

CORRECTED MINUTES OF THE
SENATE NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT
STANDING COMMITTEE
Friday, February 2, 2007
Utah State Capitol Complex, West Office Building, Suite W015

Sen. Peterson assumed the chair.

Members Present: Sen. Darin Peterson, Chair
Sen. Allen Christensen
Sen. Gene Davis
Sen. Margaret Dayton
Sen. Fred Fife
Sen. Dennis Stowell
Sen. Michael Waddoups

Staff Present: J Brian Allred, Policy Analyst
Stewart Smith, Policy Analyst
Emily Brown , Associate General Counsel
Saundra Maeser, Secretary

Public Speakers Present: Fred Finlinson, Attorney, Water Coalition
John Kennington, Manager, Division of Water Quality
Todd Bingham, Vice President, Utah Farm Bureau
Paul Fulgham, Rural Water Association of Utah
Tom Bingham, President, Utah Manufacturers Association
Jerry Kinghorn, Attorney
Rhonda Kampur, citizen
JoAnn Seghim, Mayor, Midvale City
Russ Mead, General Counsel, Best Friends Animal Society
Gene Baierschmidt, Director, Humane Society of Utah
Gregory Castle, President, No More Homeless Pets
Larayn Clegg, Director, Helpushelpthem.org
Cheryl Smith, Executive Director, Wasatch Humane Society
Richelle Gruber, Community Relations, Salt Lake County Animal Services
Rep. Scott Wyatt
Dennis Blackburn, Aquaculturist, Pine Creek Trout
Randy Parker, CEO, Utah Farm Bureau
Jim Karpowitz, Director, Utah Division of Wildlife Resources
Thomas Baldwin, PhD, Utah State University
Leonard Blackham, Commissioner, Utah Dept. of Agriculture and Food
Timothy Hawkes, Trout Unlimited
Bonnie Kilgannon, APRN

A list of visitors and a copy of handouts are filed with the committee minutes.

Committee Chair Peterson called the meeting to order at 8:12 a.m.

1. Approval of Minutes

MOTION: Sen. Christensen moved to approve the minutes of January 26 and January 30, 2007.

The motion passed unanimously with Sen. Davis and Sen. Dayton absent at the time of voting.

2. S.B. 95 Permanent Instream Flow to Preserve Water Quality (Sen. M. Dmitrich)

Sen. Mike Dmitrich introduced the bill. Fred Finlinson, Attorney, Water Coalition, assisted in the presentation.

MOTION: Sen. Fife moved to adopt the following amendment:

1. Page 7, Lines 212 through 213

212 (b) ~~[A]~~ Except as provided by Section 73-3-30, ~~[[the state engineer may not authorize]]~~ a

213 change ~~[[+]]~~ **may not be made** ~~[[+]]~~ if it impairs ~~[any]~~ a vested water right without just compensation.

2. Page 17, Lines 516 through 522

516 (3) (a) A municipality, as defined in Subsection 10-1-104(5), a special district, as
517 defined in Subsection 17A-1-404(19)(c), (d), (g), or (l), or an interlocal entity as defined by
518 Section 11-13-103 may file a permanent or temporary change application ~~[[on a~~
519 perfected water

right]], as provided by Section 73-3-3, for the purpose of providing water for an
instream flow,

520 within a specified section of a natural or altered stream channel, reasonably necessary to:

521 (i) preserve water quantity or quality; or

522 (ii) comply with a state water quality standard.

(b) An applicant may only file a change application authorized by this Subsection (3) on a perfected water right:

(i) owned by the applicant as of May 1, 2007; or

(ii) acquired by the applicant through lease, agreement, gift, exchange, or contribution.

3. Page 17, Line 523

523 ~~[[b-]]~~ **(c)** (i) An applicant must receive certification by the Water Quality Board's executive

4. Page 18, Lines 525 through 527

525 (ii) The Water Quality Board's executive secretary shall issue an order certifying the

526 proposed change if the executive secretary finds that ;
(A) the applicant is discharging effluent into the stream section;
(B) an instream flow is critical to comply with
527 a state water quality standard ; and
(C) the Division of Water Quality has identified the stream section as impaired
for a specified beneficial use in a report required by 40 C.F.R. Sec. 130.7.

5. Page 18, Line 530

530 (d) A change of a water right to an instream flow is limited to the
consumptive portion

6. Page 19, Lines 576 through 579

576 (b) Each person using water as an instream flow:
577 (i) shall install and maintain a measuring device or stream gauging station in the
578 section of the stream within which the instream flow is maintained; and
579 (ii) is not required to install controlling works unless the state engineer's order
approving the application requires the installation because controlling works are
necessary to achieve the purpose of the application .

The motion passed unanimously with Sen. Davis and Sen. Dayton absent at the time of voting.

John Kennington, Manager, Division of Water Quality, and Paul Fulgham, Rural Water Association of Utah, spoke in support of the bill.

Todd Bingham, Vice President, Utah Farm Bureau, and Tom Bingham, President, Utah Manufacturers Association, spoke in opposition to the bill.

Jerry Kinghorn, attorney, assisted Sen. Dmitrich in answering questions from the committee.

MOTION: Sen. Davis moved to pass S.B. 95, Permanent Instream Flow to Preserve Water Quality, out favorably as amended.

The motion failed, with Sen. Davis and Sen. Fife voting in support and Sen. Peterson, Sen. Christensen, Sen. Dayton, Sen. Stowell and Sen. Waddoups voting in opposition.

3. **S.B. 190 Animal Cruelty Offenses (Sen. G. Davis)**

Sen. Davis introduced the bill.

Sen. Waddoups moved to adopt the following amendment:

1. Page 1, Line 21

21 ▶ provides that torturing an animal is a third degree felony and provides a
definition of torture ;

2. Page 2, Lines 52 through 55

52 (A) animals kept or owned for agricultural purposes and cared for in accordance with
53 accepted local husbandry practices;

54 (B) animals used for rodeo purposes and cared for in accordance with accepted
local
55 husbandry practices;

3. Page 3, Lines 62 through 63

62 (E) animals kept or owned for the purpose of training hunting
[[~~dog~~]] dogs or [[~~falcon~~]] falcons [[~~training~~]] and cared
63 for in accordance with accepted local husbandry practices.

4. Page 3, Line 74

74 conditions.

(f) "Torture" means a person:

(i) intentionally or knowingly inflicts on another or subjects another to extreme
physical pain or serious bodily injury as defined in Section 76-1-601; and

(ii) acts under circumstances evidencing extreme cruelty or depravity.

The motion passed unanimously.

Rhonda Kampur with her dog, Henry; JoAnn Seghim, Mayor, Midvale City; Russ Mead, General Counsel, Best Friends Animal Society; Gene Baierschmidt, Director, Humane Society of Utah, Gregory Castle, President, No More Homeless Pets; Lorraine Clegg, Director, Helpushelpthem.org; Cheryl Smith, Executive Director, Wasatch Humane Society; Richelle Gruber, Salt Lake County Animal Services; and Rep. Scott Wyatt, spoke in support of the bill.

Todd Bingham, Vice President, Utah Farm Bureau, spoke to the bill.

MOTION: Sen. Dayton moved to go to the next item on the agenda.

The motion failed with Sen. Christensen, Sen. Dayton and Sen. Stowell voting in support and Sen. Peterson, Sen. Davis, Sen. Fife and Sen. Waddoups voting in opposition.

MOTION: Sen. Fife moved to pass S.B. 190, Animal Cruelty Offenses, out favorably as amended.

The motion passed with Sen. Peterson, Sen. Davis, Sen. Fife and Sen. Waddoups voting in support and Sen. Christensen, Sen. Dayton and Sen. Stowell voting in opposition.

Sen. Waddoups assumed the committee chair.

4. S.B. 195 Fish Health Amendments (Sen. D. Peterson)

Sen. Peterson introduced the bill. Dennis Blackburn, private trout raiser, Pine Creek Trout, and Randy Parker, CEO, Utah Farm Bureau, assisted in the presentation. Handouts were distributed.

MOTION: Sen. Peterson moved to replace S.B. 195 with 1st Substitute S.B. 195. The motion passed unanimously with Sen. Davis and Sen. Stowell absent at the time of voting.

Jim Karpowitz, Director, Utah Division of Wildlife Resources, spoke in support of the bill.

Sen. Dayton assumed the chair.

Thomas Baldwin, PhD, Utah State University, spoke to the bill.

Leonard Blackham, Commissioner, Utah Dept. of Agriculture and Food, and Timothy Hawkes, Trout Unlimited spoke in opposition to the bill.

MOTION: Sen. Davis moved to pass 1st Sub. S.B. 195, Fish Health Amendments, out favorably.

The motion passed unanimously with Sen. Waddoups absent at the time of voting.

Sen. Peterson assumed the chair.

5. S.B. 192 Service Animals (Sen. S. McCoy)

Sen. Scott McCoy introduced the bill. Bonnie Kilgannon, APRN, assisted in the presentation.

MOTION: Sen. Fife moved to adopt the following amendment:

1. Page 6, Lines 154 through 158:

- 154 (1) (a) A person with a disability has the right to be accompanied by a ~~[guide or]~~
155 service animal~~[-as defined by]~~ ~~[[+]]~~ **,unless the service animal is a danger**
or nuisance to others as interpreted under the Americans with
156 **Disabilities Act of 1990, 42 U.S.C. 12102** ~~[[+]]~~ ~~[[+]]~~
~~156 specially trained for that purpose,];~~
157 (i) in any of the places specified in Section ~~[26-30-1]~~ 62A-5b-103; and

158 (ii) without additional charge for the [~~guide or~~] service animal.
The motion passed unanimously with Sen. Waddoups absent at the time of voting.

MOTION: Sen. Dayton moved to pass S.B. 192, Service Animals, out favorably as amended.

The motion passed unanimously with Sen. Christensen and Sen. Waddoups absent at the time of voting.

MOTION: Sen. Davis moved to adjourn.

The motion passed unanimously with Sen. Christensen and Sen. Waddoups absent at the time of voting.

Chair Peterson adjourned the meeting at 9:47 a.m.

Minutes reported by Sandra Maeser, Secretary

Darin G. Peterson, Committee Chair