

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-third Session
April 19, 2005**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:08 p.m. on Tuesday, April 19, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Bob Beers
Senator Dina Titus
Senator Bernice Mathews
Senator Valerie Wiener

COMMITTEE MEMBERS ABSENT:

Senator Warren B. Hardy II (Excused)

GUEST LEGISLATORS PRESENT:

Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Lorne J. Malkiewich, Director, Legislative Counsel Bureau
Annette Magnus, Intern to Senator Titus, University of Nevada, Las Vegas
Ken Lange, Executive Director, Nevada State Education Association
Randall C. Robison, Nevada Association of School Boards

Senate Committee on Legislative Operations and Elections
April 19, 2005
Page 2

Buffy G. Martin, American Cancer Society
Michael Hackett, Nevada State Medical Association
Renny Ashleman, Nevada Health Care Association

CHAIR CEGAVSKE:

We will open the hearing on Senate Bill (S.B.) 477.

[SENATE BILL 477](#): Makes various changes relating to Legislature and Legislative Counsel Bureau. (BDR 17-371)

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):

This bill combines a number of changes to the operation of the Legislative Counsel Bureau (LCB). The sections are all completely severable and can be individually accepted or rejected. I have written testimony ([Exhibit C](#)) explaining each section of the bill.

The first change, in sections 1, 5, 6, 8 and 11, would allow prices for various products and services to be set by the Director of the LCB rather than the Legislative Commission. Occasionally, the cost of printing rises after the Commission has set the price of a publication, with the result that the State loses money with the sale.

SENATOR MATHEWS:

How often does the Legislative Commission meet?

MR. MALKIEWICH:

The Commission meets three or four times a year, more in the interim and less during the Legislative Session. We have not met since the start of this Session, and will meet briefly near the end of the Session to appoint new members.

SENATOR MATHEWS:

How much of a hardship is it for you to wait for the Commission's next meeting to set prices?

MR. MALKIEWICH:

This came out of an instance in which we estimated the production cost of a report we supply to the public and set the price to meet that cost. When production started, we found the cost was greater than we had estimated, so

the State lost money with every copy sold. This is not a terrible hardship for the LCB, but we want to avoid the situation in the future.

The second change, in sections 2, 3 and 7, is designed to simplify the process of appointing committees for fundamental review of base budgets. The current procedure is unnecessarily complicated. Currently, the Interim Finance Committee determines the need, the Commission creates the committee, leadership appoints the members and the Commission appoints the chair. The new language would make the Interim Finance Committee responsible for creating the committee, appointing members and appointing a chair.

SENATOR MATHEWS:

Is this the process we use to allot money for leadership to hire employees in the interim?

MR. MALKIEWICH:

No. This is the mechanism used to evaluate base budgets, budgets that are not for maintenance or enhancements. This process has not been used for several years.

The third change is to section 4, which provides that the Commission sets the salary for the director of the LCB and the division chiefs. In practice, this is generally done by the budget process. The bill would delete this provision.

The fourth change is to section 7 and would authorize the Interim Finance Committee to continue to function during a special legislative session. This is necessary because during a special session, the Legislature as a whole must adhere to its charge and may not be allowed to carry out these necessary duties.

The fifth change is in section 9 and requires lobbyists to itemize expenditures by category, even if the total expenditure for the month is less than \$50.

SENATOR TITUS:

I have had situations in which there are six people at the table, and a lobbyist divides the total by six to figure out how much to declare. This shows the same gift to the person who had a salad and to the person who had a four-course meal. Is it possible to get the lobbyists to give us a copy of their reports in advance so we can adjust mistakes like this?

MR. MALKIEWICH:

If there is a question about a lobbyist's report of expenditures, we will call in the lobbyist and have him file an adjusted report.

The sixth change, section 10, exempts the Legislature from the procedural requirements for public works projects. This would allow us to react quickly in case structural changes are required to get the Legislative Buildings ready to open before the start of the session.

SENATOR MATHEWS:

Could you give us an example?

MR. MALKIEWICH:

Most of the projects we need to do quickly are under the threshold for public works. However, we might have a situation where construction being done between sessions uncovers a problem, and we need to correct the problem before the start of session.

SENATOR MATHEWS:

What is the dollar amount required to use the public works process?

MR. MALKIEWICH:

The public works process must be used if the total cost of the project exceeds \$100,000. Speed is not the only issue here. The bill would also give us a little more flexibility in procedure.

SENATOR MATHEWS:

This sounds good to me, but we have had problems with State entities not putting public works contracts out for bid correctly. There have been lawsuits. I would feel uncomfortable without some form of check-and-balance system in place, especially when we are talking about projects costing more than \$100,000. I trust you, but there is the perception we are trying to get away with something.

MR. MALKIEWICH:

If the Committee is uncomfortable with the change, this section can be deleted without harming the rest of the bill. I would point out there are 25 attorneys working for the LCB. We would do nothing without a full legal review.

Senate Committee on Legislative Operations and Elections
April 19, 2005
Page 5

CHAIR CEGAUSKE:

In the Committee on Human Resources and Education, we have heard from many government entities asking to withdraw from the public works procedure. If this process is so cumbersome, perhaps we need to look at the State Public Works Board as a whole.

SENATOR MATHEWS:

I agree the process is flawed, but it is all we have at the present.

MR. MALKIEWICH:

The seventh change, sections 12 and 13, relates to the Economic Forum. The current statute requires the members to be appointed in February of even-numbered years, but the Forum does not meet until the fall. This provision would move the deadline for appointments to July 1, with nominations from the House Speaker and the Senate Majority Leader due June 15.

The last change, section 14, clears up an anachronism by repealing a provision concerning a two-week adjournment of the Legislature during session. This is a holdover from the time when the Legislature met in unlimited session. The adjournment was used to give the money committees time to review the budget. This is now done in the two weeks before session, so this provision is no longer needed.

SENATOR TITUS:

Was it during this adjournment that the committees met in Las Vegas?

MR. MALKIEWICH:

Yes.

SENATOR TITUS:

Those meetings were very popular and allowed residents of the southern part of the State a chance to participate in government. I would like to see us hold more meetings in the south.

MR. MALKIEWICH:

The provision was built around the budget process. It could be modified to allow adjournment in a limited session.

Senate Committee on Legislative Operations and Elections
April 19, 2005
Page 6

CHAIR CEGAVSKE:

We will close the hearing on S.B. 477 and open the hearing on Senate Concurrent Resolution (S.C.R.) 10.

SENATE CONCURRENT RESOLUTION 10: Directs Legislative Commission to conduct interim study of funding available for maintenance, operation and capital improvement of public schools. (BDR R-896)

ANNETTE MAGNUS (Intern to Senator Titus, University of Nevada, Las Vegas):
I will read from my written testimony in support of S.C.R. 10 ([Exhibit D](#)).

CHAIR CEGAVSKE:

Thank you for an excellent presentation. Where did you go for your research?

MS. MAGNUS:

I had help from Ken Lange and Julie Whitacre from the Nevada State Education Association.

KEN LANGE (Executive Director, Nevada State Education Association):

This is an important issue, and we support this resolution. Making sure our kids have good places in which to learn has a great impact on their academic achievement. This study will help us highlight the difference between maintenance and operation money and capital money. The property tax cap and the increasing cost of construction will have a significant impact on how many schools we can build. The Washoe County School Board of Trustees received a report last week informing them they will only be able to build 10 schools out of their current roll-over bond instead of 20. The rural areas are even more profoundly affected. There is a role for State oversight of this process.

I have a report ([Exhibit E](#)) prepared by Public Financial Management, Incorporated. This report is a different look at the last bond issue from Clark County, using alternative financial strategies.

CHAIR CEGAVSKE:

On page 3 of [Exhibit E](#), there is a column labeled "coupon." What does this refer to?

MR. LANGE:

I am not an expert on bonding. I will have the group that put this report together meet with the Committee to provide any information you need.

SENATOR BEERS:

This report seems to compare returns if we had bonded for schools with a variable rate as opposed to a fixed rate.

MR. LANGE:

In general, the report shows we could have generated more money using alternate financing methods. A study of the type requested by S.C.R. 10 would help us look at how we balance risk, whether we want to use something other than a 20-year, fixed-rate bonding process and how to adapt to new and emerging markets.

RANDALL C. ROBISON (Nevada Association of School Boards):

We support the great majority of this resolution. I have questions about the scope of the study proposed. On page 3, line 6, the resolution states it will include "an examination of all sources of revenue that are currently available to the school districts in this State for the maintenance, operations and capital improvements of public school buildings and facilities." Some of the methods of financing used for these purposes involve the local portion of the sales tax or property tax. We are concerned about a stealthy erosion of the 75-cent operating rate levied by the State for the support of the public schools and question if the scope of this study would allow examination of this issue.

SENATOR RAGGIO:

What erosion are you talking about? These are things the study could encompass, but I do not see any erosion when there is no development there at the present.

MR. ROBISON:

Perhaps I misspoke. Our concern is to evaluate for possible erosion in the future.

CHAIR CEGAVSKE:

I will close the hearing on S.C.R. 10 and open the hearing on S.C.R. 17.

SENATE CONCURRENT RESOLUTION 17: Requires Legislative Committee on Health Care to conduct interim study of policies related to pain management. (BDR R-255)

BUFFY G. MARTIN (American Cancer Society):

I have written testimony ([Exhibit F](#)). I also have a copy of the American Cancer Society's "Policy Statement on Cancer Pain Management" ([Exhibit G](#)).

MICHAEL HACKETT (Nevada State Medical Association):

We support this resolution. Since there are no pain specialists on the subcommittee proposed by the resolution, we recommend an advisory committee composed of pain specialists be appointed to work with the subcommittee. We are happy to work with the Committee to put this advisory committee together.

CHAIR CEGAVSKE:

We will close the hearing on S.C.R. 17 and open the hearing on S.C.R. 13.

SENATE CONCURRENT RESOLUTION 13: Directs Legislative Commission to conduct interim study concerning long-term health care in Nevada. (BDR R-802)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):

I bring this resolution before you because Las Vegas is the fastest-growing retirement community in the nation, yet Nevada is fiftieth among the states in funding for long-term health care. We need to look at using some of our resources, such as land, and plan for care for our growing senior population. The American Association of Retired Persons supports this resolution. The study needs to look beyond insurance needs and consider ways to increase the number of facilities, particularly in southern Nevada.

SENATOR TITUS:

This is a critical need as our senior population increases. Did we not have an interim study on long-term care recently?

SENATOR SCHNEIDER:

That was in 1999 and focused on insurance. The focus of this study is more on developing long-term facilities.

RENNY ASHLEMAN (Nevada Health Care Association):

We strongly support this bill. We have some fine facilities in southern Nevada, but we will likely be in a shortage situation soon. This is a complicated industry. We cannot utilize all the beds currently licensed for long-term care because we do not have enough nurses and other personnel. Those beds that are available have an occupancy rate of 88 percent to 91 percent, which is high. Nevada may be last in money spent on long-term care, but the amount is still huge.

We have one suggestion. On page 2, line 42, the resolution states the "Chairman of the subcommittee ... may appoint an advisory committee ... to assist the subcommittee in carrying out its duties" We recommend this be changed from "may" to "shall" to make the advisory committee mandatory.

CHAIR CEGAVSKE:

How many beds do we currently have available?

MR. ASHLEMAN:

I do not know that number, though I know Clark County has the most. I will get that information for you.

CHAIR CEGAVSKE:

This is a huge problem, and one not confined to Nevada. I do not know how we are to solve the nursing shortage.

MR. ASHLEMAN:

The answer to the nursing shortage is to pay higher wages, which has problems of its own.

SENATOR WIENER:

Only 2 percent of the population carries long-term care insurance. Perhaps the study should look at this as well.

CHAIR CEGAVSKE:

I will close the hearing on S.C.R. 13 and open the hearing on Senate Joint Resolution (S.J.R.) 10.

SENATE JOINT RESOLUTION 10: Proposes to amend Nevada Constitution to create Reapportionment Commission. (BDR C-1327)

SENATOR BEERS:

I have a memo from LCB's Research Division regarding reapportionment ([Exhibit H](#)), which includes information from the National Conference of State Legislatures.

This resolution would amend Nevada's Constitution to create a reapportionment commission. Nineteen states have similar commissions, and twelve of them have the primary task of accomplishing reapportionment. The commission proposed in this resolution would consist of seven members: the Governor, Secretary of State, State Treasurer, two members of the Assembly (one appointed by the Majority Leader and one by the Minority Leader) and two members of the Senate (one appointed by the Majority Leader and one by the Minority Leader).

The resolution charges the commission with producing a plan for reapportionment on or before October 1 of the year following each 10-year national census. I would like to amend that to essentially parallel the Legislative Session, with a deadline of June 30. This would allow the county election departments time to modify their databases to accommodate the new plan.

SENATOR TITUS:

Page 1, line 11, states the Governor, Secretary of State and State Treasurer serve as ex officio members. Does this mean they have a vote?

SENATOR RAGGIO:

In legal terms, the phrase "ex officio" means "by virtue of the office." I have understood this to mean they have a vote, but I have heard it interpreted in other matters as meaning they have no vote. I do not know the purpose of having someone on the commission without a vote. If they did not vote, there would be four voting members of the commission, and this would make it possible for them to deadlock on votes.

CHAIR CEGAVSKE:

We have received an e-mail from Brenda Erdoes, Legislative Counsel of the LCB's Legal Division, stating they would have a vote unless the resolution specifically says they do not.

SENATOR TITUS:

Over the years I have been in the Legislature, it has gradually lost more and more power. The Legislature is the most accountable, most accessible branch of the State government, and yet it has given away power to the other branches. We meet for only 120 days; we require a two-thirds majority vote to pass any tax or fee increase; we have term limits. Now you are proposing we give away power to draw districts to the Executive Branch: the Governor, the Secretary of State and the State Treasurer. Why would the Legislature want to do that?

SENATOR BEERS:

In the instances you name, those powers were taken away from us by the people, based on their perception that we abused them. This would be no different. It would have to be voted upon by the citizens.

SENATOR TITUS:

The 120-day limitation was placed on the ballot by the Legislature, and it has been argued since that it may not have been a good idea. We continue to give up power to the Executive Branch, which is much less accountable to the people. We are listed in the phone book; constituents can call us up and speak to us directly. They do not have that kind of access to the Executive Branch, even in Nevada. As a body, the Legislature will regret giving away power in one more area.

SENATOR RAGGIO:

The move to the 120-day session resolved many problems, such as Legislators holding bills for ransom. It also means we are not professional Legislators, a situation that well serves the people of Nevada.

I do not have a firm opinion on the issue. Perhaps we could consider having the reapportionment commission as a backup in case the Legislature is not able to resolve the issue on its own.

SENATOR TITUS:

That seems more reasonable to me. If there is a challenge to a redistricting plan, would it go to the State court or the federal court first?

SENATOR BEERS:

It depends on the challenge. Most challenges are based on violations of the Voting Rights Act of 1965; since this is a federal act, those challenges go to the federal court.

I would draw the Committee's attention to page 3 of [Exhibit H](#), where the reapportionment plan of the state of Idaho is discussed. There are many different ways to accomplish this same task.

CHAIR CEGAVSKE:

I will close the hearing on S.J.R. 10.

I have a few comments on something that happened in this Committee last week. This Committee sent out a bill approved by all six Committee members who were present for the vote. After it left this Committee, one member came to me and told me they were not going to vote for it. I went to talk to other members and did not get an indication that anyone else was going to vote against it. The bill was then defeated on the Senate Floor. As a Committee Chair, I would appreciate Committee members informing me in advance if you intend to change your vote. This is a courtesy extended in all committees.

Leading to that, this Chair also allowed members who were not here for a vote to take a vote after the Committee vote. Senator Raggio had that reexamined in Senate [Committee on] Finance. In the future, I will consider each vote individually if someone is absent for whatever reason. I try to be fair to everybody in this Committee, and I appreciate your willingness to be open and talk.

This Committee knew that the day we had the bill brought back and the debate on the vote, I was asking the Legal Division to assist us after I had said it was okay to accept the member's vote on that day. It was said in another committee that I brought it up for the purpose of questioning whether that member could vote. I want to make it clear to this Committee that I did not ask staff to verify whether or not the vote was legal.

SENATOR MATHEWS:

I have been here since 1995, and I have never had anyone question a vote before.

Senate Committee on Legislative Operations and Elections
April 19, 2005
Page 13

CHAIR CEGAVSKE:

Is there any further comment? Hearing none, I will adjourn this meeting at 3:35 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: _____