Department of Conservation and Natural Resources in support of the legislation. It was sponsored by Assemblyman Louis Bergevin. After extensive hearings it was approved essentially as written and became law.

The basic concept of the system for water quality control - its legislative intent - which is its "foundation" stone, is the idea that, in Nevada, we commit ourselves to the protection and continuation of the beneficial uses that are now being achieved. The task force was well aware of the conflicts that were and would be occurring as ever increasing growth in population put more and more pressure on the already scarce water resources in Nevada. The task force believed that to maintain present uses of the water would be a Herculean task but represented a goal that would, if achieved, be the best that could be hoped for.

The intent of the 1979 law has never been complied with. Room has been found in the wording of the law to allow deviation from intent in the following areas:

1. Designation of "applicable" beneficial uses by the commission is being done in a generalized manner that does not allow meaningful determination of water quality standards. For example, the eleven sections of the Carson River all have the same use designation. There is no recognition that the lower river supports a different aquatic life than the upper river and there is an inference that the entire river can be upgraded to support all uses. I am, perhaps, most alarmed by a use designated by the commission throughout the river systems as recommended by the Division of Environmental Protection called "aesthetics." I find it amazing that authority could be found within Nevada Law to designate a word with such vague and individually variable meaning as a beneficial use. The dictionary defines "aesthetics" as "a branch of philosophy dealing with judgement concerning beauty." Aesthetic value could be a proper part of a narrative criteria.
2. The commission still establishes many water quality standards on the basis of averaged in-stream quality. Again, as an example, almost every section of the Carson and Truckee Rivers have different standards for many pollutants such as phosphates, nitrates, and temperature. There is no real relationship between the

EXHIBIT F

standards and the actual uses as is required by law. Such a system violates the very basic concept of granting water discharge permits. By rules of any other state or by EPA, a discharge permit cannot be granted unless there is found at the discharge point water of higher quality than the water quality standards - enough higher to absorb the pollutants without causing a violation of the standards.

3. The commission has established standards to protect high quality water from degradation. This was not the intent of the law nor is it necessary or desirable. True high quality water can only be maintained by application of diffuse source regulations and by land use planning. The actual quality of the water needs only regular sampling to provide data for determination of the success or failure of the management program.

The amendments proposed in A.B. 221 do not change any of the concepts and intents of the present law - they simply state them in a more understandable way.

In Section 1, the commission is provided with a procedure to designate uses for water that are not now being utilized. In the case that upgrading of the water quality is required to allow the new use, the commission must find that the benefits achieved will justify the costs of achieving those benefits.

In Sections 3 and 6, the superfluous and confusing definition of water quality standard is removed. A water quality standard will now be used and exist only "at a level designed to protect and insure a continuation of the existing beneficial use." The word "existing" has replaced "designated" to insure that the commission will select and promulgate water quality standards which relate to beneficial uses being realized at the time of consideration.

Section 3 also provides language that requires the commission to examine designation of uses for aquatic life, wildlife, and for recreation in sufficient detail to allow selection of standards that are appropriate. An example - is the water used by catfish or trout?

In Section 4, the intent of the anti-degradation statement is clarified. This law will apply only to water that is substantially higher in quality than applicable standards of water quality and to water that the commission, after public hearing, has determined that to maintain the higher quality is in the public interest.

Section 5 affects language that recognizes that there is no practical way to suspend operations of a waste water treatment plant after 30 days notice. An alternative is provided.

Section 7 requires that all regulations passed previous to this act be amended to comply.

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The Department of Conservation and Natural Resources through its Division of Environmental Protection has resisted every effort to discontinue their practice of setting standards according to averages of in-stream quality for the reason as stated by them that upstream water quality will be left unprotected and at the mercy of California (and Nevada) development. I believe this is really the issue that has brought us here today.

Water quality standards so developed are not standards in the usual sense of the word. They really represent a goal. They are, because of their origin, expected to be often violated and are generally not legally enforceable. They cannot prevent degradation of water quality but can only be used as a device to measure the effectiveness of whatever control measures are being used.

Control of water quality in Nevada is perhaps the most complex of any that can be found. In many of our streams we use and re-use the water until it literally is used up. We are first required to protect all uses related to water rights from the top to the bottom of our streams (from Lake Tahoe to the Stillwater Marshes). We are then required to protect those uses not related to water rights (such as for fish life, wildlife, and recreation). Finally, this all must be done in a manner equitable to all and in a manner that can be supported in a court of law.

It is past time when we should commit the state to protection of water uses in each stream segment and body of water by establishing a standard of quality for each that is properly supported and can be defended in court.

It is past time when we should commit the state to protection of water uses in stream systems by study and understanding of those systems to the point that meaningful daily maximum loadings of pollutants can be imposed.

Water quality standards are only effective as control of quality within the stream segment or body of water that they are established to protect. Any effort to extend them will result in their mutilation and destroy their usefulness. Stream systems must be regulated by planning that encompasses the entire affected water basin.

Also, it is past time when we should stop looking upstream and worrying unduly about what is happening in California and on the upper stretches of our streams to the point that we fail to take care of our down stream problems. It will be from down stream that the signal will finally come that there can be no more development allowed.

This committee can take the final step in getting the program going. I believe A.B. 221 closes all of the loopholes that have been used to avoid this being realized up to now.

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AB 221 HEARING
HUMAN RESOURCES & FACILITIES COMMITTEE

MAY 19, 1981

EXHIBIT G

IN SEPTEMBER OF 1979 THE STATE ENVIRONMENTAL COMMISSION HELD A HEARING IN RENO TO REVIEW THE BENEFICIAL USES AND WATER QUALITY STANDARDS OF THE TRUCKEE RIVER. THIS WAS THE FIRST OPPORTUNITY FOR THEM TO HAVE A REVIEW OF A WATER SOURCE UNDER THE REVISED LAW AS AMENDED BY AB 572 IN THE 1979 LEGISLATURE.

I FELT THAT THE LANGUAGE IN THE BILL AND THE INTENT, AS DISCUSSED BY THE LEGISLATURE, WAS FAIRLY SPECIFIC. HOWEVER, AFTER SEVERAL MONTHS OF HEARINGS, IT BECAME OBVIOUS THAT THE STAFF OF THE STATE DIVISION OF ENVIRONMENTAL PROTECTION HAD THEIR OWN INTERPRETATION AS TO WHAT THE INTENT OF THE LEGISLATION WAS.

SINCE THERE SEEMED TO BE A DISCREPANCY BETWEEN THE LEGISLATURE'S INTENT AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S APPLICATION OF THE LAW, A LEGISLATIVE OVERSIGHT COMMITTEE WAS APPOINTED TO REVIEW THE SITUATION. SENATORS DODGE AND WILSON AND ASSEMBLYMEN BARENGO AND MAY WERE APPOINTED TO THE COMMITTEE AND TWO MEETINGS WERE HELD HERE IN THE LEGISLATIVE BUILDING.

ASSEMBLYMAN BERGEVIN AND MR. HOWARD WINN WERE ASKED TO EXPLAIN AB 572 AND ITS INTENT. THE STAFF OF THE DIVISION OF ENVIRONMENTAL PROTECTION AND THE MEMBERS OF THE STATE ENVIRONMENTAL COMMISSION WERE PRESENT.

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EXHIBIT G

AS AN INTERESTED PARTY, I ALSO ATTENDED THE HEARINGS. IT WAS MY UNDERSTANDING, AT THE CONCLUSION OF THE HEARINGS, THAT ALL PARTIES PRESENT UNDERSTOOD THE INTENT OF THE BILL. NOT EVERYONE AGREED THAT THE BILL, ITSELF, CLEARLY IDENTIFIED THIS INTENT, BUT THOSE PRESENT AGREED THEY UNDERSTOOD THE BILL'S OBJECTIVE AND WOULD WORK TOWARD THAT GOAL.

HOWEVER, IN THE PURSUING MONTHS, IT BECAME OBVIOUS THAT THIS WAS NOT TO BE. NOT ONLY HAVE WATER QUALITY STANDARDS BEEN CHANGED ON THE TRUCKEE RIVER, BUT ALSO ON THE CARSON RIVER AND NOT ON THE BASES OF AB 572.

IT IS MY FEELING THAT, IN BOTH CASES, THE STAFF OF THE DIVISION OF ENVIRONMENTAL PROTECTION CHOSE TO IGNORE THE LEGISLATURE, THE LEGISLATIVE OVERSIGHT COMMITTEE, AND THE INTENT OF AB 572 AND DO AS THEY PLEASED, REGARDLESS OF ANY DIRECTION GIVEN THEM BY THIS LEGISLATIVE BODY.

I WOULD LIKE TO GIVE YOU ONE EXAMPLE OF ACTION TAKEN ON THE TRUCKEE RIVER LAST YEAR. WATER QUALITY STANDARDS WERE SET TO PROTECT THE SPAWNING OF COLD WATER SPECIES, PRIMARILY THE CUTTHROAT, IN THE LOWER REACHES OF THE RIVER. AFTER WATER QUALITY STANDARDS WERE SET TO CONTROL SEVERAL DIFFERENT CHEMICALS WHICH COULD IMPACT THE COLD WATER SPECIES IN THE LOWER TRUCKEE, MAXIMUM WATER TEMPERATURE LEVELS WERE SET WHICH WERE BASED ON THE TEN YEAR HISTORICAL DATA AND WERE IN DIRECT CONFLICT WITH THE WATER QUALITY STANDARDS PREVIOUSLY IDENTIFIED SINCE THE TEMPERATURE LEVELS EXCEEDED THE CRITICAL POINT FOR CUTTHROAT SPAWNING.

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WE MUST HAVE LAWS AND REGULATIONS TO PROTECT OUR ENVIRONMENT BUT, AT THE SAME TIME, THEY HAVE TO BE PHYSICALLY AND REASONABLY ATTAINABLE AND ECONOMICALLY FEASIBLE. IN SECTION V OF THE NEVADA REVISED STATUTES 445.244 IT STATES THAT WATER QUALITY STANDARDS WILL BE MET "IF THESE OBJECTIVES ARE REASONABLY ATTAINABLE." THE KEY WORD HERE IS "REASONABLY." WEBSTER'S DICTIONARY TELLS US THAT REASONABLY MEANS: NOT EXTREME OR EXCESSIVE; MODERATE; FAIR; INEXPENSIVE; POSSESSING SOUND JUDGEMENT. I DO NOT BELIEVE THAT THE ACTION TAKEN BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION IN CHANGING THE REQUIREMENTS FOR WATER QUALITY OF THE TRUCKEE OR CARSON RIVERS IS MODERATE, FAIR, OR BASED ON SOUND JUDGEMENT. I DO BELIEVE THAT IT WAS EXTREME AND EXCESSIVE AND, MOST CERTAINLY, IS GOING TO BE EXTREMELY EXPENSIVE UNLESS THIS LEGISLATIVE BODY PASSES AB 221.

SINCE SEPTEMBER 1979, I HAVE ATTENDED EIGHT HEARINGS BEFORE THE STATE ENVIRONMENTAL COMMISSION ON THE WATER QUALITY STANDARDS FOR THE CARSON AND TRUCKEE RIVERS. I EITHER PRESENTED TESTIMONY REGARDING THE MANNER IN WHICH WATER QUALITY STANDARDS WERE BEING SET OR RAISED SERIOUS QUESTIONS REGARDING THE ECONOMIC IMPACT THE CHANGES WOULD HAVE. MY TESTIMONY WAS VIRTUALLY IGNORED, ESPECIALLY ANY QUESTION THAT ASKED WHAT ECONOMIC IMPACT WOULD RESULT FROM THE PROPOSED, NEW WATER QUALITY STANDARDS.

THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE STATE ENVIRONMENTAL COMMISSION SHOULD BE AN EXTENSION OF THIS LEGISLATIVE BODY OF ELECTED REPRESENTITIVES AND NOT AN INDEPENDENT UNIT FUNCTIONING ON ITS OWN.

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EXHIBIT G

IF NOT, THEN IT IS RIDICULOUS TO HOLD PUBLIC HEARINGS TO REVIEW WATER QUALITY STANDARDS BECAUSE THE STAFF WILL CONTINUE TO IGNORE ANYTHING WHICH CONFLICTS WITH THEIR THINKING AND SET EXTREMELY RESTRICTIVE AND UNENFORCEABLE STANDARDS, WHICH IS EXACTLY WHAT THEY HAVE DONE FOR THE PAST 18 MONTHS. FOR THESE REASONS, I ENCOURAGE YOUR SUPPORT FOR PASSAGE OF AB 221.

THOMAS W. YOUNG
EXECUTIVE MANAGER
NEVADA ENVIRONMENTAL ACTION TRUST

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May 18, 1981

EXHIBIT H

L. H. Dodgion, Administrator
Division of Environmental Protection
AB 221

"An act relating to water pollution; making changes in the procedures for designating beneficial uses and for designated water as being of higher quality; removing a superfluous definition of "water quality standard"; and providing other matters properly relating thereto."

NRS 445.131 to 445.354 inclusive is the Nevada Water Pollution Control Act. The act was extensively revised in 1979 primarily to add new legislation pertaining to control of water pollution from diffuse sources. Sections 445.147, 445.253, 445.2533 and 445.319 were added. Many sections were amended including 445.196, the definition of water quality standard, which AB 221 proposes to repeal as being superfluous and 445.244 which establishes the procedure for setting water quality standards.

After adoption of the 1979 changes DEP and the Environmental Commission proceeded to revise the beneficial uses and water quality standards for the Truckee River. There was disagreement between the Attorney General's Office and LCB as to the requirements of the 1979 changes. This resulted in a meeting of the State Environmental Commission and the Joint Interim Committee of the Legislative Commission.

It was agreed that the Environmental Commission would adopt two sets of numbers to comply with NRS 445.244 and NRS 445.253 as amended 1979. The first set were to be criteria to preserve the designated beneficial uses; the second being water quality standards to protect the existing high quality of the Truckee River and to comply with the definition of water quality standard (NRS 445.196).

The Environmental Commission followed the agreed upon procedure and designated beneficial uses, adopted criteria and water quality standards for each segment of the Truckee and Carson Rivers. These have been approved by the Legislative Commission through the Administrative Procedures Act and have been approved by EPA.

The existing wording in Sections 445.196, 445.244 and 445.253 does lend to confusion. AB 221 increases rather than corrects this.

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AB 221
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Page Two

AB 221 will require that the Division and Environmental Commission redo the Truckee and Carson beneficial uses and water quality standards. This will require several unbudgeted public hearings, public notification costs, printing, travel and staff time estimated at \$57,000 per year for the next 2 years.

At the end of that time we will have 2 sets of numbers; standards of water quality set at the level of criteria which will protect and ensure continuation of beneficial uses and non-degradation numbers which will control effluent limitations for all discharges. These numbers will be essentially the same as those recently adopted and presently referred to as criteria for beneficial uses and water quality standards.

Section 4 requires the Commission to establish high quality waters after public hearings. This would mean holding hearings to compare water quality data to water quality standards and making a finding of high quality water. Then instead of having water quality standards as a controlling factor for permits the Department would be using what it determined as "existing water quality" without benefit of public hearing. Therefore, in areas of high quality waters the water quality standards would be meaningless.

Another negative impact will be the perception of the Truckee and Carson River dischargers who constantly complain about changing standards, moving targets, etc., and use this as an excuse for delaying planning and designing to meet water quality standards.

