

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

**Seventy-Third Session  
May 10, 2005**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order at 3:55 p.m., on Tuesday, May 10, 2005. Co-Chairwoman 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-Chairwoman  
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  
Ms. Kathy McClain  
Mr. Harvey J. Munford  
Mr. Bob Seale  
Mr. Scott Sibley

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Dennis Nolan, Clark County Senatorial District No. 9  
Senator William J. Raggio, Washoe County Senatorial District No. 3  
Senator John J. Lee, Clark County Senatorial District No. 1

**STAFF MEMBERS PRESENT:**

Lorne J. Malkiewich, Director, Legislative Counsel Bureau  
Michelle Van Geel, Committee Policy Analyst  
Sarah Gibson, Committee Attaché

**OTHERS PRESENT:**

Lynn Chapman, Vice President, Nevada Eagle Forum  
Carole Vilardo, President, Nevada Taxpayers Association  
Ron Dreher, Private Citizen, Reno, Nevada  
Janine Hansen, Executive Director, Independent American Party of Nevada  
Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada  
Mark Sullivan, Assistant Executive Director, Associated General Contractors of America, Nevada Chapter  
Jeanette Belz, Legislative Advocate, representing the Associated General Contractors of America, Nevada Chapter

**Co-Chairwoman Koivisto:**

[Called meeting to order.] We will open the hearing on S.B. 311, Senator Nolan's bill.

**Senate Bill 311: Revises provisions relating to reimbursement for legislators for travel and other expenses during legislative session. (BDR 17-742)**

**Senator Dennis Nolan, Clark County Senatorial District No. 9:**

I think I have a bill that some of you will be able to identify with. Senate Bill 311 allows the Legislative Commission to authorize and set prior to each session the travel expenditure allowance for legislators. The original amount of \$6,800 as a maximum was established in 1987. Even up until the session before last, that could have been an adequate amount to accommodate the legislators who have to travel from outside the capital area—especially from the southern part of the state—and the rural legislators that have to fly in from Elko. It is a bit more expensive to fly in from Elko than it is from southern Nevada.

After last session, Southwest Airlines did not renew or even negotiate a state rate for air travel. At that time, we paid an \$89 round-trip state rate. Now, we are up to \$220. We have almost seen a tripling of the airfare. Gas rates in the

last two years have tripled as well. In addition to that, over the last six years there has been the advent of some additional costs to the legislative travel allowance, which included our room, board, and furniture rental for people traveling from outside a fifty-mile radius.

[Senator Nolan, continued.] We all understand what we are up against by way of expenses, but nobody under any employment circumstances should have to pay out of pocket for these kinds of related costs for serving in public office. I have handed out an exhibit ([Exhibit B](#)) outlining the legislators' travel expenses. I put that together based upon the numbers that are permitted. I also passed out a fiscal note ([Exhibit C](#)). The numbers are almost identical in a lot of areas. They give you airfare and a housing allowance of \$616. There are a lot of legislators who are reimbursed \$616, but their housing is more expensive. It could easily be \$800 to \$1,200 a month for a rental place. Furniture rental averages about \$300. There is also a car allowance. Gas is not included in those numbers, but the LCB did a better job with gas and automobile expense allowances. You submit your mileage as well as the cost of moving to Carson City and returning to your home. These costs come out of that same fund. The number on the legislator's travel expense for a session might be conservative, considering it adds up to about \$9,200. For some legislators, especially those coming in from Elko, where round-trip airfare is about \$350, it could be close to \$10,000. We are at a \$6,800 cap right now.

I had asked John McCloskey, the head of the Accounting Division, prior to coming to today's meeting to give me an idea of where legislators stood. As of right now, there are five legislators that are over their allotted cap, and we still have an entire month to go. There are six legislators who will be over by the end of this week and another 24 who will be over their cap within the next two weeks. The intention is that if this Committee sees fit to move this bill along, it will become effective upon passage and approval when the Governor signs it. We have asked the chairman of the Legislative Commission to convene a hearing to consider setting this cap.

**Co-Chairwoman Koivisto:**

It appears that you want to raise it to \$7,000; is that correct?

**Senator Nolan:**

Actually, that \$7,000 is a minimum supplemental allowance. Currently, the maximum is \$6,800. In consultation with the Legislature, they realized that we will probably not be going below that \$7,000 again.

**Assemblywoman Gansert:**

It is a minimum. So, you don't have a cap in place?

**Senator Nolan:**

No.

**Assemblywoman Angle:**

I live in the north, so I have to pay taxes on all of my travel. In fact, my husband always says to save back \$5,000 of my legislative pay, because that is exactly what it costs us out of pocket to do our tax return the next year. How will this affect anyone who lives within 50 miles of the capital?

**Senator Nolan:**

I don't think that you are going to have an issue, because your travel expenses will, for the most part, remain the same, unless for some unforeseen reason you are doing more air travel or something. I don't think things for your circumstance would change at all.

**Assemblywoman Angle:**

This is basically for people that live outside that 50-mile radius.

**Senator Nolan:**

This actually applies to legislators as far as what the amount will be. If for some reason you lived within those 50 miles—let's say Virginia City—and you incurred a lot more expenses, you would still be subject to the tax provisions, but there would be more money available to you to cover your actual expenses. This is a reimbursement. This wasn't an issue at all on the Senate side. No one even tried to make this some sort of pay enhancement. It's really not; it is an actual expense reimbursement for costs incurred.

**Assemblyman Seale:**

Why the base of \$7,000, if it is in fact a reimbursement? Why have a base?

**Senator Nolan:**

For budgeting purposes, so that they can establish a minimum to have available through LCB. That amount was put in upon their recommendation, because they felt, in looking at economic factors, that most people who travel in from out of the area aren't going to see that amount again for quite a while.

**Assemblyman Seale:**

Let's assume that I have submitted my expenses, and for some reason, they only came to \$6,900. That is what I would be reimbursed—not the \$7,000—correct?

**Senator Nolan:**

That is right.

**Assemblyman Holcomb:**

It seems that is pretty de minimis, \$200. Do you believe the Governor will veto this?

**Senator Nolan:**

We have a \$6,800 cap currently. People exceed this by way of expenses, but they are not reimbursed more than \$6,800. This puts a \$7,000 minimum. I can tell you anecdotally that after the last two special sessions, I paid \$1,200 out of pocket as a result of the travel costs associated with the special sessions.

**Assemblyman Holcomb:**

Is there a maximum amount? So in other words, they are going to reimburse you for out-of-pocket expenses. [Senator Nolan answered in the affirmative.] And do you think the Governor will veto this?

**Senator Nolan:**

No, it is not considered a fee on the populace.

**Assemblyman Munford:**

I don't quite understand. What is the car allowance? Who is eligible for this? I have been walking everywhere; I didn't know there were rentals available.

**Senator Nolan:**

The LCB [Legislative Counsel Bureau] will reimburse an automobile expense in Carson City if your place of residence is not within a reasonable walking distance. They would usually reimburse you the customary rate that the State Motor Pool will allow, around \$26. The car rental places in Carson City match the State Motor Pool rate.

The other circumstance would be like in my case. My wife has a car and I have a car up here, and when we go home, we have kids to run in different directions, and she works. We need two cars. It costs me \$120 to take a round-trip cab from the airport to home and back. At the State rate for a car

rental, I am actually doing better to rent a car for the weekend than I am to take a cab back and forth. They will also reimburse that.

**Assemblyman Denis:**

What is the effective date?

**Senator Nolan:**

It would become effective upon passage and approval. Providing that it passes through the Assembly and the Governor signs it, the Legislative Commission can meet to establish an amount. I think there is some urgency to this if we are going to see this come into effect before the end of session.

**Assemblywoman McClain:**

Do we have to ship this over to the cul-de-sac too?

**Senator Nolan:**

I think you will.

**Assemblywoman Gansert:**

You are setting a minimum of \$7,000, but actually, the Legislative Commission will set each session what that rate will be. That number will fluctuate. Concerning the car rental, I know that you can rent them, but you still max out at \$6,800 for total expenses. So, if you were spending money on airfare, you may not have excess for reimbursement for autos.

**Senator Nolan:**

That is correct.

**Co-Chairwoman Koivisto:**

I think that the Vice Chair of Ways and Means could tell us if it will need to go to them.

ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS  
SENATE BILL 311.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

[The Committee on Elections, Ethics, and Procedures reconvened as the Committee on Constitutional Amendments at 4:14 p.m.]

**Co-Chairman Mortenson:**

We will open the hearing on S.J.R. 11 of the 72nd Legislative Session.

**Senate Joint Resolution 11 of the 72nd Session: Proposes to amend Nevada Constitution to provide for payment of compensation to members of Legislature for each day of service during regular and special sessions and to provide for payment of reasonable allowances to such members for postage, express charges, newspapers, telecommunications and stationery. (BDR C-1353)**

**Senator William J. Raggio, Washoe County Senatorial District No. 3:**

This bill would amend the *Constitution* to provide compensation to members of the Legislature for the full time that we serve. If this resolution passes, the measure goes on the ballot and the public will have an opportunity to vote. There has been a lot of misrepresentation about this measure. When it was passed again this session in the Senate, the headlines were that the Legislature is trying to double its salary. I guess that is one way you can look at it. We ought to look at the history for compensation for legislators. I have an editorial ([Exhibit D](#)) that was in the *Reno Gazette-Journal* on February 16. I think that will help you understand it.

Let me set the tone for this. The provision in the *Constitution* was put there in 1864. It provided that members of the Legislature would receive compensation fixed by law for a period not to exceed 60 days. In 1864, no one had any belief whatsoever that a Legislature could go as long as 60 days. I would submit that a lot has changed in the intervening time. I wish we could get through all of the complex matters that we have in 60 days. We still meet every two years. We are one of only seven states that still have a biennial legislative session. I guess the public can be thankful for that, because if we met every year, we could raise their taxes every year.

