

**MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-ninth Session
April 13, 2017**

The Senate Committee on Natural Resources was called to order by Chair Yvanna D. Cancela at 1:41 p.m. on Thursday, April 13, 2017, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Yvanna D. Cancela, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator James A. Settelmeyer
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senatorial District No. 1

STAFF MEMBERS PRESENT:

Alysa Keller, Policy Analyst
Erin Roohan, Counsel
Gayle Farley, Committee Secretary

OTHERS PRESENT:

Kyle Davis, Coalition for Nevada's Wildlife, Inc.
Jason King, P.E., State Engineer, Administrator, Division of Water Resources,
State Department of Conservation and Natural Resources

CHAIR CANCELA:

Senate Bill (S.B.) 315 is not being considered in today's work session due to the potential fiscal impact and will be re-referred to the Senate Finance Committee. I think this bill needs a lot of work if it is going to move forward. The way that

the bill was presented and the testimony heard before this Committee led to many unanswered questions. I am hopeful that the people impacted by this bill are willing to get together and negotiate a much better policy measure. I do not want our Committee members to have to make a decision unless they are ready and prepared to move this bill forward because I do not think that it is the final draft that our body will see. I will entertain a motion to re-refer S.B. 315 to the Senate Finance Committee.

SENATE BILL 315: Revises provisions relating to waste disposal. (BDR 40-989)

SENATOR RATTI MOVED TO RE-REFER S.B. 315 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

We will open the work session on S.B. 221.

SENATE BILL 221: Revises provisions governing wildlife. (BDR 45-814)

ALYSA KELLER (Policy Analyst):

Senate Bill 221 is sponsored by Senator Denis, Senator Hammond and Assemblyman Watkins. This bill was heard on March 16 and April 11. This bill creates the Nevada Wildlife Public Education Council within the Nevada Department of Wildlife (NDOW) and authorizes the Department to fund the activities of the Council from the Wildlife Heritage Account. I have submitted my work session document with the conceptual proposed amendment from the Coalition for Nevada's Wildlife ([Exhibit C](#)).

SENATOR SETTELMAYER:

I support this bill. I think it is a good idea to demonstrate to everyone what takes place within the wildlife community. I am supportive of that, but I am concerned about the composition of the Commission and taking money away from on-the-ground projects.

SENATOR GOICOECHEA:

I have met with the proponents of the bill, and as I stated then, I know there are a lot of other people that would like to see more installers on-the-ground, but I am satisfied that we narrowed it down to \$2 million. I know there are funds being put into the account from some other organizations. I support S.B. 221.

SENATOR RATTI:

I was not interested in supporting this bill without a significant amount of changes. I am happy about the changes to the composition of the Council and cutting the money in half was also important. I am hoping that we get some of the remaining principal out to projects on-the-ground at some point. That was a clarifying question for me. I know that this enables the \$2 million for the campaign that was outlined and I also know they changed the campaign to be specific to all wildlife and the North American Model, which I like. Did we get to the point of opening up the remaining principal for more projects? Does this proposed amendment do that?

KYLE DAVIS (Coalition for Nevada's Wildlife, Inc.):

Yes, this provides for more funding for on-the-ground projects. If you look at section 9, subsection 5 of S.B. 221 you can see that the percentage has changed from 75 percent to 80 percent.

SENATOR RATTI:

Rather than saying we are opening up more of the principal, are we just taking a larger annual bite?

MR. DAVIS:

There is also the provision for emergency funding.

SENATOR RATTI:

Reluctantly, I am going to support this bill because it does give money for projects on-the-ground, emergency funding and changes the composition of the Council.

SENATOR MANENDO:

Will this bill allow money for taking kids from schools to see the wetlands and Red Rock and doing those types of things? You have all talked about focusing on kids and doing field trips. We have invested a lot of money into our wetlands and our visitors center. This would be a great opportunity for school children to

go out to see the wetlands and our wildlife. Unfortunately, at the same time they will see some of the destruction that humans have been doing with parties and shootings and a lot of things that go on out there at night. Kids need to understand and respect our land. Does this proposed amendment enable them to do that?

MR. DAVIS:

When you look at our conceptual proposed amendment at the bottom of page 1 and the top of page 2 of [Exhibit C](#), you will see where it outlines the direction given to this council in terms of what they are required to do. The focus of this effort is stated in the proposed amendment as “an effective and comprehensive media-based public information program to educate, promote and engage the residents in this State concerning the responsible stewardship of wildlife.” The details will be left to that Council. I think that your key word would probably be “comprehensive.” If the Council decides that is an effective way of doing so, they could.

