

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

**Seventy-Third Session
April 28, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:51 p.m., on Thursday, April 28, 2005. Chairman Ellen Koivisto presided in Room 3142 of the Legislative Building, Carson City, 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-Chairman
Mr. Harry Mortenson, Co-Chairman
Mr. Marcus Conklin, Co-Vice Chairman
Mr. Bob McCleary, Co-Vice Chairman
Mrs. Sharron Angle
Mr. Mo Denis
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Brooks Holcomb
Mr. Harvey J. Munford
Mr. Bob Seale
Mr. Scott Sibley

COMMITTEE MEMBERS ABSENT:

Ms. Kathy McClain (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Joe Hardy, Assembly District 20, Clark County
Assemblyman David Parks, Assembly District 41, Clark County

STAFF MEMBERS PRESENT:

Lorne Malkiewich, Director, Legislative Counsel Bureau
Michelle Van Geel, Committee Policy Analyst

Celeste Gunther, Committee Attaché

OTHERS PRESENT:

Carole Vilardo, President, Nevada Taxpayers Association
Lucille Lusk, Chairman, Nevada Concerned Citizens, Las Vegas, Nevada
Michael Alastuey, Legislative Advocate, representing Clark County, Nevada

Co-Chairwoman Koivisto:

[Meeting called to order and roll called.] We will hear the bills in order and begin with A.B. 432, presented by Assemblyman Hardy and Assemblywoman Gansert.

Assembly Bill 432: Revises provisions relating to fiscal notes for certain bills and joint resolutions. (BDR 17-893)

Assemblyman Joe Hardy, Assembly District No. 20, Clark County:

Assembly Bill 432 is two pages but it is not a simple bill; it is simple in its concept. The language may not reflect the simplicity, however. The origin of this bill came about after talking with the Family Resource Center employees in Logandale, located in southern Nevada. They noted the State Welfare worker and the Counseling Division had appointments in Logandale at the Family Resource Center to see clients. They found they were coming different days of the month to see shared clients and wondered why they did not come together to see the same people. So they said, "Why don't you folks carpool?" Not only carpool, but also come at the same time, because in essence, you are going to see the same people.

Those people who are coming to be seen have issues with transportation. That is why the outreach from Clark County and Las Vegas downtown area is important for those people to have someone come to their local place. After some deliberation and debating whether it could be done or not, the two agencies, in one car, transported two people to Logandale and then on to Mesquite and back to Las Vegas, thus sharing the State of Nevada's money, time, and resources.

I said, "Wouldn't it be a wonderful thing to allow agencies to share in their resources in such a way that it would be helpful to the people in the State of

Nevada?" That led me to think about other agencies. I decided I would approach this in a non-threatening way. I asked the people who come with a fiscal note seeking money for budgets for their agency. I wanted them to be able to say, "This is what we want to do. This is the amount of money we are requesting, and also, we have another agency, governmental entity, or non-profit organization who could benefit by the money the Legislature gives our agency.

[Assemblyman Hardy, continued.] If the agency that is requesting money says that there is no way they can share with anyone, then I would say fine. If they say, "There is a way that we can share our turf," then that would even be better. So, it is not so much to punish or reward, but to allow the thinking process to happen in a sharing way. This would allow the people to actually enjoy shared resources. That is the concept of this bill, and I am open to any questions.

Assemblyman Seale:

The concept is, as I see and read it, one of a voluntary action.

Assemblyman Hardy:

That is correct.

Assemblyman Seale:

How do you get these agencies to do that?

Assemblyman Hardy:

I would have the fiscal note, as it talks about on the bill, and have the opportunity to have the agency, in a blank, say what their plan is. Then you can expand it by adding, "See attached papers." Have it on the fiscal note form that says, basically, "How do you plan to share your resources, if at all?"

Assemblyman Seale:

I understand perfectly well what you are talking about and where you want to go. In my former life, as the Treasurer of this great state, there were lots of opportunities for me to work with other agencies, along with lots of opportunities for those agencies to work with the Treasurer. That was not easy to accomplish. Sometimes, it was only accomplished because I was able to intimidate them with money. I worry about how we convince people that it is in our best advantage, for both agencies and the citizens of the state of Nevada, to cooperate in some fashion like that. I love the concept, but I am a little concerned about how we implement it.

Assemblyman Hardy:

I have shared your concerns, and I did not really want to overreach with this particular concept at this time. I had to get a certain comfort level with it. What I anticipate happening is that some point in time, fiscally responsible people would happen to serve on the Ways and Means Committee. They would be looking at a budget and funding. I know things in my district and they know things in their district, and they will be able to say, "This particular agency could benefit by partnering with another agency." Also, ask whether they have spoken with each other yet. This is the legislative body that will be asking people if they have talked to so-and-so because their agency will overlaps with someone else. Can you share resources?

Ultimately, if you share resources, two things could happen. One, you may need less money, and two, you may find you can do more with what you have. I suspect that if we can do more with what we have—more service, more opportunity for other people to take advantage of the resources—it would be a good thing. To answer your question, I think it would evolve.

Assemblywoman Giunchigliani:

I too understand what you are trying to get to, and I think conceptually, it is a good idea. I see—and I think anyone who serves on the Ways and Means Committee thinks—when we see a fiscal note, the agency who might not want to do something will put a fiscal note on the bill. Unfortunately, we get the opposite. Sometimes we hear, "I do not want to have to do that job," so we will make the bill negative.

My other concern would be the 120 days of this Legislature. To try and sit down together and then come to the Legislature and say that it could be an economic benefit, which is what you are looking to do, may not be enough time.

Much of what you are talking about is management style, and it would be nice. We sit in your hearings and our hearings and think, "Why don't you just go next door and talk to them if you are going to register this one for automobile titles?" Bring this group out and do this, and bring that group out and coordinate.

We tried to do something similar to this when I did a bill back in 1993 for getting all forms together—everything electronically—so business would only have one form and have to fill out a request for things. It took me months to work through. Conceptually, I think I know what you want to occur, but I do not know if this captures it. We could continue grappling with how to encourage agencies to think out of the box and think about who is your client,

and maybe your clients are being served by three other people. That is how we got to a one-stop shop in a lot of cases. You want to go further, which I commend.

Assemblyman Seale:

By way of example, some of the problems that we have in the state are because of turf. It is not like a business. It really is not. Those of us who would like to see it like a business know it is not. There is turf. When I first became Treasurer, part of my platform was that there were some 355 bank accounts in the State of Nevada, and it appeared there was no particular good reason for all of them. So, when I became Treasurer, I decided to eliminate those bank accounts. I became as unfriendly in the agencies as a bank robber at the Bank of America. Even though I could point out and demonstrate to the agencies it was in their benefit and their money would be in the General Fund of the Controller and Treasurer—with interest distribution—I was fought tooth and nail. I am sure Ms. Giunchigliani can remember some of those fights. I would come over and have arrows sticking out of me. I was in that position for eight years and was able to get it down to 150 bank accounts. That is an abysmal record.

So, getting the cooperation and the thought process for these agencies to cooperate has to be primary to this bill. I do not know if we could ever legislate, although I would love to give it a try. Cooperative attitudes amongst the agencies would be good, because many of these agencies have an overlap, just as my agency had overlap with virtually every agency in the State. I would certainly love to work with you on this, and I think it has a lot of merit.

Assemblyman Conklin:

I think many of my comments are probably very similar to Mr. Seale's. I, too, really like the direction that you are trying to take. One of the things that has annoyed me for some time is the general practice that all government practices a zero-balance-based budgeting technique. That is how we get into turf wars. If you do not spend it, you lose it, so you spend everything. The problem with that is we can never ask for other potential budgeting techniques out there. I think what you are trying to do is reward those that provide a certain amount of efficiency, and I am certainly for that. I do not know if this actually gets there, but it is a start. It is a good idea and it would really force people to take an efficient approach to the way they spend their dollars. In business we do that by saying, "If you save money, we are going to let you share in the savings," but it is much harder to do in government.

There was one company that I worked for that had a standard room rate for hotels when you traveled. The rate was \$75 a night, but if you stayed at a hotel

that was \$50 a night, they would allow you to keep half of the \$25 savings. There was an incentive to always save money. The company looked at it and said that the average rate of their expenditure is \$75, and they would gladly give you half of the savings because they were still saving 15 percent of the bill.

[Assemblyman Conklin, continued.] I understand where you are going with this bill but do not know if it actually gets there. I certainly appreciate the idea, and I hope there is a real strong way to force some reform in the way we budget and spend our money. The problem, however, is that I do not have a better suggestion, either.

Assemblywoman Giunchigliani:

In 1993 or 1991, we tried to have incentive-based savings, but I do not think anyone took real advantage. In 1993, we let them capture a percentage. I am trying to remember, because there are different ways to reach that goal. You can start small by starting with a couple of similar agencies with a certain percentage they are allowed to keep. They can either redirect within their agency, or it could be shared salary increases or additional time off as incentives, if they are defined well enough. It would also benefit the client they are serving.

Carole Vilardo, President, Nevada Taxpayers Association:

I know the bill well. It was A.B. 153 of the 67th Legislative Session. The reason I know it was because I just had to look it up for something else. I had to look it up because it was an efficiency measure and was your bill, and it was to set up a committee that would look at all of the fees to see where we could consolidate. It would look at where we could consolidate the reporting forms and make everything easier. That is how I remember the bill number. We have met periodically, but we have never been able to get that implemented.

I was not going to testify on this bill, but given the direction that the discussion has taken, somewhere around March 15 or 16, we delivered a report to all legislators. It was directed towards fiscal responsibility and we picked up on the discussions we had back then. We have a recommendation in there on the "use it or lose it" mentality those of us in the private sector place on government. What we recommended is that if you do not spend all the money in your agency and you remain under the same conditions in your agency by providing the same service, you would be able to keep some money. The agency would keep one-half of the savings, and one-half would go to the General Fund. Also, the agency would not lose on the basis for the following year's budget. You do still have to maintain the same level of service. You could not avoid hiring

replacement employees to try and achieve a savings. It is the same thing the locals are talking about right now with the reduction of the property taxes. How do I ever recover it back?

[Carole Vilardo, continued.] I believe there were three different bills over the years. One bill was from 1993, another in 1995, and one was either a 1997 or 1999 bill. All have variations of this bill in them. It would be wonderful if Dr. Hardy would like to look at those and revisit those issues. The language was there and it was worked on both times with both LCB [Legislative Counsel Bureau] Fiscal and with the budget directors. Two budget directors I know specifically who were involved, because I met with them, were Judy Sheldrew on the first one and Perry Comeaux on the second one.

Assemblyman Seale:

In the Treasurer's Office, when I was Treasurer, we never spent all the money. That just happened in other agencies.

I am a freshman and I have not been here that long. This is the first time we have had a bill where we have stepped back and looked hard at policy, and I find it refreshing. I would be delighted to work with Assemblyman Hardy on the bill.

Lucille Lusk, Chairman, Nevada Concerned Citizens, Las Vegas, Nevada:

This has been a fascinating discussion. I am not looking at this bill as globally as Assemblyman Hardy is and as some of you are. I am looking at just what is written here and what it actually means the way it is written. We are in support of the bill as written and would be even more supportive of it if you could come up with the kinds of things you are discussing—the development of fiscal notes, showing both the cost and benefit side of the proposals. We believe it would be of great value to the legislators to be able to make better decisions.

We have had a lot of discussion about what we want done with questions that go on the ballot. One of those things we want done is to have a fiscal note prepared. This could provide a better pattern for a fiscal note for a ballot question than what currently exists. It would be of great value to the citizens of the state to be aware of who it is going to cost and who it is going to benefit for a ballot question that is before them.

While I do encourage you to pursue possible amendments, if you do not succeed in coming up with them, I would encourage you to pass the bill as written.

Co-Chairman Koivisto:

I will close the hearing on A.B. 432 and open the hearing on A.B. 498.

Assembly Bill 498: Extends date for expiration of Legislative Committee for Local Government Taxes and Finance. (BDR S-421)

Assemblyman David Parks, Assembly District 41, Clark County:

I am in front of you today with A.B. 498. It is a bill that is quite simple. This bill simply extends the Legislative Committee for Local Government Taxes and Finance for an additional six years. It is set to expire by limitation on July 1 of this year and would be extended for an additional six years.

I personally feel that this committee has been very helpful. It has had a number of names for the tasks it has performed over recent years. I believe it was the S.B. 40 Committee, and subsequently it became the 230 Committee—I am not sure if it was A.B. or S.B.—and most recently it was given the name of S.B. 557 Committee. All were names of the bills that were passed to establish this committee.

The committee functions with a Technical Advisory Committee that is made up of some 11 members, consisting of the Executive Director of the Department of Taxation and 9 members appointed by groups representing local governments and representing various geographical areas. It also includes one member appointed by the Legislative Commission to represent general improvement districts (GIDs). The committee itself has functioned well with its 8 members. They have the local government expertise also the technical expertise.

I hope you will consider extending it for another three interims so that some of the work we have started may continue.

Co-Chairwoman Koivisto:

This session, A.B. 489, from the Growth and Infrastructure Committee, was passed and has been signed by the Governor. In Section 10 of that bill, an interim study on property tax would be created. Doesn't that overlap with this interim committee? Can you comment on that?

Assemblyman Parks:

I am aware of the study for property tax; however, that is strictly and solely related to property tax. This Committee actually looks at a number of other revenue sources, especially at what we call the C tax [consolidated tax]

distributions. We have done a lot of work in the area of gasoline taxes. I do not see any duplication. I see there are similarities, but the property tax is simply one element of the overall area of a local government's taxes and finance.

Assemblyman Seale:

Does this Committee have anything to do with local entities bonding? Would that be a different commission or committee that deals with bonding? Also, what is the approximate cost of this committee per year to be able to meet? Is it just the per diem and travel for the members?

Assemblyman Parks:

This committee has not looked at the area of bonding. We have been very sensitive to the concerns of entities being able to maintain their bonding capacity. They have dedicated the sale of bonds or pledged certain consolidated tax-type revenue, such as gasoline tax, towards capital improvements. They have funded through either short-term borrowing or long-term debt. The committee has not gone into the individual entities as far as I remember.

In answer to your second question, the cost has been just simply the per diem and the travel for the members. Most of the members of the advisory committee cover their own costs, as far as their travel expenses. Since they are normally on salary with their employer, the additional cost is picked up by their employer. In a sense, their employers try to protect and preserve their own employees' position on the committee.

Co-Chairwoman Koivisto:

Do you have staff for the Committee?

Assemblyman Parks:

Staff is assigned by the LCB, so that certainly is not without cost. We have had and have enjoyed having very good representation by LCB, as far as coordinating and providing the summary search. Also, a tremendous amount of research has come from the participating entities that are on the technical committee, as well as the Nevada Department of Transportation, especially in the area of gasoline tax.

Assemblywoman Giunchigliani:

Senator Ann O'Connell chaired the committee for years, and they broke off into the smaller committees. Is that how this committee originated?

Assemblyman Parks:

Yes. The original, I believe, was the S.B. 40 Committee; Senator O'Connell served as the Chairman in the last interim. I was Chairman in the interim prior to that.

Assemblywoman Giunchigliani:

Have we ever removed the GIDs or looked into doing so in the past recommendations? Perhaps if we are going to extend the committee, we should implement some of the recommendations.

Assemblyman Parks:

I know that discussion of GIDs has been a topic. As far as eliminating them, I would concur with you that we have not done so. In the northern part of the state we have a fairly sizable number of GIDs, and in the southern part of the state we have a lot of unincorporated towns.

Assemblywoman Giunchigliani:

Are there recommendations that we have been asked to act upon and we have not done so?

Assemblyman Parks:

This committee and its predecessor committee have a very good track record of being able to get its recommendations adopted and enacted into law.

Assemblywoman Giunchigliani:

Enacted into law as well as local government ordinance, or anything dealing with local government changes that they need to make, or is it all state?

Assemblyman Parks:

I do not believe that there has been anything dealing at the local government level. It has been dealing with how the various local government entities have fared relative to its revenue and tax structure, within the confines of the state.

Assemblywoman Giunchigliani:

The six-year period was based on what?

Assemblyman Parks:

I hate to say it is an arbitrary figure, but I think it is consistent with what has occurred in previous extensions of the previous committees.

Assemblywoman Giunchigliani:

I do not know if this Committee would be interested, but maybe just a sample of what recommendations the committee has made would at least help us to see its purpose. In the past, this Committee attempted to get rid of many standing commissions because they were ongoing commissions who did not perform.

I think this committee is different. It is a good working group I have seen over the years. Maybe we ought to pull that list together again and look and see if we can streamline our own government. We do not want "eat, meet, and greet" groups.

Assemblyman Conklin:

I happen to agree with my colleague. I am concerned about this particular study. We only have so many studies that we get per session, and I am concerned because we already have one tax study. I just wish we had an opportunity to combine them if we were going to move forward with the tax study. I would also like to know if we have any recommendations coming from it before making any decisions.

Assemblyman Parks:

I would like to follow up on Mr. Conklin's comment. We did have three formal recommendations that were made into BDRs. These were in the last interim.

Michael Alastuey, Legislative Advocate, representing Clark County, Nevada:

I have been privileged to be a member of the Technical Advisory Committee to this particular Legislative Committee. I would say in all fairness, the focus on property taxes all throughout this last interim that just ended in this session has absorbed more energy than at any time in my career memories.

Yes, there were several recommendations that came out of this interim. They included gas tax and constitutional treatment of exemptions as granted by the Legislature. In addition, there was examination of the existing C tax formula. The technical group found there was no change needed at this time, although measures were brought before the Legislature earlier in the session. There was also an examination of the relationship between local governments and the telecommunications industry long term, for purposes of possible examination in the future.

The committee, both at the technical level and at the legislative level, has typically functioned on a consensus basis. That means if a bill draft comes out of that committee, it is usually well vetted and technically sound. You will find

over the years the measures that are introduced at the recommendation of this Legislative Committee pass through both houses, with no amendment or with a very minor amendment.

[Michael Alastuey, continued.] I would also bring to your attention the fact that this committee has functioned very well over the years. There needs to be some Legislative involvement, oversight, and study—during every interim—of property or other tax measures. This committee, in terms of a standing record of success over time, has been quite good and is worthy of your consideration.

Carole Vilardo, President, Nevada Taxpayers Association:

I am speaking in opposition of the continuation of the committee. This will not be a surprise to Mr. Parks or Mr. Alastuey, since I opposed this when the issue was raised before the committee to bring before it this bill.

The reason for my opposition is not that the committee has not worked. It basically had very specific charges in the beginning. One was C tax distribution, because we had formulas that were better than 40 years old that made no sense. The first-tier distribution on fuel tax was another major issue. The intangibles issue: I was the person who raised the issue to the first S.B. 40 Committee, which was an interim committee, not a standing committee. I wanted to continue it as a standing committee for two sessions. It was done that way through the 1999 Legislative Session, and then in 1999, I also made the recommendation to continue it forward.

I will explain my reasons for the change right now in opposing the continuation of this committee. The committee has been going for 10 years and I think either one of two things needs to happen. Either there needs to be a break and a step back to look at the issues that need to be identified, or there needs to be specific charges put into the standing committee. At this point I would say the extension is way too long. I do not think you need another six years.

If you were going to look at amending this bill, Mr. Alastuey addressed one very specific charge that has been left hanging and has been a very difficult one. It was the second tier of fuel tax formula distribution. There may be an issue where you would want to put specific issues relating to property tax in this issue. That was done with telecommunications. We have had a couple of times where there was a tax interim committee, as Mr. Conklin and some other members of the committee were referencing, and there was a decision as to which of the committees would handle the issue. It was done so you were not duplicating work and possibly even coming to a different conclusion.

[Carole Vilardo, continued.] The thing I have seen as a difference over the last interim were the changes in the makeup of the committee. The Technical Committee, for the most part, has been outstanding. The changes that have occurred actually occurred because of budget constraints on the part of local governments who could not afford to have their technical people travel to some of the meetings. Generally, they have done the roundtable workshops with the Technical Committee. As Mr. Alastuey indicated, one of the best things with the committee has been the fact that it has vetted with the local governments ahead of time. However, this last time is the first time that I have seen the committee not in consensus on an issue. That was personally disappointing to me because it has always operated in consensus. Anybody who has dealt with taxes knows there is a black side to taxes and there is a white side to taxes. The consensus is going to be gray. That is exactly what happens if you get a halfway-decent bill. This time we did not have consensus, and it was very disappointing.

If you choose to continue the committee, I would ask you to very seriously think of specific charges they should report back to you about, because, outside of second tier fuel tax distribution, there is nothing specific that the committee has been looking at. Even the bill dealing with exemptions that came through this year was just a rewrite of what was done over the prior biennium. That bill was not passed for the second session because of a change that was requested. So, it started the process again, and that is what we are doing with that introduction this time. Mr. Alastuey worked very hard to get the consensus on that one.

Those are my reasons for not signing in support, and they are basically the same reasons I gave the committee.

Assemblyman McCleary:

I just want to clarify something with Ms. Vilardo to make sure I understand what you are saying. Your reason for opposition is that you do not think there is a clear mission for this committee and they are not productive. Is that what I understand?

Carole Vilardo:

Yes, that would be my personal opinion. Without having a specific charge, while the committee has a very broad charge, there is nothing specific at this point they are charged with doing. The legislators functioned very well and relied on the technical people. Prior to the last session, technical people—in some cases, regarding issues with the subcommittee—met as frequently as once a month to develop issues. They tried to have consensus to look because they deal with a

lot of minutiae. It did not happen this last time. While the committee has a very broad charge, as you can see from the way it is written, there is nothing specific they will develop at this point. There is nothing they are charged with doing and it seems they have been at their absolute best.

Assemblywoman Giunchigliani:

This question may either go to Ms. Vilardo or to Mr. Parks. We had several bills this session that we did not act upon that dealt with the C tax. Is it worthwhile, if we were to continue this committee, to specify a couple of things, and is that one that we should be looking over again? Did we just get the bills because political things happened? I know Elko really did have a problem that we had to fix, but the other one was a fairly contentious issue. If that is the case, I would like to have an idea of what really needs to be looked at, rather than just making up something.

Michael Alastuey:

Yes, there were a couple of bills that were considered this session relating to C tax. One came from some circumstances in Elko County. Actually, that came to light after the last deliberations of the Legislative Committee. Frankly, the mechanics fell squarely within what the Legislative Committee would have otherwise looked at. It had to do with how the C tax formula works if you have a mixture of population increases in very small communities, population declines in those communities that generate most of the C tax, and the interaction of distribution of any excess tax in that regard.

The C tax, or consolidated tax, is a blend of taxes of all different origins. All of these used to be distributed to governments on different formulas, and all are now placed in one pot and distributed under the same formula. They are comprised of the former basic city/county relief sales tax, the supplemental city/county relief sales tax implemented in 1981, the old motor vehicle—now government services—tax, cigarette tax, liquor tax, and local share of real property transfer tax. All of these combine to become the definition of six taxes, and some say five because two are sales-related.

The C tax formula is now distributed on a going-forward basis as a combination of base, determined by the previous year's allocation with the incremental or excess allocation, based on a blend of population and assessed valuation. In the Elko circumstance, we had a strange blend of decline in the major population center and a very slight increase of only a few people in a minor population center, comprising a large percentage. That threw the formula off, so even though the Technical Committee did not have an opportunity—because of the late arrival of this issue—to give attention to it, I testified in favor on the Senate

side, and it was eventually passed through the Assembly side and signed quickly by the Governor.

[Michael Alastuey, continued.] There was another proposal that came from one city in southern Nevada—that was not based on the same argument—that went back to the so-called tax shift in 1981. That bill received no further consideration. The latter proposal did come to the attention of the Technical Committee. The Technical Committee was consensus-based and did reach consensus. They received one abstention, that such a proposal was not appropriate at this time. When that recommendation reached the Legislative Committee, they did not want to cast a chilling effect on the ability of that one city to bring its proposal to the Legislature. They did, and the bill has received no further consideration.

Carole Vilardo:

Mike has characterized one of the problems I saw for the first time, where we did not have consensus. It resulted in a separate bill coming through.

Assemblyman Parks:

I do not know if there is anything further I can say other than to follow up on the fact that it is a Legislative Commission standing committee as opposed to an interim committee. I wanted to clarify that so it would not compete for the limited number of interim committee slots.

Co-Chairwoman Koivisto:

We will close the hearing on A.B. 498 and open the hearing on A.B. 542.

Assembly Bill 542: Revises provisions governing transfer of employees from Legislative Counsel Bureau to Senate or Assembly. (BDR 17-410)

Lorne Malkiewich, Director, Legislative Counsel Bureau:

I am here today to testify in favor of a bill that allows you to steal my staff. This should give you an idea of how good the bill is. This is proposed by the Chief Clerk of the Assembly and the Secretary of the Senate to address a problem we have every session.

As you may know, we have a number of employees at the Legislative Counsel Bureau (LCB) who work for the LCB during the interim and then come to work for the Legislature during session. One problem we have had in the past is that on occasion, a person is required to take a pay cut to do so. Though they love

working for you, we put them in a very bad position of whether to come to work for the Legislature and make less money. In this bill we have given the Chief Clerk and the Secretary two additional tools to ensure that a person who makes that transfer does not lose money. If anything, their salary, if they have a more responsible job here in the Legislature, would be higher.

[Lorne Malkiewich, continued.] There are two different tools, both of which you can see in new language on page 3. One change we made in the past few sessions was to allow people to move through steps as they work one session after another, to recognize that an Assistant Chief Clerk who has been here for 6 sessions should be getting paid more than an Assistant Chief Clerk who has been here for 1 session. They could be moved up to step 5 or 6. The first change, the top of page 3, allows the Chief Clerk or the Secretary in their discretion to do the same thing with respect to service for the LCB. If someone who has been a committee secretary for the last 10 years for LCB, that person would not have to come in at step 1.

The next change, in the new subsection 4 on page 3, is basically saying that a person who is an LCB employee is an hourly employee. If you come to work the session, you are a daily employee that we would give, with the approval of Chief Clerk and the Secretary, the option of remaining an hourly employee. Finally, if you are a grade 33, step 7 position in the LCB, you would continue to be paid at that same grade and step during session when you come over to a comparable position working for the Legislature, instead of shifting to a daily position.

If there are questions, I would be glad to explain or try to answer them. Again, the Chief Clerk and the Secretary requested this. Although it will make it easier for you to steal employees from me, I know how difficult it is to find good employees to work for 4 or 5 months every two years. I do not want to see any of these employees who come back to us for the other 18 months having to lose money during session.

Assemblyman Seale:

It says there is no fiscal note. I would think there would be something, because the salaries are going to be greater or potentially could be greater during the interim time.

Lorne Malkiewich:

The fiscal note is minimal. You are correct: there is a fiscal note. This session, we are talking about two employees, and you are talking about the difference

between a \$37,000 and \$39,000 annual salary, which over 5 months is going to come out to \$1,000.

[Lorne Malkiewich, continued.] Again, the principle of requiring someone to take a pay cut to come over here is what we are trying to avoid.

Co-Chairwoman Koivisto:

Are there any feelings from the Committee?

ASSEMBLYMAN CONKLIN MOVED TO DO PASS
ASSEMBLY BILL 542.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Co-Chairwoman Koivisto:

Is there anything else to come before the Committee?

Assemblywoman Giunchigliani:

Should we talk briefly about the amendment we discussed on the Floor today, so we are all clear? I do think the language did not do what Mr. McCleary and the Committee thought we were doing. Does staff feel comfortable enough working on that? Was there something else we needed to do?

Co-Chairwoman Koivisto:

You are right. I do think we need to talk about that one today.

Assemblywoman Giunchigliani:

I think everyone was comfortable once they heard the explanations, but I do not know if the verbiage got there.

Chairman Koivisto:

Mr. Conklin has made some notes on his copy of the amendment, so I will let him talk. This is A.B. 415.

Assembly Bill 415: Makes various changes relating to requests by Legislators for preparation of legislative measures. (BDR 17-772)

Assemblyman Marcus Conklin, Assembly District No. 37, Clark County:

The bill was A.B. 415. This is the one we amended, and the bill basically did away with anonymous bill draft requests. We amended it to put the intent that if there was a bill draft out there that had been requested from someone who lost an election, another legislator could come and pick up that bill draft and have their name attached to that bill. The language was a little obscure. I'm talking about line 37 on page 2. [Read from the bill, inserting a proposed subsection 5.]

After the general election immediately preceding the regular session of the Legislature, upon the request of a legislator, the Legislative Counsel shall add the name of a legislator as the primary requester of any measure requested by a legislator who will not return in the next Legislature.

So, between "legislator" and "legislative" and "Legislature," all appearing about six times in one sentence, I think it was understandably a little confusing. The reason I have been asked to speak on this bill is because I had a couple of comments that came up in the discussion, and we might want to consider them since this is an exempt bill and we can still amend the bill differently.

One of the things I heard on the Floor was that language has to be cleared up so it is understandable. If the request to amend this bill were made by both parties, and they agreed to the request, it would be helpful. Also, something I thought of after the amendment was passed is that we should give some direction as to how that bill would read in the future. Maybe we should take the person who is no longer a legislator and put them in the request field of the bill so that they are still recognized. Since it was their initial bill, their name would also be there, even though it has a new carrier or prime sponsor of the bill. It is only a thought and just something for the Committee to consider.

Assemblywoman Giunchigliani:

Nothing is ever easy around here. The reason I asked you why is because if we were even successful in getting this passed in the Senate, where you actually have your names on it, the person's name would have been there anyway. So, as your BDR list gets revised weekly, I always intended it would have to be approved before you could pick up that person's bill. You cannot even now pick up anything without their permission. So number one, we need to make that clear. Number two, it should probably say, "the primary sponsor has been changed to..." or something similar. I would be happy to work with others, and we know what we want to do. I just do not think that language captured it.

Co-Chairwoman Koivisto:

My recollection of Mr. Anderson's concern on the Floor session was that he was not sure if it meant a legislator who was defeated or a legislator who retired.

Assemblywoman Giunchigliani:

He used the term "voluntary," and that should not matter. They still cannot carry a bill.

Chairwoman Koivisto:

Either way, it should be the same.

Assemblywoman Giunchigliani:

I was playing with the language: "If a legislator requested a BDR and does not return to the Legislature, he/she may give their permission to a fellow legislator to become the primary sponsor, and that person's name shall be added to the BDR."

Co-Chairwoman Koivisto:

That is perfect.

Assemblyman McCleary:

I do not really care whether we need to specify that out or not. I know that is the way it is now. You cannot pick up someone else's BDR without their permission. I do not know if this bill changes what takes place now or that the amendment changes anything. If you feel more comfortable with that wording, then I do not have a problem.

Co-Chairwoman Koivisto:

It just changes the name on the BDR list.

Assemblyman Seale:

When you said the language did not get it, you were addressing the language in the amendment. That can be tightened up a little bit, but when you take that and put that in context with the whole bill, I am comfortable with it and it makes a lot of sense.

Assemblywoman Giunchigliani:

The main thing with the Senate is there are just those that do not believe. They want to be able to hide behind not having their name on the BDR. I do not think it will be a fundamental disagreement one way or another on this part.

Unfortunately, people did not have time to read the original bill to know of it. This was just a subsequent piece that caught some people off guard.

Co-Chairwoman Koivisto:

I like the language that Ms. Giunchigliani came up with. Is everyone okay with that language?

Assemblywoman Giunchigliani:

We do not need to do anything other than just have a new redraft made of the amendment. It will be a replacement amendment.

Assemblyman McCleary:

It is the same intent. We may be changing some words around, but the intention that this Committee had is still the same and we are not changing any policy.

Co-Chairwoman Koivisto:

[Meeting was adjourned at 4:58 p.m.]

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblywoman Ellen Koivisto, Co-Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Elections, Procedures, Ethics, and Constitutional Amendments

Date: April 28, 2005

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda