

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

**Seventy-third Session
May 12, 2005**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:09 p.m. on Thursday, May 12, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 Warren B. Hardy II
Senator Bob Beers
Senator Dina Titus
Senator Bernice Mathews
Senator Valerie Wiener

GUEST LEGISLATORS PRESENT:

Senator Randolph J. Townsend, Washoe County Senatorial District No. 4
Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblywoman Heidi S. Gansert, Assembly District No. 25
Assemblyman Bob McCleary, Assembly District No. 11
Assemblyman Richard D. Perkins, Assembly District No. 23

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Kim Guinasso, Committee Counsel
Lorne Malkiewich, Director, Legislative Counsel Bureau
Michael Stewart, Committee Policy Analyst
Elisabeth Williams, Committee Secretary

OTHERS PRESENT:

Stan Olsen, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Gene Hill, Sheriff, Humboldt County; Chairman, Peace Officers' Standards and Training Commission
Ronald P. Dreher, Peace Officers Research Association of Nevada
Gary H. Wolff, Teamsters Local No. 14
David Kallas, Las Vegas Police Protective Association
Frederick Schlottman, Administrator, Offender Management Division, Department of Corrections
Michelle M. Youngs, Washoe County Sheriff's Office
Roger Vind, Lieutenant, Rural Traffic Operations, Nevada Highway Patrol
Rose E. McKinney-James, Clark County School District
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association
Diana Glomb-Rogan, Nevada Youth Care Providers
Roberta (Bobbie) Gang, Nevada Women's Lobby
William Freed, Religious Alliance in Nevada
Janine Hansen, Independent American Party
Lucille Lusk, Nevada Concerned Citizens
Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State
J. David Fraser, Nevada League of Cities and Municipalities

CHAIR CEGAUSKE:

I will open the hearing on Assembly Bill (A.B.) 345.

ASSEMBLY BILL 345 (1st Reprint): Expands membership of Peace Officers' Standards and Training Commission. (BDR 23-1326)

ASSEMBLYMAN RICHARD D. PERKINS (Assembly District No. 23):

The Nevada Commission on Peace Officers' Standards and Training (P.O.S.T.) is an organization that develops professional training for the men and women in Nevada who strive to protect the public good. Since it was created in 1965, the P.O.S.T. Commission has gone through a number of modifications to meet the needs of our fast-growing state.

This bill adds two new members to the P.O.S.T. Commission to allow it to operate in a more effective manner. The Commission currently consists of seven members. The bill would add one member from Clark County and

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one member from a county other than Clark or Washoe. This will preserve the balance between rural and urban counties.

The bill will further ensure the same standards for the training of police officers in Nevada are carried out through all police agencies. It will give our officers the tools they need to better protect the citizens of Nevada.

CHAIR CEGAVSKE:

This is a simple bill with a minor fiscal impact.

STAN OLSEN (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):
We support this bill.

GENE HILL (Sheriff, Humboldt County; Chairman, Peace Officers' Standards and Training Commission):
We support this bill.

RONALD P. DREHER (Peace Officers Research Association of Nevada):
We support this bill.

GARY H. WOLFF (Teamsters Local No. 14):
We support this bill.

CHAIR CEGAVSKE:

I will close the hearing on A.B. 345 and open the hearing on A.B. 415.

ASSEMBLY BILL 415 (1st Reprint): Makes various changes relating to requests by Legislators for preparation of legislative measures. (BDR 17-772)

ASSEMBLYMAN BOB MCCLEARY (Assembly District No. 11):

This is a simple bill about open government. It requires Legislators to disclose their sponsorship of the bills they propose. If a Legislator feels strongly enough about an issue to ask for a bill draft, he or she should be willing to disclose that fact. The inspiration for this was a bill draft requested in the 72nd Legislative Session that proposed changing the name of our State to "East California." It was intended as a joke, but it was inappropriate and would not have been done if the Legislator had been required to put his name on it.

