

DRAFT MINUTES
NEVADA BOARD OF WILDLIFE COMMISSIONERS
LEGISLATIVE COMMITTEE

TUESDAY, APRIL 13, 2021 AT 5:30 PM via ZOOM

Call To Order and Roll Call

The Meeting was called to order at 5:32pm

Committee members present: Chairwoman East, Commissioner McNinch, Commissioner Pierini, and Member Smith. Commissioner Rogers was absent.

Department Staff present: Management Analyst Kailey Taylor, Director Tony Wasley, Deputy Director Jack Robb, Deputy Director Bonnie Long, Chief Game Warden Michael Maynard, Habitat Division Administrator Alan Jenne, and Game Warden Captain Jake Kreamer.

Public in attendance: Jana Wright, Tina Nappe, and Judi Caron

Approval of Agenda

There were no questions on the agenda. There was no public comment.

COMMISSIONER MCNINCH MOVED TO APPROVE THE AGENDA. COMMISSIONER PIERINI SECONDED THE MOTION. THE MOTION PASSED 3-0. COMMISSIONER ROGERS AND MEMBER SMITH WERE ABSENT.

Approval of Minutes

There were no questions on the minutes. There was no public comment.

CHAIRWOMAN EAST MOVED TO APPROVE THE AGENDA. COMMISSIONER MCNINCH SECONDED THE MOTION. THE MOTION PASSED 3-0. COMMISSIONER ROGERS AND MEMBER SMITH WERE ABSENT.

Review of Bill/Bill Draft Request (BDR) Tracking List

Chairwoman East noted that it was an interesting, busy week. Management Analyst Kailey Taylor explained that she updated everyone's tracking sheet to reflect the changes from deadline week. Only four bills from the Committee Tracking Sheet did not meet the deadline. Those bills include: AB 117, SB 180, AB 433, and AB 234.

Assembly Bill 84 - Revises provisions relating to wildfires.

Management Analyst Kailey Taylor reminded the Committee that they have previously discussed the bill but that they chose not to take a position during the last meeting because they had concerns on how this would affect the Department's work. Habitat Division Administrator previously told Ms. Taylor that the Department's work should not be affected.

Chairwoman East noted that the bill was more naked than most fire bills and does not give a lot of parameters outside allowing for work with other entities. She asked Habitat Division Administrator Alan Jenne if that was correct.

Habitat Division Administrator Alan Jenne reminded her that during the last legislative session, Nevada Division of Forestry was provided funding to work towards fire-adapted communities and resilience. I see this as a way to give them more opportunities to work with other partners.

Chairwoman East was disappointed the other bills did not make it through the deadline.

Commissioner Pierini thinks it is positive to be able to work as quickly and with as many different groups as possible. He likes the bill and would like it to move forward.

Commissioner McNinch asked if there was any concern we would end up in a situation where folks who are not thinking about wildlife perspectives are making decisions. He referenced greenstrips as an example and noted that not all fires are bad either.

Habitat Division Administrator Alan Jenne thinks that they are going after the wildland interface where most fires start. He believes this is more about working through the process to create resiliency in communities.

Commissioner Pierini added that this bill is important to start managing these fires earlier and that he believes the public will be very supportive as well.

Public Comment: None

CHAIRWOMAN EAST MOVED TO SUPPORT AB 84. COMMISSIONER PIERINI SECONDED THE MOTION. THE MOTION WAS APPROVED 4-0. COMMISSIONER ROGERS WAS ABSENT.

Assembly Bill 211 – Establishes provisions relating to a plan to address impacts to wildlife.

Management Analyst Kailey Taylor explained that AB 211 was amended at the work session. The amendment moves the provision requiring NDOW's comment on bills into an existing Nevada Revised Statute, NRS 278.335, which would require NDOW to respond on plans within 15 days and they removed the provision for cost recovery.

Chairwoman East wanted to confirm that the timeframe was reduced from 30 days to 15 days. Miss Taylor confirmed that was correct because NRS 278.335 has the 15-day comment period.

