

**MINUTES OF THE HOUSE  
NATURAL RESOURCES, AGRICULTURE, & ENVIRONMENT  
STANDING COMMITTEE**

Room W125, West Office Building, State Capitol Complex  
February 12, 2007

**Members Present:** Rep. Roger E. Barrus, Chair  
Rep. Kerry Gibson, Vice Chair  
Rep. Sylvia Andersen  
Rep. Mel Brown  
Rep. Glenn Donnelson  
Rep. Jack Draxler  
Rep. Carl Duckworth  
Rep. James Gowans  
Rep. Neal Hendrickson  
Rep. John Mathis  
Rep. Mike Noel  
Rep. Patrick Painter  
Rep. Phil Riesen  
Rep. Steve Sandstrom  
Rep. Richard Wheeler

**Staff Present:** Brian Allred, Policy Analyst  
Carrie Griffith, Committee Secretary

Note: List of visitors and a copy of handouts are filed with committee minutes

Rep. Gibson called the meeting to order at 4:06 p.m.

**MOTION:** Rep. Gowans moved to approve the minutes of the February 9, 2007 meeting. The motion passed unanimously with Rep. Draxler, Rep. Hendrickson, Rep. Mathis, Rep. Noel, and Rep. Sandstrom absent for the vote.

**H.B. 428 Amendments to Permanent Easements over Trust Land (Rep. M. Noel)**

**MOTION:** Rep. Noel moved to amend the bill as follows:

1. *Page 1, Line 11:*

11 rights-of-way across {~~state~~} trust lands.

2. *Page 1, Line 15:*

15 terminates at or within or traverses {~~state~~} trust lands that is used by the public as a public

3. Page 3, Lines 74 through 80:

74 maintained [or used] by a responsible authority { or used by the public as a public thoroughfare

75 continuously for a period of ten years } .

76 (ii) The temporary public easement or right of entry granted under Subsection (1)(a)(i)

77 is {:

78 ~~(A)~~ } 100 feet wide for each class A and B highway {+} . {+} {; and

79 ~~(B) 60 feet wide for each class D highway.~~ }

(b)(i) Subject to Section 53C-1-302 and Subsection 53C-1-204(1), a temporary public easement or right of entry is granted for each highway existing prior to January 1, 1992, that terminates at or within or traverses any trust lands and that has been used by the public as a public thoroughfare continuously for a period of ten years.

(ii) The temporary public easement or right of entry granted over trust lands under Subsection (1)(a)(i) or (1)(b)(i) is:

(A) 100 feet wide for each class A and B highway; and

(B) 60 feet wide for each class D highway.

80 {~~(b)~~} (c) Each easement shall remain in effect [through June 30, 2004, or] until a permanent

The motion passed with Rep. Hendrickson and Rep. Sandstrom absent for the vote.

Rep. Noel explained the bill to the committee.

Spoke against the bill: Margaret Bird, State Office of Education

MOTION: Rep. Mathis moved to pass the bill out favorably as amended. The motion passed with Rep. Brown, Rep. Duckworth, Rep. Gowans, Rep. Hendrickson, and Rep. Riesen voting in opposition.

**S.B. 148 Boat Registration Amendments (Sen. M. Waddoups) (Rep. J. Mathis)**

Sen. Waddoups explained the bill to the committee.

MOTION: Rep. Painter moved to pass the bill out favorably. The motion passed unanimously.

**S.B. 55 Transfer and Disposition of Protected Property Amendments (Sen. D. Peterson) (Rep. R. Wheeler)**

Sen. Peterson, assisted by Chad Platt, Statewide Association of Prosecutors, explained the bill to the committee.

**MOTION:** Rep. Hendrickson moved to pass the bill out favorably. The motion passed unanimously with Rep. Noel absent for the vote.

**MOTION:** Rep. Wheeler moved to place the bill on the consent calendar. The motion passed unanimously with Rep. Noel absent for the vote.

**S.B. 155 Waste Amendments (Sen. D. Peterson) (Rep. J. Gowans)**

Sen. Peterson, accompanied by Dane Finerfrock, DEQ, Director Division of Radiation Control, explained the bill to the committee.