AB 221 places some other roadblocks in the way of maintaining high quality water and for designating fishing and recreation as beneficial uses. For instance the addition of lines 15-19, page 2 of the bill conflicts with Federal law and NRS 445.132 by allowing the Commission to establish a beneficial use for aquatic life, wildlife or recreation only if a sufficient presence and usefulness for the use is demonstrated. The federal act and state policy requires protection for aquatic life and recreation where attainable without conditions.

LHD:mlw

EXHIBIT I

We have reviewed A.B. 221 and find that it will have a serious impact on the Department of Wildlife.

Under Section 3, NRS 445.244, line 15-19 appears to give the Environmental Commission the authority to classify aquatic species as to the comparison of their value to the balance of the resource and to designate whether they should be protected or eliminated through the alteration of their habitat.

NRS 501.181 states the Board of Wildlife Commissioners shall establish broad policies for the protection, propagation, restoration, transplanting, introduction and management of wildlife in the state and regulation for the above. NRS 503.584 to 503.589 provides for the conservation, protection, restoration and propagation of selected species of native fish and other vertebrate wildlife, including migratory birds and perpetuation of the populations and habitats of such species.

NRS 503.430 prohibits the pollution of the waters of the state by substances that would be detelerious to fish.

Obviously this proposed change is in conflict with existing statutes and infringes on the responsibilities of the Board of Wildlife Commissioners.

There would also be a fiscal impact. The degree to which information would have to be obtained "to find and specify sufficient detail concerning presence and usefulness of species or recreational activity to allow selection of criteria appropriate to protect that use.", is not clear. It could be

EXHIBIT I

merely indicating a species is present to the determination of the population by species by numbers and weight. Then censusing to determine recreational activity. These activities would be required at each stream segment. Depending on the intensity of information gathering, costs could reach \$100,000 a year.



League of Women Voters of Nevada

AB 221

EXHIBIT J

The League of Women Voters is totally opposed to AB 221. The intent of this bill seems to be in conflict with the Federal Clean Water Act and with the League goals of protection and enhancement of water quality. This bill places the burden of proof with those who would maintain or improve the high quality of Nevada's surface waters. If costs are to be incurred and proof shown, The League feels it should be born by those who would degrade the water - not by those who would protect water quality.

The following are some specific objections and/ or questions on AB 221:

Page 1, Section 1 - Limiting beneficial uses to existing uses could cause problems when attempting to designate an additional use. Take a hypothetical situation where a developer wants to put in a subdivision. Say he has water rights to surface water of good enough quality to be used as drinking water. What procedure is necessary for this individual to develop this drinking water source? What does it mean to and I quote "show that a need exists for the additional use?" What would be the added costs to the developer?

Another potential problem is an existing situation in the Las Vegas Wash. At one time fish lived in the Wash but they have since disappeared. The Wash Development Committee of Clark County formulated a plan ~~of~~ ^{for} the Wash which the County then adopted. This plan would create a recreational area in the Wash with some small ponds stocked with pan fish for the children to catch. Does this bill allow, in actuality, for the return of a use that has been destroyed through the use and/ or pollution? The questions are the same as those in the hypothetical case. What are the procedures necessary to show "a need exists for the additional use?" What are the costs?

Page 2, line 5 - The League opposes the change to existing beneficial uses. The law favors the protection of all potential beneficial uses. In a state such as Nevada which is experiencing rapid growth and tremendous changes, this would



League of Women Voters of Nevada

EXHIBIT J

seem the wisest form of planning. Water should be protected at the highest quality rather than take the chance it could be degraded by protecting it only for existing uses.

As an example, there is a bill in the Senate, SB 351, which would help finance new recreational water sites. This is seen as particularly important in the event the MX becomes a reality. In areas where this potential exists, water should be protected for more than just the existing uses.

Page 2, lines 15-19 - As has already been mentioned, this language is contrary to Federal law. Besides that point, what is meant by the term "usefulness" of a species? How detailed must the criteria be in making such a determination?

Page 2, line 27 - When the bill mentions "a public hearing" what is it referring to? Does this mean the hearing where the standards are set or does this refer to some future hearing?

While the League does admit the existing language in the water law may be confusing in certain parts (445.196, 445.244, and 445.253) the language in this bill muddles the situation rather than correcting the problem. The League certainly does not want a repeat of the confusion that occurred after the '79 session. If it is felt the existing language should be corrected, the League would hope the wording would be consistent with the agreement reached between the Joint Interim Committee of the Legislative Commission and the State Environmental Commission.

Let me end with a few general concerns. First, if it is necessary to redo the Truckee and Carson beneficial uses and water quality standards, the discharge of along those two rivers will be given a new standard. This discharge is a concern of the standards to be developed and this bill will add fuel to their argument. If these dischargers are to have agreed with their plans to meet water quality standards, they should be given an exemption.

Another concern is the costs of the bill mentioned by the Division. While the bill states there is no fiscal impact, at some point there must be an allocation for the actual work



League of Women Voters of Nevada

EXHIBIT J

that must be done by the Commission and the Division.

Finally, this bill deviates from the national goals and the League goals of protection and propagation of fish, shell fish and wildlife, provision of recreation in and on the water, and the restoration and maintenance of water quality. For this reason and all of the other reasons which have been stated, the League hopes you will kill AB 221.



Churchill County Administration Office

869 SOUTH MAINE STREET FALLON, NEVADA 89406 (702) 423-5136

March 6, 1981



EXHIBIT K

RECEIVED

Assemblyman Joe Dini
Economic Development and
Natural Resources Committee
Nevada State Assembly
Capitol Complex
Carson City, Nevada 89710

Dear Assemblyman Dini:

I wish to bring to your attention A.B. 221 introduced before the Committee on Economic Development and Natural Resources on February 24, 1981.

Churchill County is greatly disturbed about the far reaching effect such a bill may have. The portion particularly abhorrent to us appears in Section ^{3A}(1) on page 2. This section effectively withdraws the existing regulations pertaining to water quality as of the date of adoption of the bill. This could have the result of throwing out the "designated" beneficial uses established by the State Environmental Commission for the Carson, Truckee, Humboldt and Walker Rivers and substituting "existing" beneficial uses which may be the same in all cases. The bill would appear to prevent the re-adoption of desirable (designated) beneficial uses even to excluding the enhancement of aquatic life, wildlife or recreation since the burden of proof for such beneficial uses falls upon the Environmental Commission and not the applicant seeking additional use of a particular stream segment. The maintenance of status quo in our rivers may not be a desirable goal since we all know that water quality has deteriorated over the years.

As you know there is a great deal of pressure from upstream interests on both the Carson and Truckee Rivers to allow the discharge of effluent at a level which would serve to substantially reduce the quality of water entering the Lahontan Reservoir. Don't forget that the Nevada Association of Counties, at their annual meeting in Winnemucca last

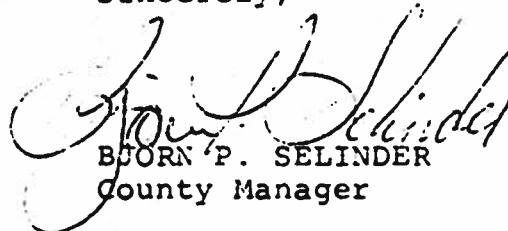
Assemblyman Dini
March 6, 1981
Page 2

EXHIBIT K

November, adopted a resolution which served to recognize the needs of downstream interests rather than ignoring their desires in order to allow the growth of upstream areas.

A.B. 221, as introduced, would serve to transfer all of the negative factors associated with growth to those downstream in order to allow the developers upstream a relatively unencumbered license to continue their unchecked growth. We all know where the pressure for such a bill emanates. However, we can not afford to ignore those persons who would be most seriously affected as a result of a reduction in the quality of water. In your own words Joe, as stated last summer in the Lahontan Valley News: "Don't turn Lahontan into a sewer".

