

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

**Eighty-Second Session
April 12, 2023**

The Committee on Natural Resources was called to order by Chair Lesley E. Cohen at 4:06 p.m. on Wednesday, April 12, 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
Assemblywoman Bea Duran
Assemblyman Bert Gurr
Assemblywoman Alexis Hansen
Assemblywoman Selena La Rue Hatch
Assemblyman Howard Watts
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Sarah Peters, Assembly District No. 24



STAFF MEMBERS PRESENT:

Becky Peratt, Committee Policy Analyst
Erin Sturdivant, Committee Legal Counsel
Connie Barlow, Committee Manager
Nancy Davis, Committee Secretary
Adrienne Feemster Cobb, Committee Assistant

OTHERS PRESENT:

Cadence Matijevich, Government Affairs Liaison, Office of the County Manager,
Washoe County

Chair Cohen:

[Roll was called. Rules and protocol of the Committee were reviewed.] We will be having a work session today. We do have some of the presenters here, and we may ask them to go through some of their amendments with us. With that, we will begin our work session with Assembly Bill 34.

Assembly Bill 34: Revises provisions relating to water. (BDR 48-235)

Becky Peratt, Committee Policy Analyst:

Assembly Bill 34 revises certain provisions relating to the State Engineer's notice requirements [[Exhibit C](#)]. Specifically, A.B. 34 provides that the State Engineer is not required to republish notice if the newspaper fails to publish the notice for the required number of times, but notice was published at least once for certain notices and orders. The bill also requires the State Engineer to mail copies of the notice or order to at least one public library or other public place. Additionally, A.B. 34 revises the time period for individuals to file written protest against the granting of various applications relating to the appropriation or diversion of water. Finally, the bill removes requirements that certain maps relating to water rights be on mylar and tracing linen.

The Division of Water Resources proposed an amendment which, amongst other things:

- Removes language allowing the State Engineer to not republish notice if the newspaper fails to publish notice for the required number of times, but notice was published at least once;
- Removes the requirement for the State Engineer to mail copies of the notice or order to at least one public library or other public place;
- Strikes language currently in statute requiring certain notices and orders be published consecutively;
- Adds requirements that the Division post various orders and notices on their website;

- Revises the time period for individuals to file written protest against the granting of various applications relating to the appropriation or diversion of water; and
- Allows the presumption that, if no protest is received 60 days after submitting notice to a newspaper, the Division can presume notice was published and can process the application but cannot issue a permit until proof of publication has been received.

Chair Cohen:

Are there any questions? Seeing none. I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 34.

ASSEMBLYMAN DELONG SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN HANSEN VOTED NO.)

I will ask Assemblyman Gurr to please take the floor statement.

Assembly Bill 86: Revises provisions relating to animal welfare. (BDR 50-203)

Becky Peratt, Committee Policy Analyst:

Assembly Bill 86 prohibits individuals from restraining a dog with an improperly fitted collar or harness or with a weighted tether, chain, tie, trolley, or pulley system [[Exhibit D](#)]. The bill also prohibits leaving a dog outside and unattended unless the dog has access to adequate shelter, an area to avoid standing water and excessive animal waste, shade, and potable water.

Assemblywoman Hardy, in consultation with Washoe County proposed an amendment to:

- Add prohibitions relating to the treatment of animals;
- Create an exception to certain prohibitions for individuals who are indigent;
- Define "abandonment" and clarify the prohibition against abandonment;
- Include additional requirements constituting adequate shelter for dogs left unattended outside without immediate access to being indoors; and
- Add additional categories of exclusion from the restraint and shelter requirements.

Chair Cohen proposed a friendly amendment to include in the exception to the definition of "abandonment" animals taken to a pound or animal shelter.

Chair Cohen:

Are there have any questions?

Assemblywoman Anderson:

During the presentation, I believe there was a question about air quality. I am wondering if that has been addressed in this. I think that was one of the questions, and I cannot seem to find it.