Commissioner McNinch asked Habitat Division Administrator Alan Jenne what his thoughts were on the bill now that it was amended. He was disappointed because commenting on these developments is an extremely important opportunity. Mr. Jenne responded that he was really hoping to keep that 30-day window for commenting in the bill because currently the Department reviews over 600 federal projects relative to NEPA compliance. This regulation would require every county and subdivision plan to come to the Department and we do not quite know what the workload will look like. Without the fee structure to support those comments, it will be on the sportsmen and federal grants to pay for this activity. Many industry partners, such as Nevada Mining Association, all submit a fee for our review of their projects. The Department will need to add a fiscal note for one position on the amended version of the bill now that the comment period was narrowed down to 15 days. Currently, we only have one position that is full time review and rely on portions of other position's time.

Member Greg Smith asked if the Department should ask for more than one position, but Division Administrator Jenne explained that they chose one position, not knowing how big of a workload this bill would create. Clark County has a Multi-Species Habitat Conservation Plan so they would be exempt from this bill.

Chairwoman East said she would be inclined to oppose the amended version and Commissioner McNinch agreed. He suggested a platform that would support the original version of the bill because we do not get many opportunities like this, even though the time frame and fee structure are really crucial to the Department.

Management Analyst Taylor added that platforms are not a bad idea at this point in time during session due to the fast pace and virtual platform.

There was more discussion on specific counties and what plans they may or may not have in place. Discussion on the commenting timeline was also considered further.

COMMISSIONER MCNINCH MOVED TO OPPOSE AS AMENDED BUT CONTINUE THE PLATFORM OF SUPPORTING IT WITH A 30-DAY WINDOW AND FEE STRUCTURE. SECONDED BY MEMBER SMITH. APPROVED 4-0. COMMISSIONER ROGERS WAS ABSENT.

Senate Joint Resolution 3 – Urges Congress to provide funding to reduce the wild horse and burro populations to appropriate management levels.

Management Analyst Kailey Taylor explained that the Committee has previously voted to support SJR 3 and sent a letter supporting the resolution as well. However, SJR 3 was amended at the work session. The amendment was submitted by the American Wild Horse Campaign and strikes language mentioning BLM's 2020 report to congress and asks for humane and science-based management and to prioritize humane fertility control as recognized by the National Academy of Sciences. This was a last-minute change and has become very controversial.

Chairwoman East explained the Coalition for Nevada's Healthy Lands was very surprised and disappointed and did not feel as though they could support the amended version.

Commissioner McNinch would like to maintain the original position on the original bill because there were multiple organizations trying to come together to work on a version that worked for everyone. It is time to find a way forward and trying to work through differences, he appreciates the work they have done and loves seeing horses out in the wild, but people need a reality check. The reality is that there are thousands of horses above what appropriate management level (AML) is at.

Member Smith explained that he does not have a problem with the language that was added but that he has a major problem with the language that was struck.

Chairwoman East added that she was told you need to truly understand the Study referenced in the bill because without that, it takes the teeth out of this bill.

Public Comment:

Tina Nappe, thanked the Wildlife Commission for supporting SJR 3 in its original format. She explained they were very optimistic when we started this, and the resolution seemed like common sense. She said we have to give the American Wild Horse group for reaching into the legislature and turning around the Senate Natural Resources Committee very quickly. In the last part of the resolution, urged removal of excess horses now says using only fertility control. If fertility control is the primary method, it will actually increase the population in Nevada. We can no longer support the resolution and we no longer feel as though it would be effective, nor does it meet the need of Nevada's wild horses. We urge you to reject the amendment and make it known.

Chairwoman East suggested another platform supporting the resolution in its original format.

Commissioner McNinch reminded the Committee about the Forum held at the Nevada Museum of Art and explained that there is a lot of interest in what the Coalition for Healthy Lands originally proposed but that he feels a little hijacked on this resolution because years of effort were put into a resolution in the name of collaboration. Having that taken a different direction at last minute is disappointing.

Habitat Division Administrator Alan Jenne said we are about 52,000 wild horses and burros, 12,000 over AML. When you think about these populations doubling every four years, it will have a major impact on all of Nevada's other wildlife species.

Nationwide AML is 26,770 and total population nationwide is 95,114. In Nevada, AML is at 12,811 and the current population of wild horses and burros is 51,528. The horse population is at 46,974 and burro population is at 4,554.

COMMISSIONER MCNINCH MOVED TO OPPOSE SJR 3 AS AMENDED. CHAIRWOMAN EAST SECONDED THE MOTION. APPROVED 4-0. COMMISSIONER ROGERS WAS ABSENT.

Assembly Bill 299 – Makes various changes relating to wildlife.

Management Analyst Kailey Taylor explained that this bill was brought back to the committee because it was amended. The Committee had not taken a position on the bill, but the Commission voted to oppose it. The Department worked on a friendly amendment with the Nevada Conservation League after meeting with Assemblywomen Bilbray-Axelrod and Titus. The amendment makes it so that a salvage permit may only be given by an officer responding to the scene. She reminded Commissioner McNinch that the bill provides that meat is taken at the drivers own risk. Other changes in the amendment were small changes such as adding requirements to the permit.

Public Comment: None

Commissioner McNinch did note that major concerns were addressed but the Department will still have responsibilities. The other aspect is that liability provisions done mean much when someone actually gets sick. He said he would be willing to move past his personal perspective but that not everyone takes responsibility for their actions. He also noted his frustrations with how the bill was brought forward initially.

Management Analyst Taylor added that she forgot to provide the NDOW amendment which lowered the speed limit provision and made it unlawful to partake in at night.

Commissioner Pierini asked Commissioner McNinch to expand more on his frustrations.

Commissioner McNinch explained that he felt the agency did not get a fair shake in this process and it may be chalked up to the length of the committee hearing but that it did not play out fairly. He appreciates the person who came up with the bills and their want to address something important to them but the fact that it was done without consultation by the Department and the way the bill is moving through the legislature does not feel good.

Chairwoman East asked if NBU has taken a position on the bill.

Member Smith said it was discussed but no position was taken. He feels that NDOT was able to cover themselves and that he does not have a major problem with the bill.

Chairwoman East mentioned the highway near Walker Lake and the number of sheep killed on that road. She also noted that there is not good place to pull off the side of the road and salvage any of those sheep.

Commissioner McNinch said he is not quite as opposed to the bill as he originally was being that the amendment takes a larger load off NDOW but that he is still processing where he stands and invited Chief Warden Maynard for his opinion.

Chief Game Warden Michael Maynard explained that he will respect the Commission's decision either way because there are pros and cons regardless of the format of the bill. There is a concern on the workload level and the public health aspect.

Commissioner McNinch asked if the agency would need to commit to any additional workload should the bill pass.

Chief Maynard explained that there will be additional work but that it would be dependent on where calls come from. What other agencies are involved, and what training those other agencies need. He also felt as though it isn't correct to assume Nevada is like the other western states when it comes to salvaging because we have a much smaller agency and a very limited number of wardens.

Further discussion between Commissioners McNinch and Pierini and Chief Maynard ensued regarding investigating these cases and the opportunity for poaching. The Committee also discussed the shape animals are in after being hit by vehicles.

MEMBER SMITH MOVED TO SUPPORT AB 299 AS AMENDED. There was no second so the motion failed.

Chairwoman East suggested bringing the discussion to the full Commission.

Commissioner McNinch appreciates the effort on the amendment and that some concerns were addressed. He does not want to say he is totally opposed but he is also not quite there to support it.

Chairwoman East decided to take no action and bring the bill to the full Commission.

Senate Bill 78 – Revises the membership of the Board of Wildlife Commissioners. Management Analyst Kailey Taylor explained that this was another bill amended at the work session. The amendment removes sections 1 and 2 of the bill which added additional members to the makeup of the Wildlife Commission. It also requires one of the five members holding a hunting and fishing license to be a licensed master guide. The amendment provides that a Commissioner would serve a term of 3 years and that a member can serve for a total of 4 terms. Lastly it provides that a member shall continue to serve on the board until he or she is reappointed by the Governor or until a qualified person has been appointed by the Governor as a successor, whichever applies. Ms. Taylor did clarify that section 4 of the amended language does confirm that each members' terms would expire on June 30, 2022 but that those commissioners are free to apply for re-appointment.

Chairwoman East added that it was a very disappointing meeting and that she still does not like the bill.

Commissioner Pierini was extremely disappointed in Section 4.

Commissioner McNinch explained that there are many people wondering how SB 78 could benefit them. There is already concern with the representation of the Commission and that he has defended the current make-up for years. Many people don't feel as though their interests are represented on the Commission but that he believes the current system does work. He struggles with what the end goal for this bill is.

Member Smith was more concerned that they are changing a sportsmen position to a guide position. To him, sportsmen are what makes wildlife conservation possible using sportsmen dollars, volunteer hours from sportsmen and sportsmen support. He does not support the amendment in any way.

Public Comment: None

Deputy Director Robb wanted to add that there were 170,000 hunting license holders and over 160,000 licensed fishermen. There were 102 master guides and 175 subguides. The representation does not seem to add up when you look at the numbers.

CHAIRWOMAN EAST MOVED TO OPPOSE SB 78 AS AMENDED. MEMBER SMITH SECONDED. THE MOTION WAS APPROVED 4-0. COMMISSIONER ROGERS WAS ABSENT.

Senate Bill 406 – Revises provisions relating to wildlife.

Management Analyst Kailey Taylor explained that SB 406 was the Department's bill. As originally submitted, the bill did three things: added provisions for an electronic tag, removed the requirement that seniors needed to live in Nevada for 5 years before purchasing a senior resident license, and add an exemption to NRS 353.335 for donations to the Wildlife Trust Fund. At the work session, the Senate Natural Resources Committee amended the bill to remove the Wildlife Trust Fund provisions and it did pass as amended. The Wildlife Trust Fund provisions were very important to the Department because we rely on these donations to get work done. Ms. Taylor reminded the Committee of the most recent water haul event in southern Nevada in which the Department heavily relied on donations to the Wildlife Trust Fund. Should those sections not make it back into the bill, the Department would need to rely on Interim Finance Committee (IFC) approval to accept and expend donations.

Chairwoman East noted that she testified in the neutral with background information only because the Committee and Commission had not yet had a chance to vote on a position.

Director Wasley clarified that only donations in excess of \$20,000 would require IFC approval. We were looking for an exemption so that we can maintain the flexibility to respond to emergency scenarios in a timely manner.

Habitat Division Administrator Alan Jenne reminded the committee that the Wildlife Trust Fund has historically been used to address emergencies, typically wildfires. He explained that our greatest success is treating black after wildfires and getting seed on black to take advantage of a blank canvas and allow our seed to grow and take off before it is in competition with other seed such as cheatgrass. In 2018, 1,050,000 acres burn in the Martin Fire and after that fire the federal government shut down for 35 days. Typically, we work with the Bureau of Land Management and the Forest Service to restore those lands. When the Federal Government shut down, it left NDOW and conservation partners to try to bolster and maintain restoration efforts. That year we brought together nearly \$480,000 in donations to carry out the measures we had planned for wildfire restoration. We had to react very quickly, and the Wildlife Trust Fund was a big piece of that solution. It could take up to a few months before receiving IFC approval. This last year we saw record-setting drought and southern Nevada went over 220 days without water. This led to a situation where guzzlers were going dry. We had to take

immediate action and again, conservation partners stepped up to contribute funds allowing the Department to hire contract water trailers and semis to haul water to these remote locations so that we could offload and haul it to guzzlers using helicopters. We also had to buy additional equipment. The State process is not nimble enough for us to get that done in emergency situations. The problem is that people often ask if we can plan for those. We can plan for a certain amount, but you will never know the scope and severity of natural emergencies. This is not about trying to circumvent the process but to maintain our ability to react and work with conservation partners to address emergency concerns for wildlife.

Chairwoman East thanked Mr. Jenne.

Commissioner McNinch asked what drove the change at the work session. He asked if Finance people at the Legislature amended it or if someone is trying to limit the agency.

Director Wasley explained that we have had a number of legislators express concern that the Department needs more oversight. The perception is that we have this discretionary account, the Legislature believes their role is to provide that oversight, and they believe there are processes and abilities to respond to those situations and we have been unsuccessful this far in obtaining an understanding of those emergency issues. We continue to have discussions and we don't know if we will be able to add language back that provides that flexibility. Clearly the oversight is far greater than what some legislators believe it is. One legislator specifically asked why the Department is in a hurry to avoid oversight. He explained that he responded the bill is not about avoiding oversight, it is about the ability to be nimble and government is just not built that way. We are struggling to achieve that understanding but the more voices that express that need, the more successful we will be.

Commissioner Pierini thanked Director Wasley for explaining our position during the hearing and explained that he was tempted to comment himself on the need for this during the committee meeting.

Commissioner McNinch asked Director Wasley the name of the award the Department recently received. Director Wasley thanked Commissioner McNinch and went on to explain that the Department recently received the Cashman Good Governance Award from the Nevada Taxpayer's Association in the state government category. Chairwoman East shared some statistics on the oversight of the agency, namely 27 audits going back to 2006, and 24 audits since 2013 alone. The notion that NDOW lacks oversight is inaccurate and the absence of any significant findings is indicative of sound business practices.

Commissioner McNinch reiterated that all of that is reflected in the award received by an outside entity. The Department has showed that they are committed to improving their systems.

Deputy Director Jack Robb added that this started before the legislative session. There were multiple groups between the Governor's Finance Office, the Legislative Counsel Bureau and others who reviewed multiple agencies' spending through multiple accounts. At this time, the Wildlife Trust Fund was questioned which required us to procure IFC approval. We have been using this account as it was intended since the beginning, but the use of that account has recently been put into question which is why the Department attempted to put the exemption into statute with this bill.

Public Comment: None.

CHAIRWOMAN EAST MOVED TO OPPOSE THE BILL AS AMENDED BUT TO MAINTAIN A PLATFORM OF SUPPORTING ETAGS AND SENIOR LICENSING. COMMISSIONER

MCNINCH ASKED TO AMEND THE MOTION TO SAY THAT THE COMMITTEE HAS A PLATFORM OF SUPPORTING THE ETAGS AND SENIOR LICENSE PROVISIONS BUT WOULD SUPPORT THE BILL IF THE WILDLIFE TRUST FUND PORTIONS WERE ADDED BACK IN. CHAIRWOMAN EAST APPROVED THE AMENDMENT. COMMISSIONER MCNINCH SECONDED THE MOTION. MOTION CARRIES 4-0. COMMISSIONER ROGERS WAS ABSENT.

Assembly Bill 202 – Revises provisions relating to charitable lotteries and charitable games.

Management Analyst Kailey Taylor explained that AB 202 was brought forward because its three companion charitable lottery bills (AB 234, AB 285 and AB 293) did not make it past the first committee deadline. Assembly Bill 202 provides that the charitable organization would still need to register annually with the Gaming Control Board. If the total value of prizes is less than \$100,000, the Gaming Commission could not impose an annual fee of more than \$10. This is different than the other bills in that the organizations are not just exempt from the Gaming Control regulations, but it does make the registration fee more affordable for smaller organizations.

Chairwoman East wondered how this bill would affect small chukar clubs and other organizations. She didn't believe that the registration fee itself was the problem, but that having to register is a burden in itself.

Commissioner Pierini explained that when the original bill and subsequent regulations came out last session, he went to the Gaming Control Board and asked why this burden was put on small organizations. He was told that GCB was concerned about youth gambling and that some of these events "promote" gambling after purchasing raffle tickets and winning. He was also told there were too many people raising too much money and some needed to be redirected to the state.

Member Smith said that Nevada Bighorns Unlimited has never held a lottery because it would move the organization into a gaming category. So everything NBU does falls outside of these regulations.

Chairwoman East asked if these organizations allow youth under 21 to buy these tickets?

Commissioner Pierini never heard that they would need to be 21 to participate in these games.

Commissioner McNinch asked Member Smith if this bill was put forward to take a swing at organizations like NBU and it is just missing those organizations?

Member Smith responded that NBU believes they are still safe and try to avoid being subject to gaming regulations.

Management Analyst Taylor added that after the last legislative session, she attended Gaming Control Board meetings as they drafted regulations. She gathered that the initial intent seemed to go after major sporting events and games but that somehow smaller organizations were subject to the bill even though it wasn't originally intended.

Public Comment:

Judi Caron, explained that she attempted to listen to the hearings on these gaming bills and that Assemblyman Wheeler explained those bills were drafted to help the small bingos and ladies luncheons that want to raise money. They were trying to put in an exemption that had been eliminated from the 2019 bill. To raise money through a raffle sale, they were wanting an

exemption reinstated to sell raffle tickets to people who would not be in attendance at the event. She explained she is still supportive of AB 202.

Commissioner McNinch asked if the Committee needed to take a position on this bill at this time.

Chairwoman East responded that she didn't know if it was necessary at this time but wanted to have the discussion to watch out for small conservation organization partners.

The Committee did not take a position on the bill at this time.

Future Committee Meetings

The Committee has a meeting scheduled for April 30th at 9am.

Public Comment Period

There was no public comment. The Meeting adjourned at 7:33pm