Sincerely,



BJORN P. SELINDER
County Manager

BPS:ba

CC: Senator Virgil Getto
Assemblyman Ira Rackley
Senator Lawrence E. Jacobsen
Mr. Bob Sullivan, CRBCOG
Mr. Bryce Wilson, Nevada Association of Counties

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 392

ASSEMBLY BILL NO. 392--COMMITTEE ON
GOVERNMENT AFFAIRS

MARCH 30, 1981

Referred to Committee on Government Affairs

SUMMARY—Changes qualifications for county and
district health officers. (BDR 40-1402)

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 administration of public health; changing the qualifications
of county and district health officers; 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 439.290 is hereby amended to read as follows:
2 439.290 1. On or before January 1 next following each general elec-
3 tion, the board of county commissioners shall appoint a county health
4 officer for the county.
5 2. The county health officer [shall be learned in sanitary science,
6 public health practice and the diagnosis of infectious diseases.] *must be*
7 *appointed on the basis of his graduate education in public health, his*
8 *training, his experience and his interest in public health and related pro-*
9 *grams.*
10 3. His term of office [shall be for] *is* 2 years or until his successor
11 has been appointed and qualified.
12 SEC. 2. NRS 439.320 is hereby amended to read as follows:
13 439.320 The county health officer [shall be] *is* the executive officer
14 of the county board of health, and *if licensed to practice medicine in this*
15 *state may be county physician.*
16 SEC. 3. NRS 439.400 is hereby amended to read as follows:
17 439.400 1. [The] *The district board of health shall appoint a dis-*
18 *trict health officer [shall be appointed by the district board of health.*
19 2. He shall have] *for the district.*
20 2. *The district health officer must be appointed on the basis of his*
21 *graduate education in public health, his training, his experience and his*
22 *interest in public health and related programs.*

1 3. *The district health officer has full authority as a county health offi-*
2 *cer in the health district. [and shall receive such compensation as may be*
3 *agreed upon and fixed by the governing bodies of the counties, cities or*
4 *towns comprising such district.]*

5 4. *Any clinical program of a district board of health which requires*
6 *medical assessment must be carried out under the direction of a physician.*

7 5. *The district health officer is entitled to receive a salary fixed by the*
8 *district board of health and serves at the pleasure of that board.*

WASHOE COUNTY

"To Protect and To Serve"



DISTRICT HEALTH DEPARTMENT

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

Testimony By V.A. Salvadorini, M.D.
Chairman, Washoe County District Board of Health
in support of AB 392

EXHIBIT M

AB 392 would amend those sections of Chapter 439 of NRS which deal with the local administration of public health specifically the requirements and qualifications for District Health Officers.

The amendments proposed would allow the District Boards of Health greater flexibility in the selection and appointment for their District Health Officer. At present, NRS is interpreted to require that District Health Officers be physicians. Based upon our recruitment and management experiences in the Washoe County Health District, we believe that this mandate for a physician is not consistent with the State of the art in local public health management nor with the reality that the majority of physicians do not have the appropriate training to administratively lead a local public health agency.

Upon the resignation of the Washoe County District Health Officer in August of 1977, the Washoe County District Board of Health began a recruitment process for a new District Health Officer. Only three (3) applications were received and even though offered a salary of approximately \$50,000 with liberal benefits including moving costs, the applicant selected declined the job. The other two applicants were not considered suitable for the position. Recruitment continued

EXHIBIT M

until December of 1978 but the very few applicants who responded were just not of the caliber that the District Board of Health was hoping to attract . During those 16 months of recruitment, the District Health Department functioned on a day-to-day basis under the administrative direction of a nonphysician with a local physician fulfilling the role of the required District Health Officer on a limited part time basis. The District Board of Health felt that they had sincerely attempted a prolonged nationwide recruitment, offering reasonable salary and benefits but with only minimal response. The District Board of Health felt in December of 1978 that having a nonphysician as the administrative head of the District Health Department was the best way to go and decided to continue with the system of a part time District Health Officer to be responsible only for medical consultation and direction of clinical programs.

