

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES**

**Eighty-Second Session
May 17, 2023**

The Committee on Natural Resources was called to order by Chair Lesley E. Cohen at 4:04 p.m. on Wednesday, May 17, 2023, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and to Room 130, Greenhaw Technical Arts Building, Great Basin College, 1500 College Parkway, Elko, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Lesley E. Cohen, Chair
Assemblywoman Natha C. Anderson, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblyman Rich DeLong
Assemblyman Bert Gurr
Assemblywoman Alexis Hansen
Assemblywoman Selena La Rue Hatch
Assemblyman Howard Watts
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

Assemblywoman Bea Duran (excused)

GUEST LEGISLATORS PRESENT:

Senator Scott Hammond, Senate District No. 18



STAFF MEMBERS PRESENT:

Becky Peratt, Committee Policy Analyst
Erin Sturdivant, Committee Legal Counsel
Connie Barlow, Committee Manager
Nancy Davis, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Warren B. Hardy II, representing Nevada Pest Management Association
Jeff Burns, Treasurer, Nevada Pest Management Association
Steve Walker, representing Eureka County

Chair Cohen:

[Roll was taken. Rules and protocol of the Committee were reviewed.] We are going to start with the work session, and then we are going to have a bill hearing.

[Senate Bill 180](#): Revises provisions relating to groundwater boards. (BDR 48-597)

Becky Peratt, Committee Policy Analyst:

Senate Bill 180 makes various changes to groundwater boards established by the State Engineer for designated groundwater basins [[Exhibit C](#)]. In summary, the bill:

- Authorizes a board of county commissioners to request that the State Engineer establish a groundwater board;
- Requires the State Engineer to appoint seven members;
- Authorizes a board of county commissioners to appoint a nonvoting member;
- Requires the State Engineer to consider the written advice and recommendations of the groundwater board;
- Clarifies that a decision of the State Engineer to not comply with the views of the groundwater board is not subject to judicial review; and
- Makes various other changes.

Senator Goicoechea proposed an amendment to add language that a decision of the State Engineer to comply with the views of the groundwater board is not subject to judicial review; and that a disagreement between the State Engineer and groundwater board is not admissible in any proceeding challenging the State Engineer.

Assemblywoman La Rue Hatch proposed an amendment to:

- Limit each groundwater basin to one groundwater board;
- In a basin which includes more than one county, authorize the boards of county commissioners to jointly request that the State Engineer create a joint groundwater board or if one board of county commissioners requests the establishment of a groundwater board in a multicounty basin, allow members who reside in the other county to serve on the groundwater board; and
- Require that members of the groundwater board must live in the designated basin area.

Chair Cohen:

Are there any questions? I want to make sure we are clear. The opposite is also true, if the groundwater board is in agreement with the State Engineer, that is also not a basis for a lawsuit. Am I correct?

Erin Sturdivant, Committee Legal Counsel:

Yes, I think the opposite would be implied in this case.

Chair Cohen:

Also, just so we are very clear, just because there are facts that are raised by a groundwater board and issues that they address, that does not mean those facts, if they are relevant, cannot be used by someone in a lawsuit. They are not automatically off-limits just because it is raised by a groundwater board, if it is appropriate for a lawsuit.

Erin Sturdivant:

Correct. The disagreement or agreement with a groundwater board is not admissible, but any facts or evidence underlying those would be admissible.

Chair Cohen:

With that, I will take a motion to amend and do pass.

ASSEMBLYMAN GURR MADE A MOTION TO AMEND AND DO PASS
SENATE BILL 180.

ASSEMBLYMAN WATTS SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman DeLong:

The motion is to amend do pass, is that correct?

Chair Cohen:

Yes, it is, with the amendments that were discussed.

Assemblywoman Anderson:

I know this is policy and not the finance area. I am still a little bit concerned about the amount of staff time and everything, but there is no fiscal note. My only concern is around staff time and being able to meet with all the individuals at the same time. That was not really brought up very well, and so I just want to put that on the record.

Chair Cohen:

Are there any more comments? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN DURAN WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Gurr. With that, I will end our work session and open the hearing for Senate Bill 159 (1st Reprint).

Senate Bill 159 (1st Reprint): Revises provisions relating to pest control. (BDR 49-608)

Senator Scott Hammond, Senate District No. 18:

Thank you for allowing us to come and talk a little bit about this issue of pest control management. I am going to turn over my time to former Senator Hardy to go over the points that we need to make on Senate Bill 159 (1st Reprint).

Warren B. Hardy II, representing Nevada Pest Management Association:

The necessity of this bill came to our attention from the Nevada Pest Management Association during the COVID-19 pandemic, when we were having a very difficult time getting pest control applicators into the field to do their job. Very early in the pandemic, then-Governor Sisolak declared pest management an essential industry, but as many industries had, we lost a lot of folks: a lot of people retired, a lot of people moved on, a lot of people quit.

We have always known in Nevada that we have a very tough test for pest control applicators. We would submit that a tough test is very appropriate. What we have learned through the years is without the hands-on training to be able to pass the test, our failure rate of the actual test is very high. It is something we have grappled with for some time. This bill originally started out as a bill to provide or create a temporary licensure process. It became clear that we really did not need the full temporary licensure, that was going to cost money and was not necessary. In the Senate, we revisited that and adopted an amendment that will simply require the State Department of Agriculture to promulgate regulations with regard to pest control applicators. Most states have either a provisional license or they have a process like what we are proposing here, where we can now hire an individual for up to 90 days, and he

can work in the field for up to 90 days prior to taking the exam. We find in most states when that happens, the success rate of passing the test is significantly higher because the trainee has actually done the job, he has done the hands on. I am a hands-on learner, so I understand that.

This legislation would require the promulgation of regulations that would allow new hires in this industry to be employed in the field for no less than 90 days. In speaking with the State Department of Agriculture, they had some concerns which we completely agreed with. Rather than leaving that to the regulatory process, we put it in the legislation. The restrictions are that an applicator trainee may only apply general-use pesticides under the direct supervision of a licensed applicator in the state. In section 1, subsection 3(a), the bill defines "direct supervision" as accessible; the "trainee has direct access physically, telephonically or by some other means to an applicator." We then go on to say that the trainee may not apply restricted-use pesticides unless he or she is under immediate supervision. The bill defines "immediate supervision" as the trainer being physically present while the trainee is working.

We also took provisions that were requested by the State Department of Agriculture that the Committee is to consider as they adopt the regulations. The regulations must comply with all applicable provisions of federal law governing applicators and the application of pesticides, and federal laws relating to public safety, and that the regulations are consistent with industry best practices related to safety and training. Those were items that the State Department of Agriculture requested that we put in the bill to make sure those things are addressed during the regulatory process. With that, I would be happy to stand for questions.

Assemblywoman Considine:

You stated that for hiring the trainee, it would be up to 90 days, as far as training for pest control. The bill says not less than 90 days. Is there a cap on the number of days?

Warren Hardy:

I misspoke. It is a minimum of 90 days. If there is a reason that the State Department of Agriculture and the regulatory process felt that 120 days made more sense, we could do that. I should also mention that Mr. Burns is in Las Vegas to assist in answering questions.

Chair Cohen:

Mr. Burns, do you want to add anything to the presentation or wait and testify in support and be present to help in case there are any questions that need help with answering?

Jeff Burns, Treasurer, Nevada Pest Management Association:

I think Mr. Hardy is doing a great job, but I am available for questions.

Assemblywoman La Rue Hatch:

Just for clarification, this is not my question, but it just popped into my head because of my colleague's question. There will be a top limit, right? We cannot have someone just infinitely falling under this categorization, correct?

Warren Hardy:

That is the intent, that there is a limit that will be decided in the regulatory process. It is not the intent to have it go on forever. I am not aware of anybody who does that, and we certainly would not in our case. Our intent is to get these folks trained so they can receive the full licensure as quickly as possible.

Assemblywoman La Rue Hatch:

I want to have some clarification on general use versus restricted use. The general use, I am assuming, has a lower degree of supervision because that is something that pretty much any of us could access, and it is not as dangerous as the restricted use. Is that correct?

Warren Hardy:

That is correct. General-use application is what you would traditionally use in your house. Maybe I will let Mr. Burns address that as he can give a clearer answer on the difference.

Jeff Burns:

The Environmental Protection Agency (EPA) is the one that designates that classification. As a product goes through the EPA registration process, they will either label it as a restricted use or a general use. You are correct. That label is based upon the toxicity level of it and also the complexity level of applications.

Assemblywoman Brown-May:

I am going to go back to the training piece for just a minute. Is this an opportunity to engage in a training program for 90 days, but is it mandatory that you have to go through a training program in order to become licensed? Are we mandating that all new people would have to do this 90-day training period?

Warren Hardy:

It is mandatory that you pass the test. It is not mandatory that you do a training per se. We have learned in the industry's best practice, this is the best way to get these folks in a position where they can pass the test. I should indicate this test is one of the toughest in the country. It has as high a failure rate as any place in the country. We believe part of that is because these individuals are not having the hands-on experience. They will have to show that they are qualified before they receive their license to be an individual applicator.

Senator Hammond:

It really is about training. I spent a lot of my time talking about getting students into more internship programs, that hands-on approach where you are actually able to do something over and over again, so you have familiarity with whatever you are doing. That is why I got excited when he brought this to me; I know a lot of folks in this industry, and they could not keep anybody on staff because trainees had a hard time passing the test. You can take the trainee to test often, but if you actually allow him to take the test often but give him some practical experience day in and day out, he becomes more familiar with it, he becomes safer and better at what he is doing, and then he is able to pass the test a little bit quicker. That is the whole intent of this. Mr. Hardy is correct; the thing that is mandatory is passing the test.

Assemblywoman Brown-May:

That would lead into my next question: Where are we with regard to workforce development for this particular line of business? How do we encourage this in some of our trade schools? I appreciate your efforts relative to the space.

Warren Hardy:

We have no shortage of individuals who want to get in this field. It is a well-paying field. It is a good career. We contemplated a full-blown apprenticeship program. This is one of those things that just requires on-the-job training. That is why we opted for this.

Assemblywoman La Rue Hatch:

You just mentioned students; I am a teacher and that always perks my ears. What are the age restrictions that are associated with restricted-use pesticides? Are we going to see 16- or 17-year-olds doing an internship and then dealing with these chemicals?

Jeff Burns:

The State Department of Agriculture is the one that sets the regulations. There are no age limits that they have in place. Where the age limits come into play is set by the insurance companies. Each pest control company must have and prove to the State Department of Agriculture that they are properly insured to be able to apply pesticides. Those insurance companies set the age limits of what age we can hire at. That is normally 21 years old.

Chair Cohen:

I am glad you raised insurance Mr. Burns, because that was one of my questions. In section 1, subsection 1(b), there is reference to the business being liable. I want to know about the insurance and what type of insurance is required for licensure, that type of thing.

Warren Hardy:

I will tell you that we felt very strongly about that. That is a provision we requested: the owner of the company and the trainer be liable and responsible for the actions of that individual who will fall under our insurance. There are stringent requirements on insurance.

Jeff Burns:

Off the top of my head, I do not remember exactly the insurance levels that we carry. Yes, the liability does currently, and will continue, to fall upon the company itself. Right now, even though once an applicator passes the test that we are referencing, if there is any improper application, that liability goes to the principal of the pest control company, it does not go to the applicator, it goes to the principal. That principal must demonstrate that they know all the laws to be able to hire applicants underneath them, and they carry the liability, and they must prove that insurance as well.

Chair Cohen:

Just to be clear, the insurance is required for the licensure of the primary.

Jeff Burns:

Yes, every year, each company must show that we carry that license. Every year we must renew our license with the State Department of Agriculture and must show that insurance.

Chair Cohen:

My next question is about the direct supervision portion. I understand that they are dealing with different types of pesticides, and that there can be availability by phone, that type of thing. I am somewhat concerned because for the most part, these are small businesses. You can be in areas of the state where it is hard to have connectivity by phone. Is that something where the regulations will ensure that there is an ability for contact, and making sure that when we are expecting, for all intents and purposes, for a trainee to be able to reach the experienced person?

Warren Hardy:

The intent of the legislation, and I think it will carry over to the regulatory process, is if there is a circumstance like you described, where they are out of range, we would not be able to employ the training in that situation. The trainee has to be under the direct supervision, which means they have to be able to reach them telephonically or by radio. If that is not the case, then the trainee would have to have immediate supervision; he could not be out in a situation like that. That will be incumbent upon us; I think we plan to make that very clear in the regulation.

Chair Cohen:

Even if it is a small business and the primary is talking to a client and does not want to be interrupted, the primary is still going to have to take the phone call or going to have to take that radio call. Is that correct?

Warren Hardy:

That is the intent. We understand that is a little bit of a burden on these folks, but this is something that we take very seriously, which is why we specifically included the liability provision in there. This is serious business, and we need to make sure these folks are trained properly. That would be our intent.

Chair Cohen:

I do not see any other questions. I will move to support in Carson City.

Steve Walker, representing Eureka County:

I am a former restricted pesticide applicator licensee. I passed the test in Ely, Nevada in 1976. We completely support this bill.

Chair Cohen:

Seeing no one else in support in Carson City, Mr. Burns would you like to testify in support?

Jeff Burns:

I would like to reiterate that at the end of the day, we see this is a great opportunity for people who are not college bound. This barrier to entry has really prevented us from putting these people to work, great people who could do a great job doing it. With this bill, we think that will open this up. We are not reinventing the wheel. Arizona was 90 days, they just upped theirs to 120 to give them even more time. This is a very common thing. Most states do have it. In Florida, the applicator never has to test. We are not trying to reinvent the wheel; we are just trying to give these people the work because they are great people that deserve great jobs. Thank you for your time.

Chair Cohen:

Seeing no one else in Las Vegas or Elko, is there anyone on the phone in support? Hearing no one, is there anyone in opposition in Carson City, Las Vegas, or Elko? Seeing no one, is there anyone on the phone? Hearing no one, is there anyone in neutral in Carson City, Las Vegas, or Elko? Seeing no one, is there anyone on the phone? Hearing no one, are there any closing remarks? I am getting the wave off. With that, I will conclude the hearing on Senate Bill 159 (1st Reprint) and open public comment. Is there anyone for public comment in Carson City, Las Vegas, or Elko? Seeing no one, is there anyone on the phone? Hearing no one, I will close public comment. We can expect a work session on Friday, at call of the Chair. With that, we are adjourned [at 4:31 p.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblywoman Lesley E. Cohen, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for Senate Bill 180 (1st Reprint), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.