It no longer makes any sense to retain that in the *Constitution*. For a long time, we have had to go more than 60 days in a legislative session. In fact, if you will recall, we have gone 170 days in recent times. We have limited our regular sessions to 120 days. That is consistent with about 36 states. The *Constitution* says that we must complete our regular session in 120 days. We as legislators are entitled like any working person to be paid for each day we work. That is

essentially what this bill would say. It says that if you put in a day's work, you get a day's pay.

[Senator Raggio, continued.] Let's talk about the pay for a moment. It is not exactly munificent. I don't know too many people who come here because they are going to get the salary we are paid for 60 days. I admit that the price of bread has gone up since 1865, but at that time, legislators received \$8 a day. In 1885, twenty years later, they reduced it to \$7 a day. In 1915, legislators received \$10 a day. It went up in 1945 to \$15 a day. In 1957, 12 years later, the Legislature again raised the pay to \$25 a day. In 1963, it was raised to \$40 a day. In 1971, I received \$60 a day for our legislative service up to the sixtieth day. In 1977, we recognized that there was some inflation, and the legislators passed the measure to increase the pay to \$80 a day. In 1981, it went up to \$104 a day. Then in 1985, 20 years ago, the Legislature raised the pay to \$130 a day, which is not too competitive when you look around to see what the pay is for employment. As a result of a misguided effort on the part of the Legislature to increase pensions in this Body, which caused a great deal of public stir and was ill-advised, the reaction was such that the Legislature has been reluctant to even address raising salaries. We have been very reluctant to do that, and we should have at least raised the daily pay for legislators.

I believe very firmly that the public ought to have a right to vote on this. I don't see this as legislators raising their pay by saying that we should get paid for each day that we serve. We are not doubling our pay. The effect is that we would get paid whatever the rate of compensation is for the 120 days that we serve. It would also change the archaic provision in here that says that the legislators would get reasonable allowances for expenses incurred. That means that you would have to submit what you actually expended for postage, express charges, newspapers, telecommunications, and stationery. It is still in the *Constitution* that, for all of that, you are entitled to \$60. You know how many letters that is going to mail and how many phone calls that is going to provide for. This removes some very archaic provisions in the *Constitution*.

I think this is important, whether you do it or some future Legislature does. We ought to let the voters decide. I think if the case was put before them, the voters would support this measure. That is what you are asking for. If they want people to come to the Legislature and serve well, then they will approve this. People will say, "Yes, you should be paid for the time you spend here." The salary is not ever going to be so great for that to be the reason people come here. If they give up their time, their profession, their business, and their family, they ought to at least be compensated and reimbursed for reasonable



expenses. I don't think the public expects legislators to come here and pay out of their pocket for things like postage.

[Senator Raggio, continued.] I would refer you to the editorial I provided. I think it is well expressed and doesn't take the position that I have read that this is an attempt to double our salaries. It just says that public service should not be the road to riches, but neither should it be the road to the poorhouse. That is really what this is about. We have a citizen legislature in Nevada. People come from all walks of life and I think that we should retain that for as long as we can. There are states that have professional legislatures, like California, Ohio, Michigan, or New York, and that is fine. That is what those people do full-time, all year round. I think there is a benefit to having a citizen legislature, where people from all walks of life can serve. I think we ought to do things that encourage people to run for these jobs. I know a lot of people that I have tried to ask to run for this Legislature who said that they just couldn't afford it. This isn't going to make that much difference, but it is going to make some. I don't understand the argument that this has been in the State's *Constitution* since 1864 and that we knew about it when we ran, so why should we change it? I have a hard time accepting that as an argument.

This passed the last session of the Legislature and it has to be passed in the same form to go on the ballot. Then it is up to ourselves and others to make the case to the public that if they want good legislators, they ought to at least get paid for the time that they serve.

**Assemblyman Conklin:**

You gave some numbers for the pay in 1915; what was the pay back then?

**Assemblyman Seale:**

It was \$10.

**Assemblyman Conklin:**

That is great, because it is a nice round number. I just want to point out to the Committee that in real dollars today, that would be \$180 a day. They made this in 1915. We actually make less today in relative dollars if you factor in inflation. They probably had a 60-day legislature back then.

**Senator Raggio:**

Probably less than that.

**Assemblyman Conklin:**

I look at this bill as a great equalizer. I think there are a lot of great potential candidates that can't run and volunteer two months out of their life. That is exactly what it is; it is unpaid volunteerism to work for the State. I think it is admirable—everyone who comes up here to do it—but it does cost a significant amount to everyone. They have to have the resources to do so, especially those from Clark County or some of the rural counties. It is a burden.

**Senator Raggio:**

I hadn't computed that, because dollars were obviously worth a lot more than they are today. You are exactly right.