The public health literature in recent years reports a national trend towards such nonphysician leadership. The National Advisory Council on Public Health Training identified the role of the public health administrator as including "planning, organizing and evaluation; allocating resources, operating facilities and managing personnel; consultation, communication, education and public information; contributing to solutions involving public policy and legislation; developing standards, regulatory and enforcing, and integrating health services into the social setting." The American Journal of Public Health in a January 1980 editorial noted that "The concerns confronting local health agencies today constantly involve complex problems requiring an understanding of the physical,

EXHIBIT M

biological, behavioral and social sciences." That editorial further states that "the public health world does not suddenly disintegrate with the arrival of nonphysician health directors."

The July-August 1980 issue of Public Health Reports states "As the mission of public health agencies changes and their organizational structures are modified, obviously the qualifications of those in leadership positions will change also." A national survey reported on in that same issue of Public Health Reports notes that 27 states report that nonphysicians can be considered for appointment as local health directors.

The Washoe County District Board of Health believes that there are a very limited number of physicians nationwide with the experience and skills both necessary and desirable to be the administrative head of a local public health agency. The salary and fringes necessary to attract such an applicant are very high (\$65,000 to \$75,000 per year) and the benefit derived from the standpoint of improved organization efficiency and effectiveness vs that derived from a nonphysician administrator, at an appropriate cost of \$40,000 to \$45,000 per year, is doubtful. We believe that the statutory mandate limiting the qualifications for a District Health Officer to a physician, which were established in 1919, are not consistent with the organizational needs of 1981. The District Board of Health which is the responsible body for the policy development and direction of the District Health Department is in the best position to determine what the true qualifications of the District Health Officer should be and should have the flexibility to address its management needs through the appointment of the

EXHIBIT M

best candidate for District Health Officer regardless of particular academic background. The District Board of Health should also have the direct responsibility and authority to establish the salary for that appointee.

As Chairman of the Washoe County District Board of Health and a member of that body for 5 years, I strongly urge the positive support of AB 392 by this committee.

EXHIBIT N

TO: Chairman Neal and the Committee on Human Resources and Facilities
FROM: Nevada Council of Health Educators
SUBJECT: AB 392

On behalf of the Nevada Council of Health Educators the following comments are offered on AB 392:

This bill attempts to loosen the educational standards for a county health officer. We oppose this move as educators and recipients of public health services. We feel that the most qualified type of person to be in a position of authority that governs the health and safety of thousands, should possess a degree of medicine and be well versed in the field of public health.

As many of us have worked professionally with public health departments and programs, there are instances whereby policy decisions necessitate clinical medical knowledge and/or training. Decisions rendered by a non-medically trained person can impact thousands and result in ramifications far reaching if medically-based decisions are not made.

Consultation with a physician on a clinical program does not always suffice as the most effective method for procedural guidance. Many different physicians utilized as consultants may result in fragmented health care that produces lack of continuity for the patient.

By supporting one health officer physician, you produce someone who has knowledge of all health department programs and coordinates policies and procedures accordingly.

This bill states on page 1 lines 7-9 and 21-22 "graduate education in public health." This language very loosely gives allowances for someone with a graduated associate, bachelors or masters degree to direct a health department. There is no specificity as to the type or level of degree. A public health degree could encompass school health i.e. preparing lessons plans, or environmental health i.e. air/water programs, inspecting restaurants, or even microbiology i.e. laboratory work. This degree gives alot of latitude and does not infer that an individual has a solid background in the process and execution of public health programs.

This bill in lines 1-2 pg.2 state that the district health officer has full authority as a county health officer in the health district; yet in lines 5-6 pg.2 even though clinical programs are under the direction of an M.D., clear authority is given to a non-M.D. to act upon matters pertinent to his position. The power of a non-M.D. clearly can circurvent the decision of a physician.

We urge this committee to consider this bill with scrutiny as it has far reaching affects which do not necessarily appear. We urge your support for retaining an M.D. degree for the person who has authority upon public health matters affecting all of us in our communities.