The only concern raised about this bill is legislation that is proposed on behalf of another party. In that instance, the sponsoring Legislator's name will become known eventually. It might as well be made public early as late.

SENATOR BEERS:

In subsection 5, how is that different from current practice?

ASSEMBLYMAN MCCLEARY:

This provision was added by the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments. It provides that if you pick up a bill originated by another Legislator, your name will be added to it at the next reprint.

SENATOR BEERS:

It might be prudent to add that picking up someone else's bill does not add to your bill limit.

CHAIR CEGAUSKE:

That is included in subsection 6. Any bills you take on for a Legislator who retires or is not reelected do not count as one of your 12 bills.

I will close the hearing on A.B. 415 and open the hearing on A.B. 259.

ASSEMBLY BILL 259 (1st Reprint): Revises provisions relating to rights of peace officers. (BDR 23-546)

DAVID KALLAS (Las Vegas Police Protective Association):

The language in this bill was developed by a coalition consisting of those who represent rank-and-file police officers and those who represent management and administration of police departments in Nevada. This bill revises chapter 289 of the *Nevada Revised Statutes* (NRS), which is more commonly known as the Police Officers' Bill of Rights. Chapter 289 of NRS establishes the rights of police officers undergoing an internal investigation following allegations of misconduct. This bill makes minor revisions to those protections.

Section 2 speaks to what happens if an internal investigation results in punitive action. Subsection 2 allows the employee to review the information upon which the agency based the punitive action, so the employee can decide whether to

appeal the action. Currently, different agencies have different standards about what information they allow the employee to receive.

Section 3 speaks to what is commonly known as an exclusionary rule. Currently, if the agency violates the provisions of chapter 289 of the NRS during the course of its internal investigation, the employee has no recourse if that investigation results in punitive action. Section 3 makes such evidence inadmissible.

Section 4 prohibits the release of the home address and photograph of a police officer undergoing an internal investigation. If the officer is arrested, the agency having custody of the individual will be responsible for releasing a photograph.

CHAIR CEGAVSKE:

Does section 4 of the bill mean the officer's name and photograph could not be released even following a conviction?

MR. KALLAS:

I would not use the word "conviction," since section 4, subsection 1 is speaking of an internal investigation only. If the allegation is sustained, the individual's personal information would generally not be made public. This is overseen and regulated by state and federal laws and may also be guided by a collective bargaining agreement.

CHAIR CEGAVSKE:

Currently, we will usually see a name and a photograph in the newspaper if an officer is accused of misconduct.

MR. KALLAS:

Generally, you will only see a picture in the paper when the person has been arrested. If it is an internal investigation, you will not see a photo in the newspaper. However, this depends on the policies of the specific agency involved.

CHAIR CEGAVSKE:

Once a police officer's name has been released, you can look up the individual's address in the voter rolls. Has that been addressed at all?

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MR. KALLAS:

We have introduced A.B. 142 regarding this issue.

ASSEMBLY BILL 142 (1st Reprint): Authorizes certain persons to have personal information contained in certain public records kept confidential in certain circumstances. (BDR 20-952)

SENATOR BEERS:

Why do you want the arresting agency to release the photograph rather than the police department? I should think the officer would rather be known by his official department photograph than by his mug shot.

MR. KALLAS:

I agree. It was felt that an officer who has been arrested should be treated the same as any other person in custody.

Section 5 includes definitions of a number of terms. Subsection 1 defines "administrative file" as any file in the possession of the agency other than the internal affairs file. We had a situation in which an officer was going through an appeal and believed all the information in the administrative file had been removed; then somebody pulled some negative information out of another file and used it against the officer during the appeal.

Section 6 specifies what material is to be placed in an officer's file at the conclusion of the internal investigation.

SENATOR RAGGIO:

What happens to the remainder of the material used in the investigation?

MR. KALLAS:

That material is maintained by the internal affairs department of the specific agency. If you will note, subsection 1 of section 5 specifies that the definition of "administrative file" does not include any file relating to the investigation.

CHAIR CEGAVSKE:

