

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Third Session
April 13, 2005**

The Committee on Natural Resources, Agriculture, and Mining was called to order at 1:30 p.m., on Wednesday, April 13, 2005. Chairman Jerry D. Claborn presided in Room 3161 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Jerry D. Claborn, Chairman
Mr. John C. Carpenter
Mr. Mo Denis
Mr. Pete Goicoechea
Mr. Tom Grady
Mr. Joseph M. Hogan
Mrs. Marilyn Kirkpatrick
Mr. John Marvel
Ms. Genie Ohrenschall
Mrs. Debbie Smith

COMMITTEE MEMBERS ABSENT:

Mr. Kelvin Atkinson, Vice Chairman (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Mary Garcia, Committee Attaché

OTHERS PRESENT:

Don Henderson, Director, Nevada Department of Agriculture

Chairman Claborn:

[Meeting called to order. Roll called.] We're going to do the work session today on A.B. 15 and A.B. 407. We're going to start out with A.B. 15. Ms. Joiner, would you take us through the work session, please.

Assembly Bill 15: Revises provisions governing expenditure of money in Wildlife Heritage Trust Account. (BDR 45-177)

Amber Joiner, Committee Policy Analyst:

I am an employee of the Research Division of the Legislative Counsel Bureau and, as such, am a nonpartisan staff member. I will never advocate or oppose any legislation.

As you will see on the first page of your work session document ([Exhibit B](#)), A.B. 15 revises provisions governing the expenditure of money in the Wildlife Heritage Trust Account. The primary sponsor was the Committee on Natural Resources, Agriculture, and Mining, on behalf of the Board of Wildlife Commissioners. It was first heard on February 21, 2005. A.B. 15 authorizes the expenditure of certain annual deposits in the Wildlife Heritage Trust Account. Specifically, this bill allows Nevada's Department of Wildlife to spend up to 75 percent of the money deposited in the account and the total interest earned on the account during the previous year. Currently, only the previous year's interest may be spent each year.

In "A Brief Summary of the Issues Raised," [page 2 of [Exhibit B](#)] you'll see a brief summary of what the money can be spent on in the Wildlife Heritage Trust Account currently. Supporters of the measure pointed out that, because of the low interest rates, the amount of money they can spend on projects each year has continued to decline. Representatives of the Nevada Department of Wildlife (NDOW) and the Coalition for Nevada's Wildlife testified in support. There was no testimony in opposition to this measure.

As for proposed conceptual amendments, Chairman Claborn has proposed an amendment for the Committee's consideration [page 3 of [Exhibit B](#)]. The amendment will add the provision that 40 percent of the funds allocated from

the Wildlife Heritage Trust Account must be spent on projects for the management and control of the natural predators of mule deer. The main change, if you look in the mockup, is on the second page. It added a Section 5 that says, "At least 40 percent of the money allocated from the account in any given year must be spent on projects for the management and control of the natural predators of mule deer."

[Amber Joiner, continued.] Also in front of you is a memorandum ([Exhibit C](#)). Chairman Claborn asked that I do some computations of what that would have meant, as far as how much money that would have resulted in had this been in place in 2004. The first chart is the amount deposited into the account according to numbers provided by NDOW. The amount deposited was \$560,990. The interest earned was \$62,745, and that is the amount that was spent. In the attachment to the memo, you can see there were projects requested in the amount of \$285,095, but only projects with a total of \$62,745 could be approved because that's all the money that was in the budget.

On the second page of the memo, you can see what in A.B. 15 is currently being requested as the bill stands, which is 75 percent of the deposit plus the interest. It would have resulted in \$483,488, using fiscal year 2004 numbers. Under Chairman Claborn's proposed amendment, as you can see on the final chart on page 2, it would provide 60 percent to general projects that are currently funded through the Heritage Account, and 40 percent to mule deer.

Under this formula, they would have had enough money to pay for all of the projects that were proposed to the Department in 2004 and then some, even with the 40 percent going to mule deer. There is no fiscal impact on either the local or the state level.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 15.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Atkinson and Mr. Marvel were not present for the vote.)

Chairman Claborn:

It looks like we have a winner here. Now we'll go into the work session on A.B. 407, Mr. Carpenter's bill.

Assembly Bill 407: Establishes judicial procedure for determination of ownership of livestock seized by certain governmental entities. (BDR 50-685)

Amber Joiner, Committee Policy Analyst:

A.B. 407 is on page 5 of the work session document ([Exhibit B](#)). The primary sponsors of the bill were Assemblymen Carpenter, Goicoechea, McCleary, and Sherer. It was first heard on April 6, 2005.

A.B. 407 establishes a judicial procedure for the determination of ownership of livestock seized by certain governmental agencies, including a requirement that a governmental agency that seizes livestock must notify the State Department of Agriculture and file a report of seizure with the district court. Additionally, this measure limits the issuance of brand inspection clearance certificates and permits to remove animals under certain circumstances. Finally, this measure provides that the proceeds of certain sales of livestock must be deposited into the Livestock Inspection Account.