SENATOR SETTELMAYER:

Mr. Davis, could you point to that section in the original bill? I think that is what we are looking for.

MR. DAVIS:

In the original bill, which obviously changes a little bit, that section would be in section 5, subsection 1, paragraph (a). I think the word “comprehensive” would be the key word you are looking for, Senator Manendo. Certainly, the details will be left to the Council within the NDOW as to how they would carry out this program.

SENATOR MANENDO:

Hopefully, they will be able to report back to the Legislative Commission on how it is going and how those dollars are being used to get kids out on field trips.

MR. DAVIS:

I would imagine as they are a committee of a State agency, you could call on them to provide feedback on the programs.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 221.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

We need to rescind our March 28 vote before we start the work session on S.B. 47.

SENATE BILL 47: Makes various changes relating to the appropriation of water.
(BDR 48-499)

SENATOR SETTELMAYER MOVED TO RESCIND THE PREVIOUS ACTION
TAKEN ON S.B. 47.

SENATOR CANCELA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. KELLER:

Senate Bill 47 was sponsored on behalf of the Division of Water Resources and there are four amendments for consideration. Two amendments were previously considered and there are two additional amendments. I have attached my work session document ([Exhibit D](#)).

SENATOR GOICOECHEA:

Economic conditions were in the original bill and we struck them. I think this needs to be considered as well as natural disasters. Economic conditions are something that could justify the reason why an extension was not granted. This was an oversight and I apologize to the Committee and to Mr. King.

MS. KELLER:

Senator Cancela has submitted a proposed amendment. Pages 22 and 23 of [Exhibit D](#) add an additional section to the bill which requires the State Engineer to prepare a water budget and maintain an inventory for every basin located in the State. The inventory of each basin must include the total amount of

decreed, permitted, and certified groundwater appropriated. This is to include temporary rights, an estimate of water used by domestic wells, and an estimate of groundwater available for appropriation.

SENATOR GOICOECHEA:

I have a couple of comments I would like to make regarding Senator Cancela's proposed amendment. How long are we going to give the State Engineer's Office to compile this information? The proposed amendment says "shall" and that concerns me. This is a lot of data and I do not know how he is going to capture it all at once. If we say he has a year to do it, I think we will be looking at a fiscal note. I would also like to see language in the bill that would indicate if a basin is in a shortfall situation the quantity that the basin is over-appropriated. If you think that it is 30 percent over-appropriated, it would show in the inventory 10,000 acre-feet over-appropriated. I think this is fair information to get out there.

JASON KING, P.E. (State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources):

This amendment very specifically requires our office to report how much water is available. We are talking about ground water, so I am equating that to our perennial yield, which we have in our database already. We have a well database that we can create for domestic wells so we can attach volumes of water to how much is being pumped from domestic wells in a basin. When you subtract the committed resources from the perennial yield it shows how much water is available in the basin. This data is already collected and collated by our office. I believe this amendment is about that data, not a pumpage inventory or a crop inventory, where we go out in the field and record the water use. I want to be clear on that point. To me, this is basically gathering all the data, much of which we already have collected, and putting it in a form. By doing this, you can see basin by basin how much water is available by perennial yield, how much is committed, and how much is available. I do want to add a caution, that with my responses there will be a number of footnotes associated with this calculation because of all the nuances associated with water rights statewide.

SENATOR SETTELMAYER:

This sounds like a paper and a wet water inventory. I would like to go back to one of Senator Goicoechea's questions. How long do you need to do this? I do not think that you can have this done by the end of this year. There would not be enough time. Do you think we need to revisit this every five or ten years?

Although you may not appropriate more water in a certain basin, people still have the ability to sink domestic wells, which will continue to change those numbers.

MR. KING:

I agree with you, it is a paper water inventory. Right now you can go to our Website and query any basin and it is as close to real time as possible, in terms of how much water is permitted, certified and decreed in that basin. In terms of timing, I do not see why we could not have this inventory done by the end of this calendar year. You are correct, domestic wells are being drilled and they are being plugged frequently. I would assume that we would come up with some type of frequency, whether it is quarterly or not, where we would actually update that particular data point. The rest of it is tracked in the normal course of our work.

SENATOR SETTELMAYER:

Is there any way you would be willing to let private individuals go to five-year beneficial use rather than annual? With that I would vote yes, otherwise, I am still where I am.

SENATOR GOICOECHEA:

I am still waiting for a response.

MR. KING:

Senator Goicoechea, I struggle with this. We have had discussions and recognized problems associated with municipalities and quasi-municipalities in many committee meetings. I think a strong argument can be made as to why they should be able to apply for additional time. Under what conditions would a person say they cannot put this water to beneficial use for five years?

SENATOR SETTELMAYER:

To me, the answer is pretty simple. Perhaps the land was taken by the State government or due to economic conditions they have to sell the land and cannot find a buyer. Whether to accept an application to go to a five-year beneficial use would be left completely to your discretion. I look at it based upon other expenses that some of these corporations or ranches have had to endure. For instance, property taxes have increased up to 16 percent and things of that nature. That is why I thought it would be an opportunity for people. Instead of people having to spend yearly, if the economic conditions or their situations

could be proven to you, they may be given the ability to do one application for five years.

MR. KING:

I would be open to allowing an extension for more than one year, as long as it is discretionary.

SENATOR SETTELMAYER:

Madam Chair, I would say amend and do pass.

SENATOR GOICOECHEA:

Technically, it was discretionary that you could grant a one-year or five-year extension, but that is what we changed in the bill. Are we amending the bill back? I need to know what we are voting on.

SENATOR SETTELMAYER:

It would be my inclination to give the State Engineer discretion so that he could look at the individual situations of every application to determine whether he would be willing to grant an extension. If someone submits an application and pays the fee and it is denied, they would only get a year extension.

SENATOR RATTI:

I am reflecting on local government and the land use planning decisions that became ordinances. We were always wary of being arbitrary and capricious and setting ourselves up for lawsuits. That is my concern. How much discretion is actual discretion and are we setting ourselves up for lawsuits? I do not know if this is a standard at the State level, but it is certainly something we were terrified of at the local level.

MR. KING:

We get into a good deal of litigation over that. People pull up all the extensions we ever granted and assert that we are arbitrary and capricious. Again, that is a big part of what we do, and it is something we live with. I want to comment that we have had a number of municipalities that have requested five-year extensions of time and we have said no. We refund four years' worth of extensions of time fees and then we grant them one year. They come back a year later and plead their case again. It is, therefore, discretionary right now and is based on the specifics whether we say yes or no.

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SENATOR SETTELMAYER:

I am only asking that the same discretion be allowed to every citizen, not only to municipalities.

SENATOR GOICOECHEA:

Where are we going to address the discretionary element in the bill?

MR. KING:

Currently, other than municipalities and quasi-municipal entities, we can only approve an extension of time for one year. What I am asking is for discretionary language for more than one year. Water law is all about putting water to beneficial use. If someone comes to us in 2017, and says that they cannot use the water until 2022, it is concerning. If there are valid reasons, as Senator Settelmeyer pointed out, there should be that option.

SENATOR GOICOECHEA:

I am looking at the list in the second proposed amendment, page 20 and 21 of [Exhibit D](#), regarding section 9, subsection 2, paragraphs, (a) through (i). If the water holder has submitted evidence that he is proceeding in good faith, is this the criteria required for discretionary action to go beyond one year?

MR. KING:

I am referring to the language in statute that applies to granting extensions of time that limits it to only one year. If we extend time limits to a maximum of three years to five years, this is where we would amend the language and all other criteria in the statute. We are only amending the language to increase the time from one year to five years.

SENATOR GOICOECHEA:

I am sure we can find a place to put this in the bill.

SENATOR SETTELMAYER:

On page 6 of the bill, section 4, subsection 3, it says " ... but a single extension of time for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235, must not exceed 5 years, and any other single extension of time must not exceed 1 year." What this says is that a municipal or quasi-municipal use of a public water system must not exceed five years. But for any other user, it must not exceed 1 year. What I am saying is everyone should be the same.

SENATOR GOICOECHEA:

It is clearly in the bill. I guess it would be appropriate that we clean up the language with a conceptual amendment if the Chair chose to do so.

CHAIR CANCELA:

I will add a conceptual amendment to all other proposed amendments. I feel strongly about having the State Engineer's Office create the language that makes the most sense to them. The language must be well-defined and not arbitrary nor written to allow for litigation or open itself to unintended consequences. The intent is to be clear and the idea is to make sure that all Nevadans are able to be afforded the same amount of time, but that the intent is not to open the process up for people to be able to bypass the beneficial use language that reigns. The State Engineer's Office does have full discretion and the outline for that function needs to be clear.

SENATOR SETTELMAYER:

I would say amend with all proposed amendments including a conceptual amendment and do pass.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED S.B. 47 WITH AMENDMENTS 1 AND 4 AS TO ALL SECTIONS OF THE BILL EXCEPT SECTION 9, AND WITH THE CONCEPTUAL AMENDMENT TO ALLOW DISCRETION TO THE STATE ENGINEER TO GRANT EXTENSIONS FOR MORE THAN ONE YEAR, AND WITH AMENDMENTS 2 AND 3 AS TO SECTION 9 WITH AMENDMENT 3 TAKING PRECEDENCE IN ANY CONFLICTING PROVISIONS.

SENATOR SETTELMAYER SECONDED THE MOTION.

SENATOR RATTI:

I would like to say that I will feel 100 percent more comfortable when I see the printed amended version. I am going to reserve my right on the Floor if I have any questions.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

I will open the work session on S.B. 364.

SENATE BILL 364: Revises provisions governing the trapping or taking of certain animals. (BDR 45-107)

MS. KELLER:

I have provided my work session document ([Exhibit E](#)). Senator Cancela has proposed a conceptual amendment which is attached.

CHAIR CANCELA:

I want to clarify my proposed amendment and the language in the work session document. The language in the bill, section 5, subsection 1, indicates that a registered trap would have to bear the person's name and address. That is not the intent. The intent is that a person who registers a trap would get a number from the NDOW which would be affixed to the trap. If the person chooses not to register their trap, they would be required to put their name and address on the trap. The idea, and again this is conceptual, is to keep the 96-hour visitation, but remove the Nevada Board of Wildlife Commissioners from the regulatory process and make this a statutory process. This would not remove the regulations that the Commission recently adopted changing the visitation time in urban areas to 48 hours.

This is the intent, but this is not the final language. This will be final when the proposed amendment is written up by legal counsel.

We have received more feedback from this bill than most. We truly appreciate the hard work that went into getting the bill to where it is today. This is an issue that brings out tremendous passion and I am sure this discussion will continue. All comments, emails, tweets, letters or comments made while showing up to testify, have been taken into account.

SENATOR GOICOECHEA:

For clarification, if the trap is not registered and the owners are willing to place their name and address on the trap do they pay the \$5 fee? If a trapper wanted to register a trap, it would cost \$5. The trap would be documented, and it would not have a name and address listed on the trap.

I would like to recognize what the Wildlife Commission did and for the work they have put into this, while working to develop the regulations and the visitation times they have put in place. I think we will see some real benefit from this, especially requiring trap checks closer to the urban areas. Do these regulations go into effect now?

CHAIR CANCELA:

That is correct. The only area in which the Commission would not have oversight on trapping would be on visitation. That would now become a statutory issue. The regulations that the Commission has adopted and the authority that the Commission has will remain in place.

SENATOR RATTI:

I am personally struggling with this bill. I would like to have seen a reduction in visitation hours and feel that 96 hours is too long. However, I feel that this bill does take a couple of steps forward. I want to be clear that I am not thrilled with this but because of all the hard work that has been done on it I will be voting yes.

SENATOR GOICOECHEA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 364.

SENATOR CANCELA SECONDED THE MOTION.

SENATOR MANENDO:

I have also had many people contact me regarding this legislation. I agree with Senator Ratti. This just moves the needle a little bit, certainly not where we should go with this. Ninety-six hours is a lot of time for a business that is not regulated and does not pay anything and makes a ton of money. This is borderline offensive to people who care about animals and their suffering. I think that any responsible business owner would go out and do their due diligence unless they just do not care and that rubs me the wrong way. I think it is irresponsible, but I think there will be further discussion on this issue. This is an extremely difficult yes vote for me. I applaud the sponsor of the bill who cares greatly for the issues we are addressing. I will vote in favor to move this bill in the process. Perhaps, there will be future opportunities for further discussions.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

I will open the work session on S.B. 418.

We have just received a proposed amendment from Senator Spearman ([Exhibit F](#)).

SENATE BILL 418: Revises provisions relating to air pollution. (BDR 40-970)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Someone else is going to introduce this amendment as I need to get to another meeting.

CHAIR CANCELA:

Senator Spearman if they are not here, I would take a motion to amend, do pass and re-refer to the Senate Finance Committee.

SENATOR CANCELA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 418 AND RE-REFER TO THE SENATE COMMITTEE ON FINANCE.

SENATOR RATTI SECONDED THE MOTION.

SENATOR SETTELMAYER:

I will support amending and passing this to the Floor; however, since we just received the mock-up of the proposed amendment. I would like to reserve my right to change my vote on the Floor.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANCELA:

There being no further comment, we will close the hearing at 2:26 p.m.

RESPECTFULLY SUBMITTED:

Gayle Farley,
Committee Secretary

APPROVED BY:

Senator Yvanna D. Cancela, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 221	C	3	Alysa Keller	Work Session Document
S.B. 47	D	23	Alysa Keller	Work Session Document
S.B. 364	E	7	Alysa Keller	Work Session Document
S.B. 418	F	12	Alysa Keller and Senator Pat Spearman	Proposed Amendment