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PROPOSED AMENDMENT TO AB 301

AB 301 Subcommittee

John Carpenter, Chairman

Please refer to the original mock-up of this bill for specific additions and deletions.

Additionally, amend the bill to provide that the construction of fences around sources of water on public or private land may take place only after concurrence with and in consultation with the land management agency, the permittee (of an adjudicated grazing allotment), the holder of the water right, or the private land owner, depending upon the ownership of the land and any applicable leases or permits associated with it.

The consultation must include an on the ground inspection to determine how best to provide for protection of the water source and how best to provide access to water for livestock and wildlife outside the fence.

The concurrence must result in a written cooperative agreement, signed by all appropriate participants.

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 301

PREPARED FOR ASSEMBLYMAN CARPENTER
MARCH 24, 2003

PREPARED BY THE RESEARCH DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) green bold italic underlining is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 502.142 is hereby amended to read as follows:
2 502.142 1. The Commission shall adopt regulations to establish a
3 program pursuant to which the Division will issue special incentive elk
4 tags. The regulations must:
5 (a) Set forth the application and annual review processes for the
6 issuance of special incentive elk tags.
7 (b) Require that an application for a special incentive elk tag must be
8 accompanied by:
9 (1) The fee charged for an elk tag pursuant to NRS 502.250; and
10 (2) Any administrative fee charged in connection with the issuance
11 of an elk tag pursuant to this chapter.
12 (c) Provide for the issuance of a special incentive elk tag only to a
13 person who:
14 (1) Lawfully owns, leases or manages private land within an actual
15 elk use area; and
16 (2) If that private land blocks reasonable access to adjacent public
17 land, provides reasonable access through the private land to allow a person

1 or hunting party possessing a valid elk tag to hunt elk on the adjacent
2 public land.

3 (d) Establish criteria for the issuance of special incentive elk tags based
4 upon:

5 (1) The number of elk using private land controlled by the
6 applicant;

7 (2) The number of days the elk use private lands of the applicant in
8 a calendar year;

9 (3) The total number of elk; and

10 (4) Limiting the number of special incentive elk tags issued in each
11 calendar year to not more than one-half of the bull elk tags issued in that
12 calendar year,
13 within the actual elk use area in the unit or units of the management area or
14 areas in which the private land is located.

15 (e) Provide that special incentive elk tags are valid for both sexes of
16 elk.

17 (f) Prohibit a person who has, within a particular calendar year, applied
18 for or received compensation pursuant to NRS 504.165 as reimbursement
19 for damage caused by elk to private land from applying, within the same
20 calendar year, for a special incentive elk tag for the same private land.

21 ~~(g) Not require a person, as a condition of qualifying for a special
22 incentive tag, to have more than 35 elk on the private lands which are
23 controlled by the person and are within an actual elk area;~~

24 ~~—(h) Allow a group of owners, lessees and managers of private land to
25 qualify for a special incentive elk tag for their combined lands.~~

26 [(h)] ~~—~~ Ensure that the issuance of special incentive elk tags will not
27 result in the number of bull elk tags issued in any year being reduced to a
28 number below the quota for bull elk tags established by the Commission
29 for 1997.

30 [(i)] ~~—~~ Provide that a person to whom a special incentive elk tag is
31 issued by the Commission pursuant to this section may:

32 (1) If he holds a valid hunting license issued by this state, use the
33 special incentive elk tag himself; or

34 (2) Sell the special incentive elk tag to another person who holds a
35 valid hunting license issued by this state at any price upon which the
36 parties mutually agree.

37 [(j)] ~~—~~ Require that a person who is issued a special incentive elk tag
38 must hunt:

39 (1) During the open season for elk.

40 (2) In the unit or units within the management area or areas in
41 which the private land is located.

42 [(k)] ~~—~~ Provide for the appointment of an arbitration panel to resolve
43 disputes between persons who apply for special incentive elk tags and the
44 Division regarding the issuance of such tags.

1 2. As used in this section, "actual elk use area" means an area in
2 which elk live, as identified and designated by the Division.

3 Sec. 2. NRS 504.165 is hereby amended to read as follows:

4 504.165 1. The Commission shall adopt regulations governing the
5 disbursement of money to:

6 (a) Prevent or mitigate damage to private property and privately
7 maintained improvements ~~{;}~~, *including, without limitation, fences;*

8 (b) *Prevent or mitigate damage to fences on public lands;*

9 (c) *Construct fences around sources of water on private lands or*
10 *public lands if there has been damage to the area near such sources of*
11 *water and if water is made available to livestock and wildlife outside the*
12 *fences; and*

13 ~~{(b)}~~ (d) *Compensate persons for grazing reductions and the loss of*
14 *stored and standing crops,*
15 *caused by elk or game mammals not native to this state.*

16 2. The regulations must contain:

17 (a) Requirements for the eligibility of those persons claiming damage
18 to private property or privately maintained improvements to receive money
19 or materials from the Division, including a requirement that such a person
20 enter into a cooperative agreement with the Administrator for purposes
21 related to this title.

22 ~~(b) Requirements for the eligibility of a person or state grazing board~~
23 ~~claiming damage to fences on public lands or damage to areas near~~
24 ~~sources of water on public lands to receive money or materials from the~~
25 ~~Division, including a requirement that the person or state grazing board~~
26 ~~enter into a cooperative agreement with the Administrator for purposes~~
27 ~~related to this title.~~

28 (c) Procedures for the formation of local panels to assess damage
29 caused by elk or game mammals not native to this state and to determine
30 the value of a loss claimed if the person ~~or state grazing board~~ claiming
31 the loss and the Division do not agree on the value of the loss.

32 ~~{(e)}~~ (d) Procedures for the use on private property *or public lands* of
33 materials purchased by the State to prevent damage caused by elk or game
34 mammals not native to this state.

35 ~~{(d)}~~ (e) Any other regulations necessary to carry out the provisions of
36 this section and NRS 504.155 and 504.175.

37 3. The regulations must:

38 (a) Provide for the payment of money or other compensation to cover
39 the costs of labor and materials necessary to ~~{prevent}~~ :

40 (1) *Prevent or mitigate damage to private property, ~~{and}~~ privately*
41 *maintained improvements and fences on public lands caused by elk or*
42 *game mammals not native to this state ~~{;}~~ and*

43 (2) *Construct fences around sources of water on private or public*
44 *lands if elk or game mammals not native to this state have caused*
45 *damage to the area near such sources of water.*

1 (b) Prohibit a person who has, within a particular calendar year,
2 applied for or received a special incentive elk tag pursuant to NRS 502.142
3 from applying, within the same calendar year, for compensation pursuant
4 to this section for the same private land.

5 4. Money may not be disbursed to a claimant pursuant to this section
6 unless the claimant shows by a preponderance of the evidence that the
7 damage for which ~~the~~ the claimant is seeking compensation was caused
8 solely by elk or game mammals not native to this state.

9 5. As used in this section:

10 (a) "Public lands" means all lands within the exterior boundaries of
11 the State of Nevada except lands:

12 (1) To which title is held by any private person or entity;

13 (2) To which title is held by the State of Nevada, any of its local
14 governments or the University and Community College System of
15 Nevada;

16 (3) Which are located within congressionally authorized national
17 parks, monuments, national forests or wildlife refuges, or which are
18 lands acquired by purchase consented to by the Legislature;

19 (4) Which are controlled by the United States Department of
20 Defense, Department of Energy or Bureau of Reclamation; or

21 (5) Which are held in trust for Indian purposes or are Indian
22 reservations.

23 (b) "State grazing board" means a state grazing board created within
24 the State Department of Agriculture pursuant to
25 NRS 568.040.

26 Sec. 3. Chapter 568 of NRS is hereby amended by adding thereto a
27 new section to read as follows:

28 ~~A state grazing board may apply for and accept money and materials~~
29 ~~distributed by the Division of Wildlife of the State Department of~~
30 ~~Conservation and Natural Resources pursuant to NRS 504.165 for the~~
31 ~~construction or repair of fences within a grazing district. Such money~~
32 ~~shall be subject to disposition only by the state grazing board which~~
33 ~~accepts such money for the grazing district concerned.~~

34 Sec. 4. NRS 568.010 is hereby amended to read as follows:

35 568.010 As used in NRS 568.010 to 568.210, inclusive, ~~and section 3~~
36 ~~of this act~~, "Taylor Grazing Act" means the Act of Congress entitled "An
37 act to stop injury to the public grazing lands by preventing overgrazing and
38 soil deterioration, to provide for their orderly use, improvement and
39 development, to stabilize the livestock industry dependent upon the public
40 range, and for other purposes," approved June 28, 1934, being c. 865, 48
41 Stat. 1269, also designated as 43 U.S.C. §§ 315 to 315r, inclusive, any
42 amendment thereto and any replacement therefor, including provisions of
43 the Code of Federal Regulations adopted and promulgated pursuant to any
44 such act, amendment or replacement, providing for grazing districts or for

1 payment of a portion of the moneys derived from grazing fees or grazing
2 leases to the State of Nevada.

3 **Sec. 5.** NRS 568.100 is hereby amended to read as follows:

4 568.100 All moneys in the range improvement fund of a grazing
5 district ~~or received by a state grazing board pursuant to section 3 of this~~
6 ~~act~~ shall be paid out on claims signed by the chairman and secretary of the
7 state grazing board of the district. Claims shall be approved by the board
8 and preaudited by the county auditor of the county concerned before they
9 are paid.

10 **Sec. 6.** NRS 568.140 is hereby amended to read as follows:

11 568.140 1. Any project involving construction and maintenance of
12 range improvements as provided for in NRS 568.010 to 568.210, inclusive,
13 ~~and section 3 of this act~~, on public lands within any grazing district
14 established under the provisions of the Taylor Grazing Act, shall be
15 undertaken only under cooperative agreements entered into on the part
16 either of the state grazing boards or the boards of county commissioners,
17 as the case may be, and the federal officials in charge of the grazing
18 district concerned.

19 2. Any project mentioned in NRS 568.120 that is within the
20 jurisdiction of a governmental entity and does not involve construction and
21 maintenance of range improvements shall be undertaken only under
22 cooperative agreements entered into by the state grazing boards and the
23 appropriate governmental entities.

H