**Cadence Matijevich, Government Affairs Liaison, Office of the County Manager,
Washoe County:**

I think the piece that you are referencing is on page 2 of our proposed amendment [page 3, [Exhibit D](#)]. There had been language in the bill regarding "wholesome air." There had been questions around the definition of "wholesome air." That is existing language that is elsewhere in this chapter. In discussion with some of the other entities that had interest in this bill, we believe that the issue around proper ventilation addresses the things you heard that day, where if there were to be a high concentration of any kind of smell or improper airflow, that the proper ventilation language that is already there addresses that issue.

Chair Cohen:

Are there any other questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYMAN GURR MADE A MOTION TO AMEND AND DO PASS
ASSEMBLY BILL 86.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED UNANIMOUSLY.

I will ask Assemblywoman Hardy to take the floor statement, and I will ask Assemblywoman Bilbray-Axelrod to be backup.

[Assembly Bill 91](#): Revises provisions governing water. (BDR 48-696)

Becky Peratt, Committee Policy Analyst:

Assembly Bill 91 allows individuals to sink or bore a replacement well without submitting an application to change the place of diversion of water already appropriated, if both the original well and replacement well are on public lands and the replacement well is within 300 feet of the original place of diversion [[Exhibit E](#)].

An amendment was submitted by Assemblyman DeLong in reference to a letter submitted by the United States Forest Service providing a definition for public lands in compliance with federal law [[Exhibit F](#)].

Chair Cohen:

Are there any questions?

Assemblywoman Duran:

Can we walk through the amendment? I was a no at first, but I need to see if there are things that might change my mind.

Assemblyman DeLong:

The amendment will add a definition of "public land," which already exists in the *Nevada Revised Statutes*. We will likely just cross-reference that. Also, it adds language that says before you conduct activity on public land, you would contact the appropriate agency, either state, federal, or local.

Chair Cohen:

Are there any other questions? Committee, I will let you know I have not seen the letter and I am sorry for the oversight. I would have provided it sooner had I realized that we had received it from the U.S. Forest Service. If anyone needs to take a moment to read it, please do. I think it is a minor amendment that addresses putting into the bill the language that we already have in statute, and saying that you need to comply with federal law, which you already do need to comply with federal law. Unless we have any other questions, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 91.

ASSEMBLYMAN DELONG SECONDED THE MOTION.

Are there any comments on the motion?

Assemblywoman Bilbray-Axelrod:

There is a lot going on in this building. We have relationships with people, and I appreciate the sponsor of this bill, and I appreciate his coming around and talking and doing exactly what you should do on a bill. However, for me, this building also holds a lot of legacy. My father was a champion of public lands, in this building, when he served on this Committee as well as in the United States Congress. I know that he felt Nevada lands, in particular the public lands, were very special. While I cannot call him to ask, I just feel that if he were here, he would not be in agreement with this. I am going to be a no, but once again, I appreciate the sponsor for your work and thank you.

Chair Cohen:

Are there any other comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMAN BILBRAY-AXELROD VOTED NO.)

Assemblywoman Duran:

I would like to reserve my right to change my vote on the floor.

Chair Cohen:

You can always reserve your right. I will assign the floor statement to Assemblyman DeLong.

Assembly Bill 162: Revises provisions governing restricted-use pesticides containing certain chemicals. (BDR 51-97)

Becky Peratt, Committee Policy Analyst:

Assembly Bill 162 requires the director of the State Department of Agriculture to classify neonicotinoid pesticides as restricted-use pesticides, defines and lists neonicotinoid pesticides, and prohibits the use of neonicotinoid pesticides on state land [[Exhibit G](#)]. Additionally, Assembly Bill 162 exempts neonicotinoid pesticides from certain registration and examination fees.

Assemblywoman Gorelow proposed an amendment that removes these provisions and instead:

- Lists permissible uses of neonicotinoid pesticides;
- Prohibits the sale, delivery, or use of neonicotinoid pesticides on plants not grown for commercial agricultural purposes;
- Limits the permissible purchase of neonicotinoid pesticides for use on plants to those who possess a certificate of commercial agricultural use;
- Defines "commercial agricultural purposes" and "certificate of commercial agricultural use"; and
- Adds cosponsors to the bill.

Tray Abney, on behalf of the American Chemistry Council, submitted a friendly amendment that adds structural insulation to the list of permissible uses.

Chair Cohen:

Are there any questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 162.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED UNANIMOUSLY.

I will ask Assemblywoman Gorelow to take the floor statement and ask Assemblywoman La Rue Hatch to be back up.

Assembly Bill 313: Revises provisions relating to mining reclamation. (BDR 46-590)

Becky Peratt, Committee Policy Analyst:

Assembly Bill 313 revises various definitions and requirements related to mining exploration projects and operations and plans for reclamation [[Exhibit H](#)]. To clarify for the record, the bill provides an exception from reclamation requirements for open pits and rock faces which may not be feasible to reclaim only if no pit lake is anticipated to result and also provides criteria for other exceptions which must be shown by either clear and convincing evidence or preponderance of the evidence. Assembly Bill 313 also requires an operator of a mining operation to submit a revised plan for reclamation to the Division of Environmental Protection (NDEP) in certain circumstances. Additionally, A.B. 313 requires a person who submits an application for an exploration project or mining operation to assume responsibility for the reclamation of surface water or groundwater affected. Finally, A.B. 313 requires that annual mining operation or exploration project reports submitted to NDEP also include a map of disturbances to the water balance and to the quality and quantity of surface water and groundwater.

Assemblywoman Peters submitted an amendment that amongst other things:

- Removes language requiring existing permits be considered and other retroactive language;
- Revises the requirements that an operator must demonstrate when requesting an exception to the requirement that plans of reclamation provide for the backfilling of an open pit;
- Removes the provision that the Division of Environmental Protection may not consider the economics of the operator when determining whether to approve or deny exception applications;
- Adds a requirement for the Division of Minerals and the Division of Environmental Protection to prepare a report to be submitted to the Joint Interim Standing Committee on Natural Resources; and
- Requires the Department of Wildlife to submit recommendations regarding analysis of mine impacts to terrestrial and aquatic wildlife and their habitats.

Assemblywoman Peters also submitted a second amendment [[Exhibit I](#)] which has been uploaded to the Nevada Electronic Legislative Information System, and copies have been provided to members of the public and members of the Committee.

Chair Cohen:

Assemblywoman Peters, would you like to review the second amendment?

Assemblywoman Sarah Peters, Assembly District No. 24:

We took the base amendment that we brought for the bill hearing and took into account some of the comments and questions that were brought up from the Committee [[Exhibit I](#)]. The new amendment includes a revision to section 4, subsection 2(a), in which we removed the expectation for new permits issued by January 1, 2024, and replaced it with new applications submitted after January 1, 2025, giving the Division a little bit more time to get stuff going for those folks who would fall under this provision. We also removed the revision to section 12 which modified the 200-acre exception for pit lakes. In the original draft it had modified the 200 acres to 85 acres. The rest of the original amendment remains the same.

Chair Cohen:

Committee, this is not a chance to rehear or redo the hearing, but we can ask questions. Seeing no questions, I will take a motion to amend and do pass.

ASSEMBLYWOMAN DURAN MADE A MOTION TO AMEND AND DO
PASS ASSEMBLY BILL 313.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion?

Assemblywoman Anderson:

I want to thank the sponsor as well as all the other individuals from both sides whom I have had a chance to talk with over the last two days. The discussion has been robust. There are a large number of varying definitions that are being thrown around. I will be voting for this today. I continue to have concerns, and I have voiced those concerns to both sides. I look forward to possible solutions as this moves forward. I again want to thank both sides for the number of discussions that have taken place, a few of them over the last hour and a half, recognizing that there continue to be concerns and continues to be a very different point of view when it comes to the analysis of different scientific areas as well as definitions being used. Again, I want to thank everybody for that conversation. I am voting yes so the conversations can continue.

Assemblyman DeLong:

Given the testimony we had during the hearing, both from the opposition as well as the neutral testimony from the Division of Environmental Protection, regarding the uncertainty that this bill would bring to the regulatory process for permitting mines in Nevada, I find it quite ironic that we are doing this the day after a speech by our U.S. Senator Cortez Masto promoting Nevada as the best jurisdiction for mining.

Assemblywoman Brown-May:

I would like to echo some of the comments of my colleague. There has been a lot of really good work around this bill. I met with the bill sponsor. I met with the state divisions. I met with mining. I met with as many interested parties as I could. I agree that we have some additional work to do, and I am excited to be able to continue that effort alongside the bill's sponsor as we work on this.

I think it is important that we understand the intention of this bill is to solidify the long-term use of our native lands and the importance of reclamation as we move forward. Also, that we have a simultaneous responsibility to ensuring that a significant industry is treated fairly in their business operations and they are allowed to continue to do mining.

Following up from my colleagues' comments on the speech we heard last night, I think that there is a middle ground that we can reach, and that we can preserve our native lands. We can preserve our native culture here in the state while we are still working through these issues.

I am concerned about having the state divisions involved in determining economic practicality of our mining operations. I would like to work through that a little bit. I think there is some bifurcation in the *Nevada Revised Statutes* regarding oversight for water quality versus water quantity. I think we need some clarity around that. The Division of Minerals and the Division of Environmental Protection need to work closely together to prepare that report. I think we have some gray area that we can work through there.

I have discussed these issues with the bill sponsor. I have some questions about new mining projects as they relate to lands that have been previously mined and what the potential implications are for some of the groundwater contaminations there. I am a yes out of Committee today. I have promised the bill sponsor that I will continue to work with the active and interested parties relative to this bill to see if we can move it further along.

Assemblywoman La Rue Hatch:

I think we all want to talk about this bill. I want to thank the sponsor for the clear amount of work that has gone into this, and the fact that I think she is trying to acknowledge the concerns that people had. I appreciate this move towards preserving our water and relying on science, and I think there are some exciting things on the horizon for us as far as conservation and balancing our mining needs and everything else. I want to put on the record that I will be voting yes. I am excited for the conversations that will continue.

Chair Cohen:

I am reminded of a comment I made at the end of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System, which the bill sponsor chaired. I stated that it was so nice to have a chair who really understood the issue and really understood water. I know that she will bring that knowledge and passion to continue to work on this bill. I appreciate everyone's efforts on this bill, and I am hopeful we can get to a place where there can be some consensus because it is hard to

believe that we cannot come to a place where there is at least something in the bill we can all agree to. With that, we will vote.

THE MOTION PASSED. (ASSEMBLYMEN DELONG, GURR, HANSEN,
AND YUREK VOTED NO.)

I will ask Assemblywoman Peters to read the floor statement and ask Assemblywoman La Rue Hatch as back up.

Assembly Bill 387: Revises provisions relating to water. (BDR 48-338)

Becky Peratt, Committee Policy Analyst:

Assembly Bill 387 requires, rather than encourages, the State Engineer to use the best available science in rendering decisions concerning surface and underground sources of water in the state; and revises the definition of a basin or groundwater basin [[Exhibit J](#)].

The bill requires the State Engineer to consider for purposes of determining whether unappropriated water is available and deny an application to appropriate water for beneficial use if the proposed use or change conflicts with existing rights, including the existing rights of permit holders, claimants of vested rights, or the existing rights associated with any hydrologically connected surface or groundwater.

Finally, the bill adds language that any appropriation of underground waters in the state is subject to all existing rights to the use thereof, regardless of:

- Where the respective points of diversion are located; and
- Whether the respective points of diversion are located in separate basins, if the State Engineer finds a sufficient hydrologic connection exists.

Assemblyman Watts submitted an amendment that, amongst other things:

- Provides a definition for "best available science" and removes the revised definition of a basin or groundwater basin;
- Requires the State Engineer to deny applications to appropriate water for beneficial use if, and to determine the availability of unappropriated groundwater based on whether, the proposed use or change conflicts with existing rights, including an existing right that stems from any hydrologically connected surface water or groundwater;
- Revises language relating to appropriation of underground waters to provide that any appropriation or use of underground waters is subject to all existing rights to the use of the source thereof if the State Engineer finds a hydrologic connection sufficient to cause a conflict with existing rights; and

- Requires, instead of empowers, the State Engineer to make certain rules and regulations.

Chair Cohen:

Are there any questions?

Assemblyman DeLong:

I wish to seek clarification in order to firmly establish the legislative intent. I want to make certain that the language does not constitute authority for the State Engineer to create a super basin and jointly manage multiple groundwater basins. I want to ensure that what we are talking about with this language is limited to the management of a source that has groundwater connection and is sufficient to cause a conflict with existing rights. Other water rights within a basin which do not demonstrate to have a hydrologic connection sufficient to cause conflict with existing rights will not be included in management activities related to this issue. Is that correct?

Assemblyman Watts:

I will say, at its core, the removal of the language relating to the definition of groundwater basins, which was in the original draft of the bill but was actually not something that I sought out, was to make sure that we really do home this in and that this is not about managing multiple basins together. I really focused on the core issue at hand, which is managing conflicts. There is already some existing law that acknowledges the State Engineer's ability to manage an existing water right that lies within a basin that is managed jointly with one or more basins. That is in *Nevada Revised Statutes* 360.992. This is not touching that or pulling that into the subject matter that we are working on here, which is really to clarify the law. I have had some extensive conversations, and since there is no effective date printed, it would be October 1, 2023. This is something that is meant to be applied going forward and I hope that it provides clarity that helps the State Engineer, and all stakeholders, navigate potential conflicts moving forward in the best way possible. Its purpose is not to intervene or alter the outcome of any existing litigation.

Chair Cohen:

Are there any other questions? Seeing none, I will take a motion to amend and do pass.

ASSEMBLYWOMAN ANDERSON MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 387.

ASSEMBLYWOMAN LA RUE HATCH SECONDED THE MOTION.

Are there any comments on the motion?

Assemblywoman Bilbray-Axelrod:

Unfortunately, I was sick on the day we heard this bill. It just occurred to me that I had not gone back to see it. I am going to vote to move this, but I will go back and watch the hearing and will continue to talk with the sponsor.

Chair Cohen:

We appreciate Assemblyman Watts' efforts. I do not know if he has ever worked as hard on any other bill before.

Assemblyman Watts:

I appreciate that. I have put in a significant amount of time on this. I also want to thank all the other stakeholders who have been engaged in this. We wanted to make sure that this was an open and transparent process, and anyone who is interested in working towards the common objective of clarifying our water law is included. There might still be some additional tweaks along the way. It has been very heartening and impressive to see the diverse folks who have come together from urban areas, rural areas, and different sectors of the economy all working to try and reach consensus. In water law, that is never an easy thing. I just want to commend all those and also extend the offer to anyone who is interested in working toward that shared objective; they are welcome to those conversations.

Chair Cohen:

Seeing no other comments, we will vote.

THE MOTION PASSED. (ASSEMBLYMEN DELONG, GURR, HANSEN,
AND YUREK VOTED NO.)

I will ask Assemblyman Watts to take the floor statement. With that, we are done with our work session, and I will move on to public comment. Is there anyone in Carson City, Las Vegas, or Elko who would like to provide public comment? Seeing no one, is there anyone on the phone? Hearing no one, I will close the public comment. With that we are adjourned [at 4:40 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 [Assembly Bill 34](#), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 86](#), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 91](#), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is a letter dated April 7, 2023, signed by Kathryn Conant, Lands and Minerals Director, Forest Service, U.S. Department of Agriculture, with a suggested amendment to [Assembly Bill 91](#).

[Exhibit G](#) is the Work Session Document for [Assembly Bill 162](#), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 313](#), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is a proposed conceptual amendment to [Assembly Bill 313](#), dated April 11, 2023, submitted by Assemblywoman Sarah Peters, Assembly District No. 24.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 387](#), submitted and presented by Becky Peratt, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.