Spoke to the bill: Randy Horiuchi, Studsvik, Inc., (**handout**)  
Steve Nemeth, citizen  
Craig Moody, citizen

Spoke for the bill: Tim Barney, Energy Solutions  
David Litvin, President Utah Mining Association  
Colleen Johnson, Commissioner Tooele County  
Tye Rogers, Energy Solutions  
Rep. Craig Frank

Spoke against the bill: Christopher Thomas, Policy Director Healthy Environment Alliance (**handout**)  
Claire Geddes, concerned citizen  
Anna Clare Shepherd, concerned citizen  
Patrick Cone, Public Representative Utah Radiation Control Board  
Jason Groenewold, Healthy Environment Alliance (HEAL)  
Michael Cawley, Salt Lake County businessman  
Suzanne Anderson, citizen from Charleston

**MOTION:** Rep. Gowans moved to pass the bill out favorably. The motion passed with Rep. Riesen and Rep. Sandstrom voting in opposition.

**S.B. 29 Instream Flow to Protect Trout Habitat (Sen. P. Knudson) (Rep. D. G. Buxton)**

Sen. Knudson explained the bill to the committee. (handout)

Spoke for the bill: Timothy Hawkes, Trout Unlimited  
Michael Canning, Wildlife Resources  
Todd Bingham, Utah Farm Bureau  
Ernie Perkins, Wildlife and Habitat Coalition

MOTION: Rep. Barrus moved to amend the bill as follows:

1. Page 1, Lines 26 through 27:

26 Other Special Clauses:

27 {None} **This bill coordinates with H.B. 48, Department of Natural Resources Amendments by merging substantive and technical amendments.**

2. Page 16, Line 490: After line 490 insert:

**Section 8. Coordinating S.B. 29 with H.B. 48 -- Merging substantive and technical amendments.**

If this S.B. 29 and H.B. 48, Department of Natural Resources Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication modify Section 73-5-4 to read:

**"73-5-4. Controlling works and measuring devices.**

[Every] (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, each person using water in this state, except as provided by Subsection (4), shall construct or install and maintain [a substantial head gate, cap, valve or other] controlling works[, weir flume] and a measuring device at :

(a) each [point] location where water is diverted [or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants; and such owner shall construct and maintain, when required by the state engineer, flumes or other measuring devices at such points along his ditch as may be necessary for the purpose of assisting the state engineer or his assistants in determining the amount of water that is to be diverted into his ditch from the stream or water source, or taken from it by the various users. Every] from a source; and

(b) any other location required by the state engineer.

(2) Each person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

(a) the measuring device; and

(b) controlling works so that the state engineer or a water commissioner may regulate and lock the works.

(4) Each person using water as an instream flow:

(a) shall install and maintain a measuring device or stream gauging station in the section of the stream within which the instream flow is maintained; and

(b) 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.

(5) (a) Each owner or manager of a reservoir [~~located across or upon the bed of a natural stream~~] shall construct and maintain [~~when required~~] a measuring device as directed by the state engineer [~~a flume or other measuring device of a plan to be approved by the state engineer, below such reservoir at a point approved by him, and a flume or measuring device above such reservoir on each stream or source of supply discharging into such reservoir, for the purpose of assisting the state engineer in determining the amount of water to which prior appropriators are entitled, and thereafter diverting it for such prior appropriators' use. If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect~~] to measure the inflow, storage content, and outflow from the reservoir.

(b) The state engineer shall approve the design and location of a measuring device.

(c) The owner or manager of a reservoir shall make the measuring device accessible to the state engineer or water commissioner.

(6) If a water user refuses or neglects to construct or install [~~such head gates, caps, valves, flumes~~] the controlling works or measuring [~~devices~~] device after [~~thirty~~] 30 days' notice to do so by the state engineer, the state engineer may :

(a) forbid the use of water until the user [~~thereof shall comply with his~~] complies with the state engineer's requirement [~~or the state engineer may proceed to construct or install or cause to be constructed or installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring action in the name of the state to foreclose such lien.~~] ; and

(b) commence enforcement proceedings authorized by Section 73-2-25."

The motion passed unanimously with Rep. Brown and Rep. Riesen absent for the vote.

MOTION: Rep. Draxler moved to pass the bill out favorably as amended. The motion passed with Rep. Donnelson, Rep. Hendrickson, Rep. Mathis, Rep. Noel, Rep. Painter and Rep. Wheeler voting in opposition. Rep. Brown and Rep. Riesen were absent for the vote.

MOTION: Rep. Hendrickson moved to adjourn the meeting. The motion was unanimous with Rep. Brown and Rep. Riesen absent for the vote.

The meeting adjourned at 6:40 p.m.

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Rep. Roger E. Barrus, Chair