**Assemblywoman Giunchigliani:**

This is long overdue. We have talked about it and around it. The public overwhelmingly supports people being paid for the days that they work, separate from the issue of what our daily rate is. Just last session, we voted a bill out of Ways and Means with Democrat and Republican support to look at the issue of the rate of pay. That didn't move forward, but I still think there is time for discussion, because you cannot continue to track and retain people to leave their businesses and families with this kind of wage. It is not even minimum wage. We have to stop hiding behind it. I think most of the public, if you are honest with them, will be okay with it. We can't just sit back. If this is on the ballot, then we have an obligation to meet with editorial boards and talk to people, not just assume they will understand what we are trying to do. I think that we have an obligation as a legislative body—once it is on the ballot—as well.

**Senator Raggio:**

People have been reluctant to even raise the issue. They have been reluctant to raise pay, even though a lot has happened in 20 years. We used to deal with it. About every four years we would recognize COLA (cost-of-living-adjustment) and raise the legislators' pay. Since that event, everybody is afraid to raise the issue. I thought that it should be raised last session and our committee decided that, so we introduced the resolution.

**Assemblywoman Giunchigliani:**

This session, we have a bill on salaries for the Governor and the Controller. They are eight years behind. We have to stop hiding behind this and just build in a reasonable cost of living so that people know up front. Then, you are hit with such a large increase that the perception is skewed. We were trying to do a four-year term on them and got behind again, which is unfortunate.

**Lynn Chapman, Vice President, Nevada Eagle Forum:**

We are in favor of this bill. We did support it last time as well. We don't like to have to refer to you as slave labor; that is my label. I am an unpaid citizen lobbyist. I come down here on my own dime. You guys need to be paid for all of the work that you do and we appreciate all the work that you do. You do need to be paid for it.

**Carole Vilardo, President, Nevada Taxpayers Association:**

Please pass the bill. We are in support of it. We have been supportive of a pay increase. We have even gone to the Legislative Commission and asked for a pay increase bill to be passed. We are willing to go out there, and we believe that our membership understands the work you do. We may not always agree with you, but that is not the point. You deserve to be paid a living wage for the amount of time that you spend here. I can't be as eloquent as Senator Raggio or Assemblywoman Giunchigliani. All I ask is that you put it on the ballot, at the very least, so that you can get paid for every day.

**Ron Dreher, Private Citizen, Reno, Nevada:**

I took off my lobbyist badge, and as a taxpayer from Washoe County, I want to echo what Senator Raggio said. For over 20 years, I have been negotiating collective bargaining agreements for law enforcement agencies. One of the things that you look at is the cost of doing business for recruitment. In this case, you are the policymakers, like unpaid lobbyists, because you make important decisions that will affect all of our lives. I am here asking you to support this and send it to the voters. The cost of doing business should not be borne out of your own pockets.

In this last election for city council in Reno, they raised the rates for the city council office almost 100 percent. It went from somewhere around \$30,000 a year to \$60,000 a year. That is a part-time job. You meet a couple of times a month. Let's be real as to what legislators do. In addition to sitting here 120 days a year plus special sessions, you are also involved in interim sessions and committees. It doesn't go away at the end of a 10-hour day. My point in speaking here is to tell you that from a collective bargaining standpoint, you all deserve the same rights as the rest of the people. The cost of doing business is not a lot. To be paid for what you are worth and for the days that you have worked is not unreasonable. That is all it is.

You heard Senator Nolan earlier asking for just a couple of dollars so that you guys can be reimbursed. That is ridiculous and has been. It wouldn't affect any of you today; it wouldn't go into effect until the voters approve it. I am quite sure that they will. I will be out there supporting it for you.

**Janine Hansen, Executive Director, Independent American Party of Nevada:**

We were on the record last session supporting this. We support it this time. It is only reasonable and contributes to having a citizens' legislature, which we fully support. People should be paid for what they do. We support this and we will encourage others. We put out 50,000 voter guides and will have an endorsement for this in there.

ASSEMBLYWOMAN KOIVISTO MOVED TO DO PASS  
SENATE JOINT RESOLUTION 11 OF THE 72ND LEGISLATIVE  
SESSION.

ASSEMBLYMAN SIBLEY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Giunchigliani was not present for the vote.)

**Co-Chairman Mortenson:**

We will close the hearing on S.J.R. 11 of the 72nd Legislative Session.

[Reconvened meeting of the Committee on Elections, Procedures, and Ethics.]

**Co-Chairwoman Koivisto:**

In keeping with the same subject, we will open the hearing on S.B. 346.

**Senate Bill 346: Revises provisions relating to Legislators' Retirement System.  
(BDR 17-970)**

**Senator John J. Lee, Clark County Senatorial District No. 1:**

Today seems to be legislative enhancement day. Senate Bill 346 does not remove the retirement plan from anyone wanting to participate. It is not a privatization plan, only an opt-out provision of the plan. Currently, you can serve a total of 24 years—12 years as an Assemblyman and 12 years as a Senator. Years ago the retirement plan went up to 30 years. You would contribute for that 30 years and then get a monthly stipend of \$750. Now, you won't ever meet the max, but you can—at 10 years of service, age 60, or have a disability option—get this retirement plan. You figure \$25 for each year of service. If you serve for 10 years, you get \$250. We had a gentleman here named Bob Price

who sat here many years with us. He had the 30-year retirement program and retired with \$750. The sad thing about that is it doesn't even pay his health insurance.

[Senator Lee, continued.] My goal today is to tell you that in some instances, people would like to opt out and invest their own money in a plan that might do better for them. If you lose your next election or decide not to run, you can notify Dana Bilyeu that you want a refund. Every check that you get has 15 percent of that gross income taken out and put aside into a savings account called the Legislative Retirement Fund. The interesting thing about this is that it accrues no interest. It will just sit there until you ask for it some day. In a lot of cases, if you don't remember to ask for it and they don't remember to tell you, it will just sit there.

You are putting \$1,170 every session into an interest-free account for your retirement. I have a few handouts about investing your money ([Exhibit E](#)). It is not my job to educate you on how to handle your own money. These are just things that you can look at. You might wonder about how to get your retirement moving. If you could take this \$1,170 and apply it in other ways, you might do better than the legislative retirement plan that we have.

You have had a wonderful day. You have met the Senate Majority Leader, who talked about the 300 percent leader. You met the Senate Minority Leader, who taught you about the cost of living. Though I will admit I am the least of my brethren, this issue, if handled properly and you stayed around for 24 years, could really do a lot more for you and your retirement. It is a personal issue to do that. Currently, there are 60 active legislators in the plan, and three have opted out because they are school teachers and are already part of the PERS [Public Employees' Retirement System] plan. In the system right now there are 51 retired people and 11 beneficiaries who are living off of this plan.

There are two opt-out provision times. First, as a legislator, within 30 days after you get elected, you will receive something from the Public Employees' Retirement System of Nevada. If you elect not to participate, you just send the form back saying to leave your \$1,170 in your paycheck because you have your own IRA or whatever. Then the second portion of this is that as a legislator, if you want to terminate the program at any point in time, you can send in a termination form. Once you do that, you are basically saying, "Don't worry about me or my retirement." They won't continually ask you if you want to be involved in it.

[Senator Lee, continued.] I am going to hand it over to the staff that handles the money for you. One of the questions you might have could be about persons who are retired, and whether we are taking funds away from them. She will tell you that we don't fully fund our own retirement plan. We are offset by the LCB. They send money to compensate.

**Assemblyman Conklin:**

Was it your intention for legislators who opt out to be able to recover the amount that has been applied? [Senator Lee answered in the affirmative.] Was that in the bill or did I just miss it?

**Dana Bilyeu, Executive Officer, Public Employees' Retirement System of Nevada:**

There is a refund provision within the Legislative Retirement Act already, so if you terminate your membership, you are entitled to that refund.

**Assemblyman Conklin:**

No interest, nothing extra—just the amount that you have put in?

**Dana Bilyeu:**

That is correct.

**Co-Chairman Mortenson:**

It blows my mind that this is in an account that doesn't gain interest. Are we, the Legislature, to blame for that?

**Dana Bilyeu:**

The Legislative Retirement Act went into effect in 1967. The idea of the personal contributions—which is the 15 percent of your legislative pay coming in—partially offsets the cost of the accrual of the benefit. Remember that this is not a defined-contribution program; this is a defined-benefit program. This accrues no interest by design, to ensure that individuals would not take the money out. The idea is for you to want to take the benefit at the end of your career, rather than take the lump-sum distribution. The original design, which is very similar to Nevada PERS, allowed for a fairly significant annuity cash flow once you were eligible to retire. It was trying to balance in favor of the defined benefit being paid to the individual out over their retirement periods. Quite frankly, the no-interest-bearing account is simply those employee contributions, in essence. It is just a feature to try to help people plan for their retirement by not removing their opportunity to receive the defined benefit over time.

**Co-Chairman Mortenson:**

It makes no sense to me. Is the money sitting static, or do you have it invested? Is it growing interest?

**Dana Bilyeu:**

The money is pooled with all of the legislators' money into approximately a \$4 million pool. That is invested into the investment markets to achieve a return. The return on the legislators' portfolio over its lifetime is approximately 11 percent.

**Co-Chairman Mortenson:**

I still do not understand why it doesn't gain interest; it makes no sense to me.

**Assemblyman Seale:**

I was in the regular PERS system for eight years and decided to leave. When I left, I decided to take the money out. I got no return on that money, which was unfortunate. I understand that this is a legislators' bill, but it is not aimed at other elected officials who are in that same predicament. The amount I had accumulated over eight years was approximately \$50,000. If you do some calculations on what the interest would be, it could be significant. Now, with the term limits for constitutional officers, it makes absolutely no sense for them to be in the program at all. We have some inequities here that we clearly need to fix. We need to think out of the box and beyond this to see what is happening with the rest of the elected officials.

**Co-Chairwoman Koivisto:**

Are the rest of the elected officials part of the legislative retirement system, or are they part of PERS?

**Dana Bilyeu:**

The elected officials—both local and constitutional officers at the state level—are all participants in the Public Employees Retirement System, not the Legislative Retirement System.

Senator Lee contacted the Retirement System to ask about potential impacts, should the Legislative Retirement System become an optional benefit, rather than a required contribution. We already have one subset of legislators who have the option to participate in PERS as well. The Legislature passed that option two sessions ago.

I took the language of the bill to the actuary, because there are two components to funding the Legislative Retirement System. There is the

employee cost, which is the 15 percent that is coming out of your legislative pay. There is also an employer portion. In the PERS fund it is an equal match between the two; employees and employers pay equally. In the legislators' program, the 15 percent of pay that comes out of your paychecks does not equal the normal cost of those benefits. The Legislative Counsel Bureau transfers funds to the Retirement System to help pay the normal cost of the accrual of your benefits, as well as paying off the unfunded liability of this program over time. This is a lump-sum contribution from the Legislature.

[Dana Bilyeu, continued.] The funding method that is in place is called a "level dollar contribution approach," which means that we have set the Legislators' Retirement System on a particular schedule for payment over a period of time for its unfunded accrued liability. Each year we provide the cost of that amortization to the LCB, they in turn transfer funds to us. If the 15 percent contributions that come out of the legislators' pay are stopped, in essence, we are extinguishing the liability associated with those individuals. We are not impacting the accrued liability of the program; we are helping. It doesn't take away from the current unfunded accrued liability of the program, because we have a lot of vested legislators, as well as several that are in pay status already with the legislative retirement program.

The actuary tells us that if all legislators decided that they didn't want to participate in this system, that would extinguish the liabilities associated with those individuals, thus not affecting the current unfunded liability of the program in any adverse way. We would still require payment on that unfunded liability, because we do have people who are vested and in pay status as well. From the perspective of the administration of the defined benefit program making this benefit, an optional benefit does not adversely impact the funding of the program over time. The money is appropriated out of the Legislative Counsel Bureau for the payments on that. It still provides for fully funding that system over time for those that will be taking a benefit out of that program, but at the same time it does not adversely impact the funding for the system.

**Co-Chairwoman Koivisto:**

What affect will this have on the amount that LCB has to put into the system?

**Dana Bilyeu:**

The unfunded accrued liability of the program is a pooled amount. I believe it is \$1.7 million for the legislators' fund, currently. That payment that is made by LCB pays part of the normal cost, which is your accrual on a yearly basis. If that normal cost on a systemwide basis is reduced, that portion of that lump-sum payment that comes from LCB will be reduced. The portion of it that is related



to the unfunded liability of the program will remain as long as we pay that over time. There could be a net effect of a reduction, although I do want to caution you that unfunded liabilities shrink and grow depending on your market. Right now that is valued at \$1.7 million.

**Assemblyman Seale:**

Do you know the amount that we are paying annually on the unfunded liability? The reason I ask that question is because we had a bill that we were processing relative to the judges. It was a one-time payment to pay off that unfunded liability in total. Over a period of time we will save a rather significant amount of money. I was just curious what the payment might be for a year.

**Dana Bilyeu:**

This is off the top of my head and I apologize; I should have that number at my fingertips. As of the most recent evaluation, which was as of January 1, 2005, the yearly payment was approximately \$206,000. We received both of those payments from the Legislative Counsel Bureau already. I think we received about \$412,000 to help pay off that unfunded liability. A portion of that is normal cost, not the unfunded, but I don't have that breakdown. It is given to us as a level dollar amount from the actuary. The total unfunded liability of the legislators' program is approximately \$1.7 million.

**Assemblyman Seale:**

If we were to take a one-shot and pay this off, we could save a few dollars.

**Dana Bilyeu:**

You would absolutely save the amortization cost associated with continuing that payment out over a period of time.

**Co-Chairwoman Koivisto:**

I will close the hearing on S.B. 346; we will bring it back to Committee. I will open the hearing on S.B. 477.

**[Senate Bill 477 \(1st Reprint\)](#): Makes various changes relating to Legislature and Legislative Counsel Bureau. (BDR 17-371)**

**Lorne J. Malkiewicz, Director, Legislative Counsel Bureau:**

[Submitted [Exhibit F](#).] Every session there are some changes that we like to see made in the laws. Rather than introducing five or six different bills, we combine them into one bill, sometimes called the "LCB generic bill." We lump it all together and send it to your Committee. The changes are entirely severable. There are six or seven different changes in here; if you don't like one, you take

it out. The Senate has already said that they didn't like one and took it out. That is why you have a reprint. I will briefly explain to you why we would like these changes made. If you like them, go ahead and pass it; if not, any one or more of them can be taken out without damage to the rest of the bill.

[Lorne Malkiewich, continued.] The handout that I have given you includes a summary of the changes and then a section-by-section description. Rather than going through the bill section by section, I will just summarize the changes.

There are a number of provisions in the statutes that say the Legislative Commission needs to approve fees that we charge for publications, services we provide, and things that we don't charge for, like the BDR list or audit reports. In some cases, particularly with the publications produced by the Printing Office, which generates income that the Legal Division uses to offset its budget, we need to set those prices at a time when there is not a Legislative Commission meeting set. This bill proposes to say that the Director sets the prices. They are all set based upon the cost, rather than requiring us to take a loss, as we did a few sessions ago in selling the Nevada reports. This would allow us to say that if it is going to cost \$545 to do the reprint for NRS, that is what the charge is going to be. That change is in Sections 1, 5, 6, 8, and 10. They are just different documents or services that are being sold. In addition to being severable, any of the individual sections can be taken out. If you are not comfortable with one of the fees being established by the Director rather than the Legislative Commission, this section could come out.

The second change revises the procedure for the appointment of committees for the fundamental review of base budgets. A few sessions ago we changed the manner in which we did budget review to go to base maintenance enhancement budgets. The one problem with that is that the base budgets tend not to get reviewed. We set a procedure for reviewing base budgets periodically. Unfortunately, the procedure for appointment is terribly convoluted. If the Interim Finance Committee determines there is a need for such a committee, the Commission then creates the committee. Leadership then appoints the members to the committee, and then the Commission appoints a chair. Since this is primarily an Interim Finance Committee function, the proposal is to have this committee do the creating, appointing, and the naming of the chair.

The third change deletes the provision that gives the Legislative Commission the authority to fix the compensation of the Director of the Legislative Counsel Bureau and the various division chiefs. This just isn't the way that the procedure is done. This is something that is done through the budget process.

[Lorne Malkiewich, continued.] The fourth one is something that came up during our last special session. We had to have an Interim Finance Committee the day before it started, because the statutes provide that the Interim Finance Committee can only perform certain duties during a special session; it is even more limited than during a regular session. This bill would allow the Interim Finance Committee to perform the same duties during a special session that it does during a regular session. If anything, they need more flexibility during a special session, because the call of the special session may not allow the Legislature as a whole to perform these functions.

The fifth one might get some negative testimony, so I will try to explain this one in a little more detail. It exempts construction projects undertaken by the Legislature and the LCB from the procedural requirements for public works. This does not exempt the projects from the requirement to pay prevailing wage. It simply says that we do not need to go through the procedures specified in Chapter 338 for public works. We are currently not required to use the public works. We will take advantage of plan check services and reimburse the Public Works Board for it, but we do not need to use them for the projects—for example, when we did the building addition. This is not about the Public Works Board; it's about the various bidding requirements.

Let me give you an example of something that might happen. If the Legislature were to come in with another situation like we did in 1994—when the voters chose to send 21 Democrats and 21 Republicans to the Assembly—you might come to us in late November and say that we need to make some design changes to the building in time for session, because with the 21/21, we need co-everything. For those of you who remember that, it was not a pleasant thing. We would not be able to do that. The bidding requirements would take too long for us to get the bid processed in time to do it. This would give us the flexibility to say, for example, that we only have two months to do this, so let's just get an architect to draw up a proposal for us and put it out to three bidders who we know can handle the job and get it done quickly. It doesn't mean that we would not use the procedures in 338; it would just give us the flexibility if we need to do something quickly. That is the reason that we are proposing this. We had a proposal to do some construction before this session and were discussing it right up to January. We would not have been able to do this within the parameters of Chapter 338.

The sixth change has to do with the appointment of the Economic Forum. This is a trap for the unwary. We are required to make the appointments in February of the even numbered year. In February of the even numbered year, the last thing on our mind is the session. We don't really convene the Economic Forum

or even the Advisory Committee until the summer. This would move the appointment dates back to July 1 and the dates for the Speaker and the Majority Leader to June 15, when we might be giving thought to the upcoming session.

[Lorne Malkiewich, continued.] Finally, number seven repeals the two week adjournment. Before we had 120-day sessions, we had a proposal that was in effect for a few sessions where, for the third and fourth week of session, the Legislature would adjourn. The money committees would basically do what they do the two weeks before session. They would conduct an in-depth review of the overall budget. The other policy committees would go down to Las Vegas and have some hearings. This is during an unlimited session. During 120-day session, the idea of a two-week adjournment would not work. In fact, the constitutional amendment that limited session to 120 days requires delivering the budget two weeks early for this reason. That way we can have the two weeks of hearings before the session began, rather than in the middle of session. Since the two week adjournment is not something we do anymore, we propose repealing that section.

I did not go through the bill section by section, but rather change by change.

**Co-Chairwoman Koivisto:**

What was the reaction from the Speaker and the Majority Leader about moving those dates in number six?

**Lorne Malkiewich:**

I haven't spoken with them individually, but I do know that in the past we have missed the dates for the appointment. The Governor has been kind enough to not appoint. He has the authority to appoint someone in the absence of those nominations, but has not done so. He has waited for the appointments even though they have been late in the past. I will check with them, but I believe they will be supportive. The Majority Leader was a member of Legislative Operations and Elections and had no objection to this provision in the Senate.

**Co-Chairwoman Koivisto:**

It is going to take us some study time for this one.

**Lorne Malkiewich:**

There is no hurry on this bill at all. If there is a provision that is problematic, just amend that provision out and pass the bill without it. We believe that all of these provisions, including the one amended out in the Senate, had merit. We

will get by if none of these provisions are enacted at the moment. We would like to see them all.

**Assemblywoman Giunchigliani:**

The title changes are just title changes. There are no new positions that you are actually asking for, right? Could you just clarify who the director is of what?

**Lorne Malkiewich:**

That is not changing any positions; it is just saying that the salaries for those positions are set in the budget, not by the Legislative Commission.

**Assemblywoman Giunchigliani:**

Was there any discussion about changing the time when the Economic Forum makes its forecast? It is always a debate. If you go any earlier, you could actually lose money. I am just curious if we have looked at it.

**Lorne Malkiewich:**

We had not discussed this. I was more concerned with the issue of getting the appointments made and the fact that we tend to do them later than January and February. It is a separate issue from when the Economic Forum meets.

**Assemblywoman Giunchigliani:**

We looked at changing it to April one time, but I can't remember what the fiscal impact would have been.

**Mark Sullivan, Assistant Executive Director, Associated General Contractors of America, Nevada Chapter:**

We did have some concerns, specifically with page 5, line 40, where they are looking to exclude themselves from the statutes pertaining to the public bidding process. Every other public body is required to participate underneath those statutes. We see no reason why they would be exempt. The example he gave was in 1994, so if it happened once every 11 years, I would not see the need to do it. It would be an isolated incident where you certainly could handle it. Those provisions in 338 are there for a reason. They are for protection from the perception of awarding projects. We have some provisions now where if it is a smaller project, you can work around bidding laws. For the most part, projects in the range of \$250,000 and above must have public bidding. That is for the protection of the taxpayer. The perception that somebody is just awarding projects to people based on relationships or political influence presents a lot of challenges. We have always had a low bid process in the great state of Nevada, and we would like that to continue through every public agency.

**Co-Chairwoman Koivisto:**

Did you bring these concerns forward in the Senate?

**Mark Sullivan:**

I did not personally. I believe that we are on the record in the Senate, but I could not guarantee that. I was asked to come down and speak today.

**Jeanette Belz, Legislative Advocate, representing the Associated General Contractors of America, Nevada Chapter:**

I got a call about two-and-a-half weeks ago about this bill. This bill wasn't something that would normally have popped up on our radar screen, because the definition of it says that it has to do with the Legislative Counsel Bureau. Although I am infinitely curious about all sorts of things that happen in this Legislature, I did not look at this bill. It was brought to my attention by someone who follows Chapter 338. I was asked if I knew about this bill and I said no, but I pulled it up and realized that we did have an issue. We did not present on the other side because we were unaware of it.

**Lorne Malkiewich:**

If you wish to take this provision out, the rest of the bill is just fine without it. I have explained my interests. The reason we are putting this in is because the sort of project that we would most likely want to do quickly is something that you would ask us to do. If that is not going to be an issue for you, we are not going to do this.

With regard to the issue of improper influence and its appearance, we are extremely conscious of the fact that everything we do reflects upon you. We do not want to do a no-bid contract, award something to my brother, or anything like that. We know it is going to reflect poorly on the Legislature. If this is something that the Committee or the Body is not comfortable with, then it is entirely severable.

Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments  
May 10, 2005  
Page 23

**Co-Chairwoman Koivisto:**

We will bring this back to work session. Seeing no other business to come before the Committee, we are adjourned [at 5:12 p.m.].

RESPECTFULLY SUBMITTED:

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Sarah Gibson  
Committee Attaché

APPROVED BY:

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Assemblywoman Ellen Koivisto, Co-Chairwoman

DATE: \_\_\_\_\_

**EXHIBITS**

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

**Date: May 10, 2005**

**Time of Meeting: 3:45 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	*****	Agenda
SB 311	B	Senator Nolan	Legislator's travel expenses
SB 311	C	Senator Nolan	Fiscal Note
SB 311	D	Senator Raggio	Article from <i>Reno Gazette-Journal</i>
SB 346	E	Senator Lee	Investment handout
SB 477	F	Lorne Malkiewich / Legislative Counsel Bureau	Explanation of bill