There were three proposed amendments: one by Assemblyman Carpenter, another by Jim Connelly, and another by David and Jackie Holmgren. My understanding is, however, that since this document was drafted there's a new and improved amendment from Assemblyman Carpenter, so I'll let him cover that amendment. There is, as you will see attached to your document, a potential fiscal impact at the local level and an effect on State government.

Assemblyman Carpenter:

As you know, this is a complicated and somewhat contentious issue. I've been working with the Legal Division of the Legislative Counsel Bureau (LCB), and we've been able to come up with an amendment that amends the bill as a whole by deleting Sections 1-13 and adding a new section which says if a governmental agency seizes livestock, before they can get a brand inspection to move the animals, they have to get judicial confirmation ([Exhibit D](#)).

After many sessions with the Legal Division, this is what we were able to come up with, and I believe it gives the ranching community much more than they have now. What I'm hoping for is that anyone who seizes livestock will have to go through a judicial confirmation. Hopefully they'll be able to work out their problems before it comes to that. I believe this is a somewhat simpler amendment that will be very positive to our livestock industry.

Assemblyman Goicoechea:

The bottom line in your amendment says, "possession of the animal is judicially confirmed." Where do you expect that judicial confirmation to occur, or how?

Assemblyman Carpenter:

I believe that because the brand inspection is a part of Nevada statute, it would have to be judicially confirmed in the courts in the State of Nevada.

Assemblyman Goicoechea:

Because they are a State agency, does that mean the Attorney General's Office would, in fact, prosecute or defend the Division of Livestock Identification and Brands of the Nevada Department of Agriculture?

Assemblyman Carpenter:

I believe that's right, because the Attorney General's Office is the legal arm of State government for the Division of Livestock Identification and Brands. So I believe that the Attorney General would handle these kinds of cases.

Assemblyman Goicoechea:

I'm concerned about the fiscal note as I look at this document prepared by Rick Gimlin, former Administrative Services Officer of the Nevada Department of Agriculture. I don't understand why we would have a fiscal note on a State agency doing its job. Mr. Henderson, I just now saw these amendments, but it looks like you're going back to your last five-year average and impounding 37 stray animals. I would think that's just part of your duties in the Department of Agriculture, so I was curious why the fiscal note.

Don Henderson, Director, Nevada Department of Agriculture:

It's my understanding that the purpose of the fiscal note is to try to demonstrate what the added costs or savings might be to a State agency. Under the unamended bill, we anticipated that the Department would have some additional costs. With the amendments, we would have to reassess this fiscal note. There are some legal issues in this proposed amendment that I can foresee might require some additional time and expense on the Department's part.

Assemblyman Carpenter:

I believe that, with the amended version, we would have to ask for a new fiscal note. It should be minor or, hopefully, nothing at all.

Assemblyman Denis:

In layman's terms, you're deleting Sections 1-13, and these two sections are replacing all of that. The way I see this now is, if there is a need to seize property for whatever reason, unless there's some kind of judicial confirmation, they won't be able to seize the cattle. Is that the way this works?

Assemblyman Carpenter:

They would be able to seize the cattle, but they would not be able to get a brand inspection from our Department of Agriculture in order to move or gain ownership of those cattle unless they first had a judicial confirmation that said our brand inspection could give them legal possession of these cattle.

Assemblyman Denis:

So they wouldn't be able to sell them. They could seize them but couldn't sell them because they couldn't get clear title.

Assemblyman Hogan:

Mr. Carpenter, in your discussions with the LCB Legal Division about this move of declaring an action by an agency of the federal government to be an act of a municipality, did they feel that would actually get us past the problem of federal versus State authority, or did they think it would be challenged anyway?

Assemblyman Carpenter:

As we all know, everyone has a right to initiate a lawsuit. They feel this is constitutional, and this is why it took so long to figure out this amendment, so it would pass constitutional muster.

Chairman Claborn:

[Committee recessed from 2:24 p.m. to 2:40 p.m. Meeting called to order.]
Amber, would you read the findings, please?

Amber Joiner:

During the recess, Assemblyman Carpenter asked me to clarify with the Committee that the amendment should actually delete Sections 1-14, because there are changes in Section 14 that refer to sections that would be removed, and he didn't believe that would be appropriate. So that's the amendment that would be considered.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 407.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN HOGAN AND
ASSEMBLYWOMAN SMITH VOTING NO. (Mr. Atkinson was not
present for the vote.)

Chairman Claborn:

Is there any new business to come before the Committee today? Is there any
old business? We're adjourned [at 2:42 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Attaché

APPROVED BY:

Assemblyman Jerry D. Claborn, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture, and Mining

Date: April 13, 2005

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
AB15 AB407	B	Amber Joiner	Work session document
AB15	C	Amber Joiner	Memorandum concerning the Wildlife Heritage Trust Account
AB407	D	John Carpenter	Proposed amendment