

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, ETHICS, AND
CONSTITUTIONAL AMENDMENTS**

**Seventy-Third Session
March 29, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:49 p.m., on Tuesday, March 29, 2005. Co-Chairwoman Ellen Koivisto presided in Room 3142 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mrs. Ellen Koivisto, Co-Chairwoman
Mr. Harry Mortenson, Co-Chairman
Mr. Marcus Conklin, Co-Vice Chairman
Mr. Bob McCleary, Co-Vice Chairman
Mrs. Sharron Angle
Mr. Mo Denis
Ms. Chris Giunchigliani
Mrs. Heidi S. Gansert
Mr. Brooks Holcomb
Ms. Kathy McClain
Mr. Harvey J. Munford
Mr. Bob Seale
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Michelle Van Geel, Committee Policy Analyst

Jasmine Shackley, Committee Manager
Sheila Sease, Personal Attaché to Assemblyman Mortenson
Celeste Gunther, Committee Attaché

OTHERS PRESENT:

John Ponticello, President, Paradise Democratic Club, Las Vegas, Nevada
Bob Price, Former Assemblyman; and, Private Citizen, Clark County, Nevada
Harriet Trudell, Private Citizen, Las Vegas, Nevada
Jim Wallace, Legislative Advocate, representing the Nevada Democratic Rural Caucus
Cheri Edelman, Legislative Lobbying Team, City of Las Vegas, Nevada
Nancy Howard, Assistant Director, Nevada League of Cities and Municipalities
Roni Ronemus, City Clerk, City of Las Vegas, Nevada
Larry Lomax, Registrar of Voters, Elections Department, Clark County, Nevada
Renee Parker, Chief Deputy, Office of the Secretary of State, State of Nevada
Lynn Chapman, Vice President, Nevada Eagle Forum
John Wagner, President, Burke Consortium of Carson City, Nevada
Monica Simmons, City Clerk, City of Henderson, Nevada; and, President, Nevada Municipal Clerks Association
Lucille Lusk, Chairman, Nevada Concerned Citizens
Josh Hicks, Senior Deputy, Office of the Attorney General, State of Nevada
Janine Hansen, President, Nevada Eagle Forum

Co-Chairwoman Koivisto:

[Meeting called to order. Roll called.] I have two bill draft requests for Committee introduction. The first is a resolution, BDR R-1413, urging Congress and the President to support participation of Taiwan in the World Health Organization.

- BDR R-1413: Urges President and Congress of United States to support the participation of Taiwan of the Republic of China in World Health Organization. (ASSEMBLY JOINT RESOLUTION 15)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR R-1413.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED (Mrs. Gansert, Ms. Giunchigliani, Mr. Mortenson, and Mr. Sibley were not present for the vote.)

Co-Chairwoman Koivisto:

The second one is BDR C-422 from the Interim Committee for Local Government Taxes and Finance. It proposes to amend the *Nevada Constitution* to provide requirements for enactment of property and sales tax exemptions.

- BDR C-422: Proposes to amend Nevada Constitution to provide requirements for enactment of property and sales tax exemptions. (ASSEMBLY JOINT RESOLUTION 16)

ASSEMBLYWOMAN McCLAIN MOVED TO INTRODUCE BILL DRAFT BILL (BDR C-422).

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (Ms. Giunchigliani, Mr. Mortenson, and Mr. Sibley were not present for the vote.)

Co-Chairwoman Koivisto:

[Ceded Chair to Co-Vice Chairman Conklin.]

Co-Vice Chairman Conklin:

[Opened the hearing on A.B. 298.]

Assembly Bill 298: Converts offices of mayor and city councilmen to partisan offices. (BDR 24-1255)

Assemblywoman Ellen Koivisto, Assembly District No. 14, Clark County (part):

Assembly Bill 298 has been heard in the past and I was asked to reintroduce it. It provides that the offices of mayor and city councilmen run as partisan offices. We have had a number of requests for amendments because several areas of the state are not pleased with this idea. The amendment I propose is that this would only affect cities in a county of over 400,000 population.

John Ponticello, President, Paradise Democratic Club, Las Vegas, Nevada:

We promote electing Democratic Party officials and spreading the ideals and principles of the Democratic Party. There are counterparts in the Republican Party with the same goal for their party. Four years ago, I sought

their support for a similar bill. They showed interest in supporting that bill, including Mr. Seale, the Republican State Chair at the time.

[John Ponticello, continued.] We're in Las Vegas and Reno, big cities in Nevada. We want to be like Los Angeles, Chicago, and New York City, where candidates identify themselves with their party. This way people know where they are, whether a Republican or a Democrat. This will benefit both parties.

Rural counties and small entities had a problem with this. That is why, this time, we're amending the bill to only apply to counties with a population of 400,000 or more. Hopefully rural counties will be happy with that. The State Democratic Party put out a resolution two weeks ago to endorse this bill.

Assemblyman Seale:

What would the benefit be, on either side, of having a partisan race for city council, mayor, et cetera? From the size limitation, you are talking about Clark County. What will you gain?

John Ponticello:

When a person runs for an office, such as yourself, you can run as a Republican, a Democrat, an Independent, or a nonpartisan. When you identify your party people know who you are and what you represent without even knowing you. By that identification, they know a little bit about your philosophies and what you stand for.

A few years ago in Mesquite, Nevada, they elected a mayor. Later, the voters found out he was of a minority party and they were upset. I've had people complain to me about these things. I told them that they should have done their homework and researched who they were voting for. By having a political affiliation, it tells the voters something about the individual.

Assemblyman Seale:

But if it's a non-partisan race, doesn't that oblige people to dig a little bit deeper, rather than just looking at an "R" or a "D" and deciding that person fits their philosophy and voting for him just because of that designation.

John Ponticello:

I wish voters did that, but they don't research their candidates. Political activists, those involved in political organizations, or elected officials take the time to look the candidate over. But the average person goes out there and votes for someone for many different reasons, not usually based on research. I

would like to change that, to get people to research who they are voting for, and vote accordingly.

Co-Vice Chairman Conklin:

Being involved in the Democratic Party, do you feel that by having partisan city races and engaging the parties in those races that we will increase turnout and, therefore, have better representation or, at least, more public involvement in that representation through a bill such as this?

John Ponticello:

Absolutely. The system we have now of the nonpartisan races has very low turnout and little interest. Two to three hundred votes can turn the tide of an election.

Assemblyman Munford:

When you have the party situation, it does stimulate more interest in the election. But even when party [affiliations] have not been announced, the media and others let the public know. It is something that is not stressed or emphasized. Sometimes, the candidates do not present themselves as belonging to a party, but identifying the party definitely increases interest.

John Ponticello:

Recently, the media in the southern Nevada area are identifying a candidate's political stand in nonpartisan races, for judge and city council. They identify each one who is running with his political party. This is new in the media.

Assemblywoman Angle:

Someone once said that everything is political. This bill is an honest bill. It says, "Be honest as to where you stand". I wonder why Washoe County doesn't want to be in this. Can you tell me why you are limiting this to 400,000 population or more?

John Ponticello:

We are doing that at the request of small counties. Small counties, including Washoe County, are against it. I don't know why.

Co-Vice Chairman Conklin:

Mr. Ponticello, we are going to hold Ms. Angle's question for later because both Clark County and Washoe County have asked to testify against the bill.

Bob Price, Former Assemblyman; and, Private Citizen, Clark County, Nevada:

I'm in favor of this because there is an honesty involved with letting their constituency know what politicians' philosophies are. It is a good idea.

I seem to remember that this subject came up a number of years ago. In our research, most cities and political entities around the country used party identification. It is better to have the constituency know, generally, where you're coming from. Our obligation is to them.

Co-Vice Chairman Conklin:

For those of you who are new to the Committee, Mr. Price served for fourteen regular sessions in the Legislature dating back to 1975. Thank you for your dedicated service, we're glad to see you here.

Harriet Trudell, Private Citizen, Las Vegas, Nevada:

I'm here in support of the bill. As a Democratic activist I have always opposed nonpartisan races. In my opinion, they are a farce. They do not inform people. We have two major parties in this country, Democrats and Republicans. They have very different views on many things, although the art of compromise brings us together on others. To run people as nonpartisan, and put the onus on the individual voter to find out what party the candidate is in, is unconscionable.

Co-Vice Chairman Conklin:

We will note for the record that Jim Wallace [Legislative Advocate] with the Nevada Democratic Rural Caucus is neutral on A.B. 298.

[Supervisor Robin Williamson, Carson City submitted a letter in support of this bill ([Exhibit B](#)).]

Cheri Edelman, Legislative Lobbying Team, City of Las Vegas, Nevada:

The City of Las Vegas is in opposition to this bill. Municipal government is grassroots in nature. Elective representatives address issues of direct citizen concern, such as fixing street lights, clearing weeds in the right-of-way, and fixing potholes. These issues are not partisan in nature. Because this would provide that people receive only ballots that are partisan, transforming municipal elections to partisan races would bar citizens from voting for any candidate regardless of party, in the primary.

We believe that a transition to partisan races and closed primaries violates the grassroots nature of municipal government.

Assemblyman Denis:

How would you feel about an open primary?

Cheri Edelman:

I would like to refer that question to our City Clerk, Roni Ronemus, in Las Vegas.

Nancy Howard, Assistant Director, Nevada League of Cities and Municipalities:

We are in opposition to A.B. 298. Officers on the local level do not need party affiliation to be able to determine their issues. Fixing streets or locating parks do not need partisan affiliation.

A moment ago you heard statistics about the number of cities' elections that were partisan. A survey from the National League of Cities, done in 2001, said that 77 percent of responding cities had nonpartisan elections and 23 percent had partisan elections. Of the 30 most populated cities in the country, only 9 had partisan elections.

Assemblywoman McClain:

If you look at this language, all these offices are widespread, they are not by districts. It makes sense that mayors and city councilmen should be partisan, as county commissioners are. They represent a specific constituency rather than something at-large. I can understand why judicial offices cannot be partisan.

The rest of these candidates represent large blanket areas. It wouldn't matter if they were partisan or not. However, anyone serving a defined constituency, the constituency should have the right to know, on a partisan basis, who they want to represent them.

Roni Ronemus, City Clerk, City of Las Vegas, Nevada:

I am going to address Assemblyman Denis' question. I understand he was asking how we would feel about an open primary. We have an open primary now. If he could be a little more specific, I would be happy to address it.

Assemblyman Denis:

How would you feel if we did a partisan but open primary, meaning candidates would run as a Democrat, Republican, or whatever and the top two candidates would advance to the general election.

Roni Ronemus:

The way our charter is presently set up, we have the top two candidates of any party go into the general election. I don't know if that will create confusion for the voters or not.

Assemblyman Denis:

I know there are some states that have open primaries.

Co-Vice Chairman Conklin:

What Mr. Denis is suggesting is have a primary that looks just like it does now, only next to each name would be a party affiliation. The parties don't run separate primaries, but every member that is running for office will disclose his party affiliation on the ballot. It would be possible under that scheme to have two Democrats running off in the general election, or two Republicans, should they be the two candidates that received the most votes.

Assemblyman McCleary:

Is there anything presently that stops a nonpartisan from disclosing his political affiliation? If I run for city council on a nonpartisan race, I can put on my election material that I am a Democrat. Is there anything illegal about that?

Co-Vice Chairman Conklin:

The difference is this bill is asking for it to be disclosed on the ballot and run races in a partisan fashion similar to our races in our districts. That is all this bill does. That is not currently the case in municipal elections.

[Closed the hearing on A.B. 298. Opened the hearing on A.B. 191.]

Assembly Bill 191: Revises provisions relating to electioneering. (BDR 24-1016)

Assemblyman Harvey Munford, Assembly District No. 9, Clark County:

Assembly Bill 191 may touch a nerve for some people. Currently, showing support for candidates, ballot measures, or political parties such as holding a sign or distribution of literature is prohibited within 100 feet of voting areas, polling places, or the city clerk's office during elections, per *Nevada Revised Statutes* (NRS) 293 and NRS 293C.

Assembly Bill 191 will change the fixed 100-foot restriction to an adjustable restriction of "no less than 50 feet and no more than 100 feet." This distance

will be chosen by the county clerk, registrar of voters, or city clerk, who may delegate the duty to the election board officers who are designated to that area.

[Assemblyman Munford, continued.] The 100 feet was a comfortable distance for most voters and candidates, who felt it was good for the electorate who were going to the polling places. For many years, there were complaints of harassment, or being approached in an aggressive way.

In my district, 6, in the old West Las Vegas area, it has been a tradition that on Election Day constituents tend to lend assistance to their candidates. For example, in 2004, we had four different candidates running for each of the various offices: county commissioner, U.S. Senate, the State Assembly, and one other. These all overlapped into my district. The members of the community get charged up, energized, and become participants.

Most want to assist the candidates in any way possible in that last minute effort to "get out the message." What we discovered in some of the polling places was that the 100 feet limit put us out into the street. When it took us to the street and other areas, it took away the effect of what we were trying to do. There was no way we could benefit from it. At some of those spots the 100 feet takes you into unacceptable areas. This provides some protection if, at the 100 foot mark, you were into the street, that particular site could be identified, and the distance could be decreased.

Assemblywoman Giunchigliani:

You and I have discussed this. It was my bill that put into place the 100 feet for electioneering. It was originally 50 feet. The public did not want to be hassled with electioneering on Election Day. The whole purpose for putting in the 100 feet was that it was the most reasonable method to accomplish that.

Campaigning has changed to some extent. With early voting, you now have many people voting prior to Election Day. Regardless of what district people are in, they tend to feel offended that someone thinks he can sway their vote one minute before he walks into the polling booth. I don't want to create any more inconsistencies which allow for possible abuses. You and I share a concern about that.

If you have this, it will negatively impact and cause unanticipated consequences. In the distancing of the electioneering portion, if you have a site that is 50 feet and I drive by to check my polling area, I will file a complaint or call Larry Lomax [Registrar of Voters, Clark County] and ask why it is not consistent.

[Assemblywoman Giunchigliani, continued.] The whole point was to try to make it consistent and understandable. When we have the next presidential election and we have all those poll watchers and other groups coming in, I don't want any more opportunities for challenges. We'll argue with the clerks about how much pestering or influence that is. This bill could unintentionally cause more problems.

I appreciate your intent and concept but I don't feel comfortable with making the change to the 50 feet. It actually intrudes, and intrusion was what we were trying to avoid. One hundred feet is not that far away. It still allows supporters, if they want to hold a rally, hold signs, hand out T-shirts, et cetera. Shortening the limit does not benefit what you want it to benefit.

Assemblyman Munford:

Part of what the Assemblywoman said has some merit. I think 100 feet is great and I can understand the reason for it. I can remember times when even the 100-foot limit was grossly abused. I was even afraid sometimes to go to some of the polling places because of the crowd that gathered. That solved the problem and the 100 feet isn't going anywhere. It is still in effect. I wanted some areas designated, when it takes you into the street, that you would have some options. Going in to the street negates what the 100 foot limit was supposed to do; you have no benefit at all. We should have some options there.

Assemblyman McCleary:

One of my pet peeves is, when I've got my sample ballot in my hand and I'm walking in, someone stops me to give me literature to try and sway my vote. I don't know if we even enforce this 100-foot rule. There have been many times, when I go to vote on a school campus and I have to get through that door to the gymnasium, there's someone blocking the door trying to give me literature. I know it isn't 100 feet. I'd like to ask the clerks what the penalty is for that. I would like to know what we can do to enforce this.

I've campaigned too, and some of the schools are so small that the distance from the entrance of the polling place to the sidewalk was not 100 feet. Could we consider something to the affect that it is 100 feet or to the nearest public sidewalk? In other words, it is an area where you are not interfering with the people that are on the property trying to vote.

Assemblyman Munford:

There is someone assigned at most of the polling places, whether official or not I'm not sure, that periodically checks to see if there are any violations of that

100 feet. I don't know if they have someone from the election board that drives around and inspects to make sure that we are not violating that rule.

[Assemblyman Munford, continued.] Lots of people go to vote without having made up their minds or don't have that sample ballot that was mailed out or don't pay any attention to it. They wait until they see names in the voting booth. You may pick up a few votes if they see your sign or you are giving out water, especially during those warm primaries, or giving out something. Everybody tries to get a competitive edge. Sometimes that is the opportunity to do it, especially if you are not an incumbent. This is your last opportunity to be known because you don't have the war-chest to run a big campaign. They use this opportunity.

Assemblyman McCleary:

Given what Ms. Giunchigliani said about trying to be consistent and how confusing it would be to have different distances at different places, would you be against a compromise to "100 feet or the nearest public sidewalk?"

Assemblyman Munford:

I think the sidewalk is a compromise. That would have some effect. Compromise is always good. If something could be worked out, I would be willing to look at it, yes.

Assemblywoman Angle:

On page 2, line 31, it says, "not more than 100 feet and not less than 50 feet." Does that mean that campaigning has to take place within that zone? The way it reads is unclear.

Assemblyman Munford:

Is there something between 100 feet and 50 feet; is that what you are saying? I see what you are saying, that almost takes away the 100 feet entirely. It must be at least 100 feet. The 50 feet only comes in when it is a designated area as identified because the 100 feet is ineffective or takes you into the street or something. Yes, that is a good point. Glad you brought that up. Did I clear that up?

Co-Vice Chairman Conklin:

No, but we'll get Legal to clear it up.

Assemblyman Seale:

I am concerned that the closer we get to the polling booth with the ability to campaign, the more you run the risk of having a feeding frenzy. From my point

of view it doesn't matter whether you're a Democrat or a Republican. There is more opportunity for mischief. The further away that limit is, the more organized it is going to be, and a better opportunity for workers to do their job without having to worry about the electioneers. I would be comfortable with 200 feet or even 500 feet.

[Assemblyman Seale, continued.] The time for campaigning is before Election Day. We were rigorous about that when I was party chairman. We didn't allow our candidates to get too close to the polling area. It does have a negative impact when you do.

Larry Lomax, Registrar of Voters, Elections Department, Clark County, Nevada:

I met with Assemblyman Munford on Friday, we talked over this bill, and I showed him a proposed amendment. I was happy to hear Ms. Giunchigiani, Mr. McCleary, and others express concern about drawing in from the 100 feet. All of the clerks would attest that one of the hardest issues which we deal with on Election Day is this one. All of you as candidates police each other very closely. There are always campaigners who leak inside this 100 foot boundary and cause us problems.

We get calls but we have no real enforcement authority. I instruct all our polling place team leaders to go out periodically and make sure that nobody is violating the 100 foot rule. If they are, we try to convince them to go back. They call us if there is a problem. Sometimes we contact the police but very rarely will they respond. It is a very challenging issue with which we have to deal.

The amendment that I proposed ([Exhibit C](#)) is an attempt to work with Assemblyman Munford on this issue. The thrust was what Mr. McCleary addressed, that often this 100 feet falls in the middle of the street. My team leaders ask where they should post the boundary sign since they can't put it in the middle of the street. Then we have to decide where to put it. My instructions have always been to pull it back, go out as far as you can toward the 100 feet, then pull it back. Put it somewhere that is reasonable so that a person has someplace to stand between the street and where we put that sign. We don't have any other choice.

That was the reason I proposed this amendment. My district attorney has advised me that he believes the current bill is unconstitutional because it allows too arbitrary of a variance between polling places, implying that any team leader could move the boundaries within this range. Since we are talking about a free-speech issue, this language was provided by my district attorney, who said he thinks this is constitutional.

[Larry Lomax, continued.] The idea is that we put it at 100 feet in all cases, unless it falls in the middle of the street or parking lot or someplace that is physically unsafe to put a sign. We would bring it back to the minimum if we had to, just to deal with that issue. Of more concern to me, is the second amendment that I have suggested. It says, "change NRS 293.740 (1)(a) to read..." and "It's unlawful, inside a polling place or within 100 feet from the entrance to a building or other structure in which a polling place is located, for any person to solicit a vote or person other than an election board officer to speak to a voter on any subject related to current election."

This came up in the 2004 election. An enormous problem for us in policing this issue is that this law says electioneering is prohibited. It goes on to define electioneering. We ran into two problems from groups who claimed they had a right to be inside this 100 feet boundary because they were not going to be electioneering; they were going to be helping voters. They were going to ensure that voters knew their rights and things of that nature.

But these were partisan groups, who had tax-exempt status claiming, therefore, that they were nonpartisan. But they had taken public stances on issues, ballot questions, and candidates. I wanted to clarify this. We have no way of policing what is being said inside the 100-foot boundary. If people claim they have a right to be there while other people are prohibited, it's going to cause problems. The intent of this is to ensure there is no disruption to the voting process. As several Assemblypersons have pointed out, the voters appreciate the 100-foot rule. They do not want to be hassled inside it. This will help clarify the issue that really nobody should be inside. Whatever discussion of their voting rights, or helping the voters that needs to take place, can take place outside the 100-foot barrier.

Assemblywoman Giunchigliani:

I still have a problem with the radius concept. We cause your people more problems trying to defend where those are. I'd prefer that you went beyond rather than closer to that limit. The general public does not want to be bothered during voting time.

I understand the issue of "poll watchers" and there is a proper roll that they play. There is also a voting accommodation issue that we allow for disability, for example. Absolutely no one should be soliciting a vote while inside the polling area. But the second portion of your amendment ([Exhibit C](#)) gives me a bit of concern. It's a "muzzlement." I don't understand why they can't speak to a voter. I fear an infringement of free speech. If a person said that they were told to go to another polling location or vote a provisional ballot, that's speaking

too. You could have a person in violation of this law if they told someone that they had every right to not have to vote somewhere else. I hope we can spend more time on the role of the poll watcher rather than jump to the conclusion that is in the second portion of your amendment.

Larry Lomax:

I agree that this isn't the perfect language. But I believe that, in the next presidential election, we need to get a handle on this issue. We walk, as I've said, a fine line between chaos and order on Election Day by allowing people inside this 100-foot boundary who claim that they're going to do one thing, and they can go in there. With nobody able to police them we are in jeopardy of losing control. Whatever the right language is, I hope we can find it.

Assemblywoman Giunchigliani:

There will be some vehicles for us to discuss it other than just this piece of legislation. The idea of the legitimate "tax-exempt group", there may be some way to capture something along those lines. We should look at what other states do on poll watchers and access to the area.

Mr. Munford, what was the rationale for deleting the definition of electioneering on page 4 of the bill?

Assemblyman Munford:

We moved it up to Section 2.

Renee Parker, Chief Deputy, Office of the Secretary of State, State of Nevada:

I'll just say "me too" to Assemblywoman Giunchigliani's comments. During this last election cycle, we had complaints across the state on election night about people being within the 100 foot, harassing the voters. We sent out letters so the clerks had something to provide to these people to try and enforce it. It is difficult to enforce. And once you let them in, you have a First Amendment issue; once you let them in that boundary, you can't police their speech. It is difficult.

What we've heard from the voters is that they want a "zone of silence" so they can contemplate their vote. Walking in and out they don't want people harassing them either. Everything else that Ms. Giunchigliani said is how we feel.

Co-Vice Chairman Conklin:

[Lynn Chapman, Vice President, Nevada Eagle Forum wanted to be on the record in agreement with comments made.]

John Wagner, Burke Consortium of Carson City, Nevada:

We are not hard set against it. But we had an incident in Carson City. I was one of the poll watchers scratching off names of people who voted. We had somebody show up outside the door at the Community Center, which is the only way to get in. They were collecting signatures for a petition which they filed a few days later. I pointed this out to the city clerk and he basically ran them off. But it was electioneering for something that wasn't even on the ballot. People were being harassed by that.

Monica Simmons, City Clerk, City of Henderson, Nevada; and, President, Nevada Municipal Clerks Association:

My comments are ([Exhibit D](#)) in opposition to Assembly Bill 191 in its current form. A primary issue with the proposal is the fact that it does not allow for any continuity between cities, counties, or polling locations, as previously stated. I agree with the comments by Assemblywoman Giunchigliani and Renee Parker.

When administering elections, specific and purposeful rules and regulations must be in place to ensure there is no bias or disruption. Applying the electioneering distance differently between polling locations, cities, and counties creates an open opportunity for challenges.

The sufficiency of the current 100-foot requirement has been questioned in recent elections. Frustrated voters have voiced their concern regarding disruption and intimidation during the election process.

The amended language proposed by Clark County has been reviewed by the City of Henderson and various city clerks. With the amendments that have been discussed today, we would support it to ensure the safety of both those casting ballots and those electioneering in the democratic process.

Cheri Edelman, Legislative Lobbying Team, City of Las Vegas, Nevada:

We concur with the testimony provided today by Mr. Larry Lomax, Assemblywoman Giunchigliani, and the proposed amendment offered by the Nevada Municipal Clerks Association.

Co-Vice Chairman Conklin:

[Closed the hearing on A.B. 191. Opened the hearing on Assembly Bill 185.]

**Assembly Bill 185: Revises provisions governing petitions for initiative.
(BDR 24-711)**

Assemblywoman Heidi Gansert, Assembly District No. 25, Washoe County:

I am the primary sponsor of Assembly Bill 185. I would like to first address the contents of the bill itself and then an amendment that is the result of conversations with the Secretary of State and Attorney General's (AG) Office ([Exhibit E](#)).

Assembly Bill 185 "requires an initiative petition to address only one subject and other materials properly relating to that subject." As you are aware, the single subject requirement already exists for legislation brought by legislators during a Legislative Session.

When an initiative petition is submitted to the Secretary of State, A.B. 185 would call for it to be accompanied by "an accurate description of the effect of the initiative if it is approved by the voters." This description would be limited to no more than 200 words unless approved by the Secretary of State's Office. The description would appear at the top of the signature page for the initiative. A signer must also initial a box to acknowledge that the description was provided for a signature to be valid.

The bill will require the Secretary of State to review the description for the initiative petition before the petition may be presented to voters for their signatures. Under this legislation, the Secretary of State must consult with the Fiscal Analysis Division of the Legislative Counsel Bureau (LCB) to obtain a fiscal note on the effect of the petition. Assembly Bill 185 requires the fiscal note to address any anticipated increases in state, county, or local revenues, or expenses, should the petition be approved.

Not later than 10 days after a petition is submitted to the Secretary of State, A.B. 185 would require that the petition, its summary, and the fiscal note be posted on the Secretary of State's website. Finally, A.B. 185 would allow the legal sufficiency of a petition to be challenged by filing a complaint in the First Judicial District Court not later than 30 days after the petition is filed with the Secretary of State.

The petition process was damaged by some activities during the last election cycle. Some petitions presented by signature gatherers had multiple subjects

and were misleading. Last minute challenges also confused the issues and led to costly reprinting of voting materials.

[Assemblywoman Gansert, continued.] I want to be clear that I support the initiative petition process and believe the modifications suggested in this bill will strengthen it. I do not seek to make the process more difficult but have suggested four areas to make it stronger: first, the 200-word description; second, that individuals signing the petition have to initial that they were presented that 200-word accurate description; third, any fiscal note would be posted on the website; fourth, moving any legal challenges to front-end of the process. Moving the challenges to the front-end of the process is an advantage for both the author and challenger, because there are the time constraints, which we ran into last time.

In conclusion, the initiative process is extremely useful and important. This legislation will strengthen the process and enhance the public's trust in it.

Assemblywoman Angle:

Having circulated a petition, I know it is difficult to get signatures, as it is. Where will this initials box be placed? Is it on the petition itself or on a separate sheet?

Assemblywoman Gansert:

I would have the signature line with the initials to the left. I want the gatherers to be consistent in what they use as far as the terms and the description. That's why I have the 200-word description and initials that they were presented that material. That is what the initial does.

Assemblywoman Angle:

It is difficult to get signers to put their last name first, their address, and on the right petition. Errors in any of these disqualify the signature. It is very difficult. This just adds one more road-block to that process, getting that one more element for that signature.

Assemblywoman Giunchigliani:

I think you did a very good job with the bill although there are a few changes needed, as you suggested. It is in line with a couple of other bills. We have a Committee bill that's very similar, A.B. 497. It addresses the single-subject idea and the title. It is being written by the Attorney General. Maybe there are some changes we may want to look at. Without restricting the ability for people to circulate a petition, it makes it more concise. That is the intent of any of the bills we're looking at this time around regarding the initiative petition process.

[Assemblywoman Giunchigliani, continued.] On the time lines at the front end, could you talk more about that? I was trying to figure that out in the drafting of A.B. 497. I put that they had to go to court but it had to be resolved with an expedited hearing.

Assemblywoman Gansert:

This bill doesn't address by what date it has to be expedited. But if you have a challenge, you have to initiate it within 30 days after it's posted. My thought is, if you have a problem at the end, you probably have a problem at the beginning of the petition process too. This gives the author of the petition more time to reorganize. It could be an advantage for them.

Assemblywoman Giunchigliani:

Did you address the issue of the Secretary of State and clarifying the number of signatures required to secure a petition?

Assemblywoman Gansert:

No.

Co-Chairman Mortenson:

I am trying to envision the process where the worker approaches people and asks them to sign the petition. They presumably will say that they are required to ask the voters to read the description and voters sign that it was read. Where do they sign? Is it on the same sheet where they have their name and address or is it a separate sheet?

Assemblywoman Gansert:

When I worked with the Attorney General and the Secretary of State we thought we would put a header at the top of the signature page. Right now, the petition is separate, because usually they're fairly lengthy. On the signature line there would be a box that they can initial that they've read the condensed statement. That is how I am envisioning it. The form has not been created.

Co-Chairman Mortenson:

I just wanted to know if you were adding extra sheets of paper.

Assemblywoman Gansert:

No, just initialing that they were presented the statement.

Co-Chairman Mortenson:

I agree with you. I didn't want to encumber the process in any way. This does seem to possibly enlighten the person who is doing it.

Assemblyman McCleary:

I like the idea of having a fiscal note on it. That might stop a lot of bad ideas right there. You mentioned that it is going to be on the website. Is it possible that it is going to be on the ballot itself?

Assemblywoman Gansert:

It is my understanding that it is on the ballot. If there was a financial repercussion, it is supposed to be on the sample ballots and not on the actual ballot.

Assemblywoman Angle:

I want to be clear on this initialing. Does that mean they have to put their first and last initial, an X, or what? How technical are we going to get with this? It's difficult to qualify signatures as it is. How technical are we going to ask these initials to be?

Assemblywoman Gansert:

I think the Secretary of State's Office would answer that.

Assemblywoman Giunchigliani:

Maybe we could get a blank form of a petition, so we have something in front of us.

Co-Vice Chairman Conklin:

That's an excellent idea. Mrs. Gansert, can you spearhead that for the Committee?

Renee Parker, Chief Deputy, Office of the Secretary of State, State of Nevada:

We support this bill and appreciate Assemblywoman Gansert's working with our office and the Attorney General's Office. We all have the same goal. There are several bills out there on the initiative process.

We saw a lot of problems in the last election cycle. We were in court up to the last minute. Mr. Larry Lomax [Registrar of Voters, Clark County] threw out \$500,000 worth of ballots at the last minute. We had serious concerns that our military and overseas citizens would not be able to cast their ballots.

[Renee Parker, continued.] The Secretary of State's Office fully supports the initiative process. What we want to do is move all of the deadlines up. Move the process and challenges earlier, so there is some certainty for the circulators of the petitions as well. The circulators will know that if they get enough signatures and they qualify, their petition will be on the ballot. When we get to the end and they're not getting enough signatures and, suddenly, they are in court defending their petition with 7 days to print ballots.

That is the purpose of this bill. Mrs. Gansert has done a great job on this. Some of our issues that she proposed in the amendment were to clarify it. The concern is with the description, going through our office, us reviewing it, and then the Attorney General. We have two concerns about that.

First, it is going to delay the process. If they file a copy of the petition in our office, we have to review and we may reject it. I guarantee that people will retain attorneys and threaten with lawsuits as soon as we reject something. That's what happened last election cycle. You recall the "arguments" and Mr. Mortenson's bill last session that we had to form "Committees for the Arguments." It was a great idea. Even the Secretary of State said these arguments are lot more clear than they've been in the past, because if I'm writing them, or our deputies are writing them, they are full of legalese.

The problem with the committees was as soon as I published the arguments for rebuttal—I was in my office for several 24-hour days in a row—there were attorneys calling and saying I have to reject or not reject certain language. We didn't reject very much. We rejected clearly, factually inaccurate language. This is going to add to that. It was a nightmare. They went to the Attorney General and tried to force us to reject information. He told them that he had no authority to force the Secretary of State to reject anything.

One petition was on minimum wage. There are two credible theories on minimum wage. One is from Johns Hopkins, and one is out of Harvard. They were giving me documents saying that I should reject something because this theory says X, and this theory says Y. I am not a judge. I can't weigh the credibility of their evidence. These are two credible theories and we're not rejecting that. That would happen if we don't make this amendment ([Exhibit E](#)) and get it into the court system. Get it into the court, let everybody make their arguments, and give certainty to everybody. When we are coming up on the ballot process, we are not going to be in court. The circulators know, at a certain point, nobody can challenge their petition.

[Renee Parker, continued.] I was in the Senate today testifying on a bill that has some similar concepts in it. One of the ideas that came up in that Committee was: what are you going to do if they go out, start circulating, and somebody challenges it? We cannot stop that process; we can't close that window. Under the *Nevada Constitution*, they have a certain amount of time to circulate and nobody wants to limit that time. We might have to move the front-end back so you can come in earlier to file and start circulating. This should be done in an odd number year to give more time before an election.

Maybe what we should do is back up the filing date 30 days. You can't circulate in that 30-day period, but you've filed the petition so that, if somebody comes in, they can challenge it in the 15 days. You can go to the court and the court can hold a hearing. So that way, by the time you go out and circulate, this is all done. You have that certainty.

I heard questions about this and about the initialing. We had at first thought of just checking a box. But anyone could go down and check all the boxes. So, we thought of the initialing; we didn't want to have them sign again. Another idea was to have at the beginning of the petition, where you put the explanation, an affirmation that when I sign this petition, I am affirming that I want my signature on this petition, and I also have been provided a description or have read the description. So then that's part of their signature.

Our purpose is just to get it in court and argue it out there. It is easier to have it done earlier in the process, when we're not in the middle of an election cycle trying to do a million other things.

Co-Vice Chairman Conklin:

Do you feel that this 30-day wait period is enough time for several petitions? How does that impact the Secretary of State?

Renee Parker:

The 30 days is a good idea. In Section 5, it should say, "30 days after they file a copy of the petition." That is the trigger in the *Nevada Constitution*. They file a copy in our office, and then go out and circulate it. That 30-day period is at a time, in an odd number year, several months before the election. It would be much easier for our office. It would be easier for the Attorney General's office because they also represent us. If the timing is moved to the beginning of the process, this would be easier for us to administer.

That is another issue with them advising us not to reject arguments and then having an appeal process go through them. There are conflict issues there.

[Renee Parker, continued.] There are issues with giving notice of a challenge. How do you give notice? There is the issue of we'll publish it on our website. Some of us lawyers were looking at it and thought it should include a notice that this posting begins the 30-day period to challenge the petition. That may be something you would want to put in the statute; that you have to make that specific notice to trigger a court filing.

Assemblywoman Giunchigliani:

It is the copy of the petition that triggers everything?

Renee Parker:

That is what we would like to do. The copy of the petition is what the constitutional provision is for. Currently, you have to file a copy of the petition in the Office of the Secretary of State before you can go out and start circulating. This is in Article 19, Section 3 [of the *Nevada Constitution*].

Assemblywoman Giunchigliani:

In A.B. 497 that I was referring to, it took that out in Section 6 of that bill. We should reexamine that and see why drafting did that.

Renee Parker:

That is the problem with this whole "last preceding general election" issue that cropped up. You have to file a copy in the Secretary of State's Office. At a later date, the *Nevada Constitution* provides that you file the petition. The question became which filing are we talking about? That is why I would put copy in there. Then it is very clear that the copy of the petition means that very first filing.

Assemblywoman Giunchigliani:

Maybe what we can do is a flowchart of what occurs when. It would show the steps so we know what flows, because we will have crossover dates as we look at some of this. We want to be careful if we are going to back something up, that we don't impede on some other area inadvertently.

Co-Vice Chairman Conklin:

Could you, please, provide the Committee with some sample initiative petitions and circulars?

Renee Parker:

Ms. Janine Hansen actually brought a sample copy of an initiative petition (page 4, [Exhibit F](#)) that she was going to hand out. It is a copy of a form that our office has approved.

Lucille Lusk, Chairman, Nevada Concerned Citizens:

I agree with Renee Parker. She raised issues that are of concern and things that still need to be addressed. The issue that is of greatest concern to us, the one that caused me to say, "supported but with reservations," is with the initialing of the box. We would ask you to seriously consider the placement of the brief description at the beginning of the petition and include the affirmation that Ms. Parker mentioned. Therefore, there would be no need for an additional box or signature of any kind.

One other item is the requirement that the petition embrace "one subject." I agree 100 percent with that. But it needs to be very clear what that means. The Legislature is required to have each bill embrace only "one subject" and we know the wide spectrum we sometimes see in the Legislature. I would like to request that the Committee look at defining what that means and applying it to the bills in the Legislature as well as to the initiative petitions. It needs to be understood by all of us.

Assemblywoman Angle:

Do you have suggested language for the "one subject" clause?

Lucille Lusk:

I do not, at this point, have suggested language for it. It is a difficult but very important subject. I understand that it is generally defined in the Legislature as being on "one subject" if the matter is confined within one chapter. If you are addressing a new chapter, I don't know how things would fit. I would be pleased to participate in helping to find a way.

Co-Vice Chairman Conklin:

We are a bit broader than that. It is the same subject and also germane to the topic of the bill.

Lucille Lusk:

Seeing how broad that gets, it may not be that helpful for the people if we are saying "one subject" and yet "one subject" means a Christmas tree.

Josh Hicks, Senior Deputy, Office of the Attorney General, State of Nevada:

The Attorney General joins in on Renee Parker's comments. I want to reiterate that the Attorney General is in favor of the proposed amendments to this bill. In particular, Section 4, subsections 3, 4, and 5, which set forth a process where the Secretary of State reviews the factual accuracy of the description. The Attorney General represents the Secretary of State. In fact, that is what I do, I am their attorney.

The process that is set up under the original language of the bill sets forth a procedure where the Attorney General is advising the Secretary of State on an issue and then turns around and act as judge on that same decision. I'm sure the Committee can see the inherent conflict that occurs in that situation. That is why we worked with Mrs. Gansert to delete that language and change it with a more streamlined version that goes into the courts and avoids this conflict.

Lynn Chapman, Vice President, Nevada Eagle Forum:

Most of my concerns have been addressed. The one part that I am still rather concerned with is that you have to initial. If I am going to sign a petition, I usually read the petition, but I should make that decision if I am going to read something or not. If I put my name on a petition, printed, signed, dated, and I put my address, I wanted my name on that petition. If I forget to do the initials, then I am disenfranchised. I am taken off the petition. I don't think that's right. I would like for you to think about that.

I have been a petition gatherer for a long time. I know how hard it is to get names. Going out, getting people to sign in the right spot, with their last name first, and make sure that they get the date on there. I know how hard that is.

Janine Hansen, President, Nevada Eagle Forum:

The reason I hand you this picture (page 1, [Exhibit F](#)) is that it epitomizes the difficulty of signature gathering. I was arrested last year for gathering petitions on public property at the Reno Bus Depot. I called to make arrangements in advance; I had done this with several other agencies. Nevertheless, they refused to follow the law you passed in 2003 to provide for public agencies to allow petitioners there. They handcuffed us, took us to the jail, and we were there for about seven hours. The reason I bring this forward is because that was just the culmination of many difficulties in the process of petitioning. When Lynn and I were petitioning in 2000, we were nearly arrested four different times. So when you brave the scary process of trying to exercise your constitutionally guaranteed right to petition, it has many pitfalls and difficulties.

[Janine Hansen, continued.] I have served in the state of Nevada twice as a petition chairman for 16 of the 17 counties and served many other times in petitioning. I have also served twice as the Ballot Access Coordinator of the National Constitution Party in all 50 states. I am very familiar with the difficulties and the process of petitioning, not only in Nevada, but also in other states. I have a lifelong commitment to the importance of preserving the right to petition.

In Article 19 of the *Nevada Constitution*, Section 6 and Section 5 as noted, (page 2, [Exhibit F](#)), you will see that it says, "The provisions of this article are self-executing but the Legislature may provide, by law, for procedures to facilitate the operation thereof." In other words, the Legislature should not be making it any more difficult to petition, but to facilitate that process by the people.

In Article 19, Section 2 of the *Nevada Constitution*, it says, "The people ensure to themselves the power to propose by initiative petition statutes, amendments, et cetera, to this *Constitution*." That is a power the people have reserved to themselves. You need to be very careful, as you move forward to regulate it in any manner, to make sure you do not in any way infringe on it. In that same section, they reserve of themselves the power to enact or reject those at the polls.

Many of our concerns were resolved by the amendments. We support the amendment by the Secretary of State and the Attorney General. This portion, which allowed the Secretary of State to determine whether it was fact or not, was truly an infringement on free speech. We are very concerned about that. We support that change. I am not exactly clear, from the testimony, how that process works when you submit that.

One of the things that has been discussed is the issue of the 30 days. I suggested in the Senate Committee [on Legislative Operations and Elections] that this period of time start before petitioning so you don't take from the actual time that you have to petition. It is very difficult if you do. If you move those dates back, that would be very helpful to those that are in the process.

One of the issues is in Section 2, line 4, where it talks about "one subject." Lucille mentioned this; this needs to be defined. This will be a very contentious issue. We need a good definition of that. We are supposed to have a description. I am assuming from this, the people who are promoting the petition actually write it. It was different before; the Secretary of State had to approve

it. That appears to have been deleted. I am not exactly clear who writes the description.

[Janine Hansen, continued.] How is this description used? Is this a handout that they give to the people they are asking to sign the petition? Is it, as Lucille Lusk suggested in her amendment, putting this description right on the petition so there's no need for second handout? Is there some kind of approval or is that just by those who promote the petition? According to this, if someone has a problem with it, he can go to court and challenge the description.

Let me mention a few problems with this and those have to do with the constitutional right to petition. In *Meyer v. Grant*, [486 US 414 (1988)], the U.S. Supreme Court said that the First Amendment protects the appellant's right not only to advocate his cause but also to select what he believes to be the most effective way of doing so. If we are controlling the speech, the description of what the petitioners are doing, we may be interfering with their right to petition, which is free speech according to the U.S. Supreme Court. They have the right to select the material that they hand out and what they say. That is their constitutional right.

The speech at issue, petitioning, is at the core of our electoral process and First Amendment freedoms. It is an area of public policy. The Supreme Court says, "Where protection of robust discussion is at its zenith." Petitioning, according to the U.S. Supreme Court, is where the right to free speech is at its highest; it is the most important to protect there. We have to be very cautious about this. They also said in *Meyer v. Grant*, the circulation of a petition involves the type of interactive communication concerning political change that is appropriately described as "core political speech." Another conclusion says it is extremely important that we not, in any way, tread on the right of the free speech of those individuals.

I have a couple more I want to read to you to lay groundwork on this whole issue. You are dealing with so many issues on this that it's very important. The Supreme Court said in *Thomas v. Collins*, [323 US 516 (1945)] that the very purpose of the First Amendment is to foreclose public authority from assuming a guardianship over the public mind. In this field, every person must be his own watchman for the truth. Because the forefathers did not trust any government to separate the truth from false for them. We have to depend on the people themselves to determine if what the people are saying is true or false. It is not the government's responsibility to do that. The Supreme Court has said that clearly also in *Brown v. Hartlage*, [456 US 45 (1982)], when they said the

state's fear that the voters might make an ill-advised choice does not provide the state with compelling justification for limiting speech.

[Janine Hansen, continued.] I have some questions about how the description works. That will make a difference as to how that free speech issue evolves. If the people write it who are doing the petition, that is one issue. If they don't write it, has their free speech been denied in some way?

If we look at the issue in Section 3, it was to be an additional signature but they changed it to an initial. You have already heard testimony on how difficult that is. These are instructions that we put out (page 3, [Exhibit F](#)) for petitioning. This is the initiative petition itself (page 4, [Exhibit F](#)). When you get signatures, it is a very difficult process. You have to stand there and point to each item and say, "Print your last name first; write your residence address, not your P.O. Box; sign here; put the date, the city, the county..." Half the time, they don't do it, if you happen to look away for a minute to try to get someone else. They never read what it says here unless you tell them what to do. It is a difficult process.

We are expecting these people who can't even read the petition to sign and say that they have received this information. It's not the responsibility of government to determine whether they know a single thing in signing this petition. It's their right to sign it if they are the stupidest person on earth. They have the free speech to be able to do it. It's not the responsibility of the government to determine that with regard to free speech. We all may think that it is a good idea, but the Supreme Court has said it is not. Such significant concerns about trying to require people to say that they got the information—which may be a violation of free speech because we are forced to hand it out and we don't agree with it—or that they read it or something like that. It violates the *Constitution* to do that. It doesn't simplify or facilitate it; it interferes with the right to free speech.

You will notice on here, in addition to all those signatures, you have to have an affidavit on the back (page 5, [Exhibit F](#)). This is a huge process of getting the affidavit signed.

I mentioned earlier about moving the dates back and that I agreed with those amendments from the Secretary of State. I bring forward this document (page 6, [Exhibit F](#)), an opinion from the *Las Vegas Review-Journal* of several years ago, which discusses a similar bill with some of these requirements. This bill has changed; it is much better than it started out and we support a lot more of it than we did. In their statement, when you have to hand out measures prepared by someone else, essentially, this is compelled political speech. Move

forward carefully. We support improving the petitioning process. But we have to be very careful we don't interfere with, make it more difficult, or interfere with people's free speech.

Co-Vice Chairman Conklin:

Ms. Hansen, I have always appreciated your point of view even though I may not always agree. You raised some very valid issues and we appreciate that.

Co-Chairman Mortenson:

Janine [Hansen], I know where you are coming from and I support it. But I am still worried. There has to be some kind of a line between free speech and putting a blatant lie on the petition. I am troubled at how you are going to do this. If you had an unscrupulous petitioner, they could put something down that would be very positive but very inaccurate, totally erroneous, and misleading. Where do we draw that fine line? Who is going to look at it and say that this is reasonable or this is totally fallacious?

Janine Hansen:

The final determiners are those who vote on it when they go to the polls. They have a copy in their sample ballot, and there are measures to provide a copy of the entire initiative or ballot measure. For the people to decide, when they go to the polls, they have the explanations that are in the ballot. Now, because of your bills, we have information from both sides available in the ballot to determine how people feel about that.

A lot of times people sign a petition, not because they agree with it, but they want the chance for it to be aired on the ballot. The final check is at the polls. Another check is that, when you carry your petition, part of that petition is the petition language. You are supposed to have it with you.

If you go out to get a signature and someone wants to read the ballot language, you have it right there with you. It is required. I always ask to read the ballot language. Most people don't; only 1 out of 100 will ask to read it. That is not the fault of the person that is trying to get signatures. That is the fault of the public for not asking. If it is a blatant lie, there is lots of campaign spending by organizations and groups that come down on one side or the other of an issue.

Some people felt, this last time, there were petition issues that weren't accurate and weren't true. The voters were the ones that made that final decision. That is what the Supreme Court is telling us. We have to trust the voters in the end to make that decision. The process with the two sides being able to put forth those arguments is one of the best possible ways to resolve the problem, which

you have identified. The more information that we have, the better opportunity we have to expose anything that might be blatantly false, in the process of free speech and campaigns.

Assemblywoman Angle:

When you were collecting signatures, did they ask you what it said or did they ask you if they could read it? If they asked you what it said rather than reading it, even if there was a statement there, do you think they would still ask you what it said? What precludes them [signature gatherers] from making a false statement if they ask you what it says?

Janine Hansen:

Only about 1 in 99 ever read any of it, even if it's there. I don't anticipate any of them reading even a 200-word statement. Most of them just ask you what it is and they take your word for it. Under the First Amendment, you have the right to tell them and advocate for your point of view. I don't think it really makes any difference, even if it's there, whether or not people will read it.

Co-Vice Chairman Conklin:

Ms. Hansen, since you have circulated petitions, some people don't want to hear your point of view, they want to see it. That piece of paper is authoritative in their mind. Therefore, it is valuable for those people because we all like authoritative items when we look at something. It gives us a sense of security that the information is accurate. Would you agree with that?

Janine Hansen:

Absolutely, I believe there ought to be a copy of the initiative, or whatever you are doing, as a part of the petition. Someone then can read the actual petition. An explanation is not the actual petition. If you do decide to put an explanation in, I would suggest, as Lucille Lusk did, that it be part of the petition and the people that are advocating it can supply it.

Assemblyman Giunchigliani:

I circulated an initiative on the corporate tax and got offered to be thrown down mine shafts and all sorts of things. Not to offend anybody, but, you can't fix stupid. I think what Mrs. Gansert was trying to say is that we are required to give them the content of the information. If we don't do a box, maybe within the preamble or at the beginning, they can verify by their signature that they got it. That might get at what the intent is. Looking at this (page 4, [Exhibit F](#)), why do we require last name, first name, and initial? This is awkward for most people. Maybe, as we look at the petition issue or the forms themselves, let's make it a little more simplified for people.

Janine Hansen:

I believe that was an issue for the Secretary of State. They felt, when they were checking them, it was easier.

Assemblywoman Giunchigliani:

It's easier to go alphabetically.

Janine Hansen:

That's right. I might mention, in regard to that, if the explanation is actually on the petition, it resolves a lot of problems rather than having them separate. It is right there, and anyone who wants to read it can instead of initialing it. There is no need for an extra initial because it's right on the page that they actually sign.

Assemblywoman Giunchigliani:

Mrs. Gansert indicated that she is quite willing to work with the groups on making sure that this works correctly. We'll look at why we do it this way.

Co-Vice Chairman Conklin:

[Closed the hearing on A.B. 185.] We will open the work session with Assembly Bill 136.

Assembly Bill 136 (1st Reprint): Requires Secretary of State to post on his Internet website certain information related to proposed constitution, constitutional amendment or statewide measure in lieu of causing publication of such information. (BDR 24-418)

Michelle Van Geel, Committee Policy Analyst:

[Read from Exhibit G.] Assembly Bill 136 was presented to the Committee on March 8, by Alan Glover [Carson City Clerk-Recorder], Larry Lomax [Registrar of Voters, Clark County], and Barbara Reed [Douglas County Clerk-Treasurer]. The bill would require the Secretary of State to provide to, or reimburse, each county and city for, computer programs and certain supplies that are necessary for conducting elections. Such supplies include computer programs that are necessary for mechanical voting systems; paper, cards or other materials used for absentee ballots; and paper used to print permanent paper record to enable a manual audit of votes.

If you remember the discussion, there was a fiscal note attached to this. We didn't have the fiscal note at time. I believe it is about \$1.4 million. That fiscal note is now available.

Co-Vice Chairman Conklin:

If we take action on this bill I think the appropriate action is to pass it and re-refer to Ways and Means because there is a fiscal note.

Assemblywoman Giunchigliani:

During the hearing, Renee Parker said that the Secretary of State's Office already pays for certain things? This went beyond what you normally covered, I'm trying to figure out what that was for.

Renee Parker, Chief Deputy, Office of the Secretary of State, State of Nevada:

We currently pay for the publication costs for all ballot questions. The clerks have to publish them in a paper of general circulation three times. That was \$462,000 this last cycle.

Assemblywoman Giunchigliani:

That's something that we've tried to eliminate for two sessions.

Renee Parker:

There has been discussion about putting it on Internet websites this session. But we pay for that and pay for the ballot stock costs. That is the stock of the absentee ballots. That cost actually went down this last election because of the new voting systems. Prior to that you had punch card stock and optical scan stock that they were using on Election Day. Now, you just have optical scan stock for absentee ballots. Larry Lomax has those full-face AVC machines that have a ballot stock cost associated with them. Our cost went down \$100,000 with the new voting systems. It is now about \$117,000 for ballot stock costs each year.

Assemblywoman Giunchigliani:

I am uncomfortable with this. I agree with the Co-Vice Chair, if this does get processed, it has to go to Ways and Means. Some of this is local, clerk's responsibility, not the State. Would you consider, for discussion purposes, if we made the Internet changes, pooling those dollars and allow them to apply for a certain pro rata grant to offset some of their costs?

Renee Parker:

We do. It comes out of the statutory Contingency Fund. Last time \$200,000 was allocated in the fund for these costs. We have pending before the Board of

Examiners the publication costs of \$462,000 to reimburse. They would have to increase that going forward, so you could do that, in lieu of the publication costs. We tried that a couple of sessions ago and the Press Association came in. There were issues with the rural counties. I don't remember what those were but they were upset.

Assemblywoman Giunchigliani:

We've passed it about three times; somebody kept resurrecting it. It has become somewhat antiquated. We are subsidizing the actual publications rather than doing something for the public good. If we wanted to look at that, we could amend it here that we consider the Internet [acceptable] or leave it for now and look at what happens when we send it over to Ways and Means.

Co-Vice Chairman Conklin:

It is my understanding that the Secretary of State has reimbursed certain things that you have outlined here for some time. Does this bill expand the items that you are going to be responsible to reimburse that have been, for some time in the past—always—paid by county governments?

Renee Parker:

Yes, it does, substantially.

Co-Chairman Mortenson:

I wasn't here for the hearing on this bill but I don't understand why the State should pay more money toward the local governments' elections. What was the impetus, the logic, behind asking for that?

Renee Parker:

This is not the Secretary of State's bill. This was a bill that came from the County Clerks Association. The purpose is, with the new voting systems statewide, they have a higher cost, according to the clerks, than what they would pay for their punch card maintenance contracts, or for setting up the election.

With the new voting systems there are licensing fees and election setup costs. We paid for that when we purchased the voting systems through the 2006 election. Beyond that, the clerks always paid the maintenance and the license fees. Some of them were concerned that this would cost them more money.

Many of them were moving toward electronic voting. But we did it in the interim and we paid for part of it. They are saying elections have become more

complicated. That is the testimony they gave. It is more costly. If we are going to move into this age of using technology to provide more accurate and reliable elections, it is going to cost the counties more. Some of those counties don't have that money. We don't necessarily think the State should pay for it. I just provided the fiscal note and the information concerning what we pay now.

Co-Chairman Mortenson:

You just made the statement that you don't think that they [counties] should pay for it, but that the State should pay for it?

Renee Parker:

We paid for it with the new voting systems to give them time through the 2006 election. We paid for all the costs for 2004 and 2006; those are prepaid. Going forward, that is something that the counties have always paid for. However, it is more costly to get more accurate, more reliable elections. Electronic machines with paper trails are more costly to maintain and to utilize than punch cards and optical scan. But those have higher error rates and other concerns with them. There is a tradeoff.

We didn't come in here advocating that the State pick up the cost. We're neutral.

Co-Chairman Mortenson:

I can understand the idea that things are becoming more complex, complicated, and technological. I still don't see the logic of making the State pay for a county function. You're right there are some counties that have a difficult time paying for it. Some counties have a much easier time paying for it than the State would. I am split on this one.

Co-Vice Chairman Conklin:

It seems that the Committee is split or leaning in another possible direction. Ms. Giunchigliani, do you have potential amendments?

Assemblywoman Giunchigliani:

I agree with Mr. Mortenson; there are certain things that are local government responsibilities. However, we have a pattern of certain items being covered. I might suggest, for discussion purposes, move to amend and re-refer to Ways and Means by deleting Sections 3 and 4, which are the new areas, if I look at the fiscal note for comparison purposes, but allow them to continue with the publication and ballot costs. In addition, in the amendment, add that, "in lieu of the publication cost, the Internet postings for the information."

[Assemblywoman Giunchigliani, continued.] I'll restate that. I move to amend Section 3 and 4 and, where appropriate, change the publication from being printed in the print media and allow it to be used on the website. This would be a motion to amend and re-refer because no matter what, it has to go to Ways and Means.

We would need to add that they would continue to pay for the ballot stock costs and the printing costs, as we currently do, through the Secretary of State's Contingency Fund.

Renee Parker:

If you amend and re-refer, you don't have the language that requires us to pay ballot stock costs in this bill right now. So if you are going to amend out Sections 3 and 4, and add "posting to the Internet/website", you'll want to add it in those statutes and those are not currently in this bill.

Assemblywoman Giunchigliani:

My intent would be that we pick up that language. I can work with Michelle Van Geel or whomever and make sure that we pick up the appropriate sections of statute to include them in here.

Co-Vice Chairman Conklin:

I think that is appropriate.

Assemblyman Sibley:

Now that we have added other language to the bill, I have to disclose that I have a newspaper that publishes legal notices. However, this does not affect me any differently than anybody else since we do not do this publication portion.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND BY DELETING SECTIONS 3 AND 4, ADDING LANGUAGE TO ALLOW FOR PUBLIC NOTICE TO BE MADE BY POSTING THE INFORMATION ON THE SECRETARY OF STATE'S WEBSITE, AND RE-REFER ASSEMBLY BILL 136 AS AMENDED TO THE COMMITTEE ON WAYS AND MEANS.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN SIBLEY VOTING NO.

Assemblywoman Giunchigliani:

I misunderstood; they already have the Contingency Fund so there is no impact on The Executive Budget. Therefore, we don't need to amend and re-refer but to amend and do pass. In fact, we are not adding any cost.

Co-Vice Chairman Conklin:

The Chair will entertain a motion to rescind the previous action.

CO-CHAIRMAN MORTENSON MOVED TO RESCIND THE
PREVIOUS ACTION TO AMEND AND RE-REFER
ASSEMBLY BILL 136.

ASSEMBLYMAN McCLEARY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS ASSEMBLY BILL 136 BY DELETING SECTIONS 3 AND 4,
AND ADDING LANGUAGE TO ALLOW FOR PUBLIC NOTICE TO BE
MADE BY POSTING THE INFORMATION ON THE SECRETARY OF
STATE'S WEBSITE.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

Co-Vice Chairman Conklin:

We will get Drafting on this right away and bring it back next time.

Assemblywoman Giunchigliani:

If people want to see it before it goes to the Floor, we can bring it back to the Committee and make sure that the amendment meets the intent of the Committee. That way you don't hold up the process.

THE MOTION CARRIED WITH ASSEMBLYWOMAN ANGLE AND
ASSEMBLYWOMAN SIBLEY VOTING NO.

Assemblywoman Gansert:

[Mrs. Gansert reserved the right to change her vote on the Floor.]

Co-Vice Chairman Conklin:

We will bring it back to Committee as soon as drafting has a copy ready for us. Is there any more work to come before the Committee? Seeing none, the Committee is adjourned [at 7:35 p.m.].

RESPECTFULLY SUBMITTED:

Sarah Gibson
Transcribing Attaché

APPROVED BY:

Assemblywoman Ellen Koivisto, Co-Chairwoman

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Elections, Procedures, Ethics, and Constitutional Amendments</u>			
Date: <u>March 29, 2005</u>		Time of Meeting: <u>3:49 p.m.</u>	
Bill	Exhibit	Witness / Agency	Description
***	A	*****	Agenda
<u>A.B. 298</u>	B	Robin Williamson, Carson City Supervisor	Letter in opposition
<u>A.B. 191</u>	C	Larry Lomax, Registrar of Voters, Clark County	Proposed amendment
<u>A.B. 191</u>	D	Monica Simmons, City Clerk, Henderson	Letter in opposition
<u>A.B. 185</u>	E	Assemblywoman Heidi Gansert	Proposed amendment
<u>A.B. 185</u>	F	Janine Hansen, President, Nevada Eagle Forum	Information in opposition, example of new petition style
<u>A.B. 136</u>	G	Michelle Van Geel, Committee Policy Analyst, Legislative Counsel Bureau	Work session document <u>A.B. 136</u>