

Hilbray

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON NATURAL RESOURCES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 6, 1981

The Senate Committee on Natural Resources was called to order by Chairman Norman Glaser at 2:20 P. M., Monday, April 6, 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 Norman Glaser, Chairman
Senator Wilbur Faiss, Vice Chairman
Senator James H. Hilbray
Senator Lawrence E. Jacobsen

COMMITTEE MEMBERS ABSENT:

Senator Floyd R. Lamb
Senator Joe Neal

STAFF MEMBERS PRESENT:

Robert E. Erickson, Senior Research Analyst
Carolyn L. Freeland, Committee Secretary

The Chairman announced this meeting is a work session and the committee is considering amendments to bills on which testimony has been presented during the past several weeks. He called upon Mr. Erickson, Senior Research Analyst, to briefly explain the amendments to the bills listed on the Agenda.

ASSEMBLY BILL NO. 28

Mr. Erickson referred to the last page of the bill where new language was to be inserted (sec. 4, page 4, line 14, after the comma) to read "except under the supervision of the licensed driller." The Chair called for the pleasure of the committee.

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Senator Bilbray moved Do Pass as Amended
Assembly Bill No. 28 (Exhibit C).

Senator Jacobsen seconded the motion.

The motion carried unanimously. (Senator Lamb
and Senator Neal were absent for the vote).

SENATE BILL NO. 178

Mr. Erickson reviewed the bill, saying there had been a good deal of discussion regarding it. The committee's concept had been to go with a registry of wells being drilled in designated ground water basins rather than requiring permits, and to require the plugging of a well at any time five years after water could be furnished to the well site by a local entity. Mr. Erickson referred to Assembly Bill No. 16, saying this committee had been waiting for it to come to the Senate; however, that bill is still in committee in the Assembly in an uncertain status.

Mr. William Newman, State Water Engineer, had objections to the concept of registration, as did Mr. Peter Morros, Department of Conservation. They expressed problems with the content of the language in the proposed amendment.

Due to the dissatisfaction with the amendment voiced by Mr. Newman and Mr. Morros, Chairman Glaser appointed a subcommittee to further study Mr. Newman's recommendations, and to address the problems in the amendment in a manner to satisfy the needs of all concerned. Members of the subcommittee are: Senator James H. Bilbray, Chairman; Senator Jacobsen; G. P. Etchevery from the Nevada League of Cities; and Mr. Peter Morros, Department of Conservation. The subcommittee is to return to the committee within a week's time to present its findings and recommendations.

SENATE JOINT RESOLUTION NO. 17

Mr. Erickson referred the members of the committee to the first reprint of this bill, which had been re-referred to the committee. He said changes had been made in accordance with the recommendations of the committee at previous hearings on the resolution. He noted he had heard from Mr. Robert Warren, Nevada Mining Association, who feels the bill looks all right since changes had been in it. Mr. Jac Shaw, State Lands, noted there are existing statutes which control sale and lease of lands.

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Mr. Erickson said there were two Section 3's in the reprint and the second of them should actually be Section 4, and it was merely a drafter's error. He did not feel there was a need for a second reprint of the bill. Chairman Glaser stated there could be a request, when the bill is printed, to change the second Section 3 to Section 4, and asked for the pleasure of the committee on the resolution as amended and reprinted.

Senator Jacobsen moved Do Pass
Senate Joint Resolution No. 17 (Exhibit D).

Senator Bilbray seconded the motion.

The motion carried unanimously. (Senator Lamb and Senator Neal were absent for the vote).

SENATE BILL NO. 381

The Chair announced the amendments to this bill had not been received from the bill drafter's office. Mr. Erickson presented a summary of the bill, and there was discussion regarding the amendments which had been previously suggested.

Mr. Steve Bradhurst, MX Project Office Director, presented a summary of conceptual amendments as put forward in the committee meeting of March 23, 1981. In essence, the same material was presented as had been in that meeting. In addition, Mr. Bradhurst spoke at length about the distribution of impact funds from the United States Treasury to the local agencies, and if there would be administrative costs involved at the state level. He felt there is a need for clarification in the bill of fund distribution in order to clarify the matter for local entities. He also discussed the allocation and distribution of funds in the event the federal government does not totally meet the fiscal impact applications of the various agencies and entities within the state.

Mr. G. P. Etchevery, Nevada League of Cities, expressed concern with the fee structure in this bill, and feels there should be an option provided for local entities to choose if they wish to have their mitigation fees administered by the state.

There was discussion on the composition of the board to be set up under the provisions of this legislation. Mr. Erickson noted that until the specific language contained in the amendments came from the bill drafter, it will not be known just how it was treated.

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In discussion regarding the voting rights of federal representatives on the board, it was felt that only one federal member should exercise such rights, the remaining two members being ex officio, only. It was Mr. Bradhurst's recommendation the Secretary of Defense decide who is to be the federal voting member. In addition, Mr. Bradhurst said the governor's recommendation is to have five state agencies involved on the board as these agencies represent core services. However, the committee opted to retain three state agency members only.

Chairman Glaser then reprised the board membership as follows: three state agency members, one voting federal voting member and 2 federal ex officio members, two school board representation members (rural and urban), three city (entity) members, and three county (entity) members, making twelve voting members and two ex officio members. The Chairman instructed Mr. Erickson to check with the bill drafter to ensure the board complement, including the change to one voting federal member instead of three.

Mr. Erickson asked if there was any directive to the bill drafter from the committee on the flow of funds from the federal government. Senator Bilbray said he would like to hear more testimony on the subject, as previous testimony by cities and counties was adamant on not having funds from Washington flow through the state. He said these entities have concerns about any priority list. He said in the event the money is received in a block grant, there are two ways to go, through a pro rata process or by priority list. He said he can see some problems both ways.

Mr. Bradhurst replied the eligibility criteria would protect against money going to non-eligible claims, and Senator Bilbray expressed the hope the funds would not be received in a block grant form.

There was no further direct discussion relative to Senate Bill No. 381.

Senator Jacobsen suggested looking at the amendments to Senate Joint Resolution No. 16 and ascertain if all subjects are being covered, if all representation is included. He said that bill lays out the criteria of what the State of Nevada feels is pertinent and a basis for committee evaluation.

The Chairman said all the MX bills would be considered as a package at the April 13th meeting of the committee. In addition, all the MX-related bills would be put out on the Senate Floor at one time in order to give the Senate an idea of the expense of the MX program.

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Mr. Erickson presented a brief explanation of the amendments to Senate Bill No. 176, which had already been reported out of committee.

There being no further business, the meeting adjourned at 3:30 P. M.

Respectfully submitted by:


Carolyn L. Freeland, Secretary

APPROVED:


Senator Norman Glaser, Chairman

DATE: April 8, 1981

SENATE AGENDA

COMMITTEE MEETINGS

EXHIBIT A

Committee on Natural Resources, Room 323.

Day Monday, Date April 6, 1981, Time 2:00 P. M.

WORK SESSION

A. B. No. 28--Changes various provisions relating to appropriation of underground water. Amendments.

S. B. No. 178--Requires permits for domestic wells within designated basins. Amendments.

S. J. R. No. 17--Proposes constitutional amendment to regulate management and disposal of state lands. Amended, reprinted and re-referred to committee.

S. B. No. 381--Directs governor to contract with Federal Government for money to ameliorate financial effects of "MX" missile project. Amendments.

S. B. No. 241--Provides for temporary water permits for construction purposes, grants additional powers to political subdivisions and municipal corporations. Do pass as amended, reprinted and re-referred to committee.

PLEASE NOTE:

There will be no meeting of the Senate Committee on Natural Resources on Wednesday, April 8, due to the scheduling of a Joint Committees on Taxation meeting that afternoon.

A. B. 28

**ASSEMBLY BILL NO. 28—ASSEMBLYMEN DINI,
JEFFREY AND SCHOFIELD**

JANUARY 23, 1981

Referred to Committee on Economic Development
and Natural Resources

SUMMARY—Changes various provisions relating to appropriation
of underground water. (BDR 48-155)

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 water; clarifying a provision regarding publication of an application to appropriate certain water; allowing the rejection of an application without publication under certain circumstances; authorizing the state engineer to plug wells drilled by unlicensed persons; 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 533.355 is hereby amended to read as follows:
2 533.355 1. Upon receipt of an application, [which shall be upon
3 a form to be prescribed by the state engineer, and supplied to the appli-
4 cant without charge,] the state engineer shall make an endorsement
5 thereon of the date of its receipt and shall keep a record of the [same.]
6 date. *The state engineer shall provide the application forms at no cost*
7 *to the applicants.*
8 2. [If,] *Except as provided in subsection 3, if upon examination,*
9 *the application is found to be defective, it [shall] must be returned for*
10 *correction or completion with advice of the reasons therefor, and the*
11 *date of the return [thereof shall] must be endorsed upon the application*
12 *and [made] a record [of] made of it in the state engineer's office. [No]*
13 *An application [shall] does not lose its priority of filing on account of*
14 *[such] defects if the application, properly corrected and accompanied*
15 *by such maps and drawings as may be required, is filed in the office*
16 *of the state engineer within 60 days [from] after the date of the return*
17 *to applicant. Any application returned for correction or completion, not*
18 *refiled in proper form within the 60 days, [shall] must be canceled. For*
19 *good cause shown, upon application made prior to the expiration of*
20 *[such] the 60-day period, the state engineer may, in his discretion, grant*

1 an extension of time not to exceed 60 days in which to file the instru-
2 ments.

3 3. *If it appears to the state engineer that an application, which con-*
4 *tains information of sufficient accuracy to determine the manner of use*
5 *and the location from which the water is to be diverted, must be rejected,*
6 *he may reject it without returning it for correction.*

7 4. All applications which [shall] comply with the provisions of this
8 chapter [shall] *must* be recorded in a suitable book kept for that pur-
9 pose.

10 SEC. 2. NRS 533.360 is hereby amended to read as follows:

11 533.360 1. [When] *Except as provided in NRS 533.370, when an*
12 *application is filed in compliance with this chapter the state engineer*
13 *shall, within 30 days, [at the expense of the applicant, to be paid in*
14 *advance as provided in this chapter,] publish or cause to be published,*
15 *in [some newspaper having a] a newspaper of general circulation and*
16 *printed and published in the county where [such] the water is sought*
17 *to be appropriated, a notice of the application, which [shall set] sets*
18 *forth:*

- 19 (a) That the application has been filed.
20 (b) The date of the filing.
21 (c) The name and address of the applicant.
22 (d) The name of the source from which the appropriation is to be
23 made.
24 (e) The location of the place of diversion.
25 (f) The purpose for which the water is to be appropriated.

26 The publisher shall add thereto the date of first publication and the
27 date of last publication.

28 2. [Upon proof of such publication, which must be filed within 30
29 days from the date of the last publication, the state engineer shall pay
30 for the same from moneys deposited by the applicant for such purpose;
31 but if the application is canceled for any reason before it is published,
32 the fee of \$25, collected for the publication, shall be returned by the
33 state engineer to the applicant.] *Proof of publication must be filed within*
34 *30 days after the final day of publication. The state engineer shall pay*
35 *for the publication from the application fee. If the application is can-*
36 *canceled for any reason before publication, the state engineer shall return*
37 *to the applicant that portion of the application fee collected for publica-*
38 *tion.*

39 SEC. 3. NRS 533.370 is hereby amended to read as follows:

40 533.370 1. Except as provided in [subsections 2 and 6,] *this sec-*
41 *tion, the state engineer shall approve all applications [made] submitted*
42 *in proper form [where all fees, as provided in this chapter, have been*
43 *paid which contemplate the application of water to beneficial use, and*
44 *where the proposed use or change does not tend to impair the value of*
45 *existing rights, or to be otherwise detrimental to the public welfare.]*
46 *with the prescribed fees.*

47 2. Based upon the public interest and the economic welfare of the
48 State of Nevada, the state engineer may in his discretion approve or
49 disapprove any application of water to beneficial use or any application
50 which contemplates a change in the place or beneficial use of water to a

1 use involving the industrial purpose of generating energy to be exported
2 out of this state.

3 3. The state engineer shall either approve or reject each application
4 within 1 year [from] after the final date for filing protest; but:

5 (a) Action can be postponed by the state engineer upon written
6 authorization to do so by the applicant or, in case of a protested appli-
7 cation, by both the protestant and the applicant; and

8 (b) In areas where water supply studies are being made or where
9 court actions are pending, the state engineer may withhold action until
10 [such time as] it is determined there is unappropriated water or the
11 court action becomes final.

12 4. Where there is no unappropriated water in the proposed source
13 of supply, or where its proposed use or change conflicts with existing
14 rights, or threatens to prove detrimental to the public interest, the state
15 engineer shall reject the application and refuse to issue the permit asked
16 for. *Where a previous application for a similar use of water within the*
17 *same basin has been rejected on these grounds, the new application may*
18 *be denied without publication.*

19 5. The [refusal] rejection or approval of an application [shall]
20 must be endorsed on a copy of the original application, and a record
21 made of [such] the endorsement in the records of [the office of] the
22 state engineer. The copy of the application so endorsed [shall] must be
23 returned to the applicant. If the application is approved, the applicant
24 [shall be authorized,] may, on receipt thereof, [to] proceed with the
25 construction of the necessary works and [to] take all steps required to
26 apply the water to beneficial use and to perfect the proposed appropri-
27 ation. If the application is [refused,] rejected, the applicant [shall] may
28 take no steps toward the prosecution of the proposed work or the diver-
29 sion and use of the public water so long as [such refusal shall continue]
30 the rejection remains in force.

31 6. The state engineer shall not approve any application [nor] or
32 issue any permit to appropriate the waters of the Colorado River [,
33 which waters are held in trust by the division of Colorado River
34 resources of the department of energy pursuant to NRS 538.171, except
35 after] without the approval of [such application by] the administrator
36 of [that division.] the division of Colorado River resources of the
37 department of energy. The administrator and the state engineer may
38 adopt such joint regulations as may be necessary [for the purpose of
39 carrying] to carry out the provisions of this subsection.

40 SEC. 4. NRS 534.160 is hereby amended to read as follows:

41 534.160 1. [No person shall] A person shall not drill a well for
42 water in this state without having first obtained a well-drilling license.
43 [as provided in NRS 534.140 to 534.170, inclusive.]

44 2. Well drillers [are required to] must comply with [such rules
45 and] the regulations [as may be] adopted by the state engineer govern-
46 ing the drilling of water wells.

47 3. If the state engineer [shall determine,] determines, upon investi-
48 gation and after hearing held upon at least 15 days' notice sent by
49 registered or certified mail to the licensed well driller, that the well
50 driller has failed to comply with the law or the required [rules and]

1 regulations, the state engineer may revoke his license. The state engineer
2 may refuse to reissue a license to a well driller if [it appears that] he
3 has violated the law or the [rules and] regulations.

4 4. The order revoking or refusing to reissue a license [shall be] is
5 final unless an action for review by the district court is filed pursuant
6 to NRS 533.450.

7 5. The state engineer shall order any person who drills a well with-
8 out a license to plug that well. If the well is not plugged within 30 days
9 after the order, the state engineer shall plug the well at the expense of
10 the person who owned or drilled the well.

11 6. If any licensed driller who owns, rents, leases or has a contract
12 to purchase a well drilling rig allows an unlicensed person to drill or
13 perform any work in connection with well drilling, his license must be
14 revoked or not reissued.

S. J. R. 17

SENATE JOINT RESOLUTION NO. 17—COMMITTEE ON NATURAL RESOURCES

FEBRUARY 3, 1981

Referred to Committee on Natural Resources

SUMMARY—Proposes constitutional amendment to regulate management and disposal of state lands. (BDR C-84)

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.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada constitution to provide for management of state lands for recreational and other purposes, and to restrict the disposal and use of proceeds of the lands.

1 Resolved by the Senate and Assembly of the State of Nevada, jointly,
2 That a new article designated Article 20 be added to the constitution of
3 the State of Nevada and section 3 of article 11 of the constitution be
4 amended to read respectively as follows:

6 Article 20.

7
8 Section 1. The lands which are owned or held in trust by this state
9 must be managed for the purposes of recreation, grazing, forestry and the
10 conservation of water and wildlife and to effect the greatest number and
11 best uses of the lands which are economical and protect the productivity
12 of the lands.

13 Sec. 2. The proceeds from sales of lands granted to this state by
14 Congress, including sales of minerals, gravel, oil and gas, after deducting
15 the costs of the sales, must be used first in the manner imposed as a con-
16 dition of granting the lands, and any surplus must be distributed as pro-
17 vided by Article 11 of this Constitution. All other revenue which is
18 derived from those lands, including revenue from grazing leases and sales
19 of timber and geothermal energy, after deducting the costs of managing
20 those lands, must be used first in the manner imposed as a condition of
21 granting the lands, and any surplus, if the lands were obtained before
22 July 1, 1981, must be distributed as provided by Article 11 of this Con-
23 stitution, and if obtained on or after July 1, 1981, after deducting pay-
24 ments to local governments in lieu of taxes on those lands, may be used
25 by the state without restriction.

26 Sec. 3. The legislature shall provide by law for the issuance of patents

1 and the reservation of easements and other property interests which
2 assure public access to federal and state lands upon the disposal of lands
3 granted to this state by Congress. These lands must not be sold or other-
4 wise disposed of except:

5 1. For the expansion of cities and towns or, if necessary, for com-
6 mercial purposes, if recommended to the legislature by the local govern-
7 ment within whose jurisdiction the land is located and approved by the
8 legislature by law.

9 2. For agricultural purposes if found suitable and certified to have
10 water available for that purpose by an officer or officers charged by law
11 with those duties, if recommended to the legislature by the local govern-
12 ment within whose jurisdiction the land is located and approved by the
13 legislature by law.

14 3. For sale or lease to an agency or political subdivision of this state
15 or nonprofit corporation or association for the same public and recrea-
16 tional purposes as federal lands may be so sold or leased, if recom-
17 mended by the state agency charged with the management of the lands
18 and the local government within whose jurisdiction the land is located
19 and if approved by the governor.

20 4. For use by an agency or instrumentality of the Federal Govern-
21 ment, upon the advice of the state agency charged by law with that duty
22 and the local government within whose jurisdiction the land is located, if
23 approved by the legislature by law.

24 5. For mines which are located or patented pursuant to federal or
25 state law. Provision must be made for the reservation or sale of rights to
26 minerals known to exist in the lands when disposed of by the state in any
27 manner other than by location or patent.

28 6. By leases for the grazing of livestock in the same manner and for
29 the same purposes as federal lands may be so leased, if approved by the
30 state agency charged by law with that duty.

31 7. By other leases and easements and rights of way for a period not
32 to exceed 99 years if the rental is at fair market value and is revalued at
33 intervals not to exceed 5 years, if recommended by the local government
34 within whose jurisdiction the land is located, or by the state agency
35 charged with the management of the land if it is located within more than
36 one county, and if approved by:

37 (a) The legislature by law;

38 (b) A committee of the legislature; or

39 (c) A state agency charged with that duty, and by the governor.

40 8. By exchanges, for the purpose of consolidation and better man-
41 agement and use of the land, of parcels of state land within the limits of
42 20 miles on each side of the line of the Southern Pacific Railroad, for
43 parcels of land of equivalent size or value which were granted to the
44 Central Pacific Railroad in the amount of 10 alternate sections per mile
45 on each side of the line of that railroad, if recommended to the legislature
46 by the state agency charged with the management of the lands and
47 approved by the legislature by law.

48 9. Land which was acquired by the state for a specific purpose and
49 is no longer needed for that purpose, or small and isolated parcels of no

1 larger than 640 acres which are difficult and uneconomic to manage,
 2 upon the advice of the local government within whose jurisdiction the
 3 land is located, if recommended to the legislature by the state agency
 4 charged with the management of the lands and approved by the legisla-
 5 ture by a vote of two-thirds of the members elected to each house.

6 10. Pursuant to an affirmative vote of three-quarters of the members
 7 elected to each house of the legislature.

8 **[Section]** Sec. 3. **[All lands, including the sixteenth and thirty-**
 9 **sixth sections in any township donated for the benefit of public schools**
 10 **in the act of the Thirty-eighth Congress, to enable the people of Nevada**
 11 **Territory to form a state government, the thirty thousand acres of public**
 12 **lands granted by an act of Congress, approved July second, A.D.**
 13 **eighteen hundred and sixty-two, for each senator and representative in**
 14 **Congress, and all proceeds of lands that have been or may hereafter be**
 15 **granted or appropriated by the United States to this state, and also the**
 16 **five hundred thousand acres of land granted to the new states under the**
 17 **act of Congress distributing the proceeds of the public lands among**
 18 **the several states of the union, approved A.D. eighteen hundred and**
 19 **forty-one; provided, that Congress make provision for or authorize such**
 20 **diversion to be made for the purpose herein contained; all estates that**
 21 **may escheat to the state; all of such per centum as may be granted by**
 22 **Congress on the sale of lands; all fines collected under the penal laws of**
 23 **the state; all property given or bequeathed to the state for educational**
 24 **purposes; and all proceeds derived from any or all of said sources shall**
 25 **be and the same are hereby solemnly pledged for educational purposes,**
 26 **and shall not be transferred to any other funds for other uses; and the**
 27 **interest thereon shall, from time to time, be apportioned among the**
 28 **several counties as the legislature may provide by law; and the legislature**
 29 **shall provide for the sale of floating land warrants to cover the aforesaid**
 30 **lands, and for the investment of all proceeds derived from any of the**
 31 **above-mentioned sources; provided, that the interest only of the aforesaid**
 32 **proceeds shall be used for educational purposes, and any surplus**
 33 **interest shall be added to the principal sum; and provided further, that**
 34 **such portion of said interest as may be necessary may be appropriated**
 35 **for the support of the state university.]** *The proceeds from the sales of*
 36 *all lands granted by Congress to this state without restriction or for edu-*
 37 *catinal purposes, all estates that escheat to the state and all property*
 38 *given or bequeathed to the state for educational purposes, together with*
 39 *all fines collected under the penal laws of the state and that percentage*
 40 *of the proceeds from the sale of federal lands which has been granted by*
 41 *Congress to this state without restriction or for educational purposes, are*
 42 *hereby pledged for educational purposes and must not be transferred to*
 43 *other funds for other uses. The legislature shall provide by law for the*
 44 *investment of the money pledged for educational purposes. The interest*
 45 *only on that money and the revenue from lands which were obtained by*
 46 *the state before July 1, 1981, must be apportioned by the legislature*
 47 *among the several counties, and, if necessary, a portion of that interest*
 48 *and revenue may be appropriated for the support of the state university,*
 49 *but any of that interest or revenue which is unexpended at the end of any*

1 year must be added to the principal sum pledged for educational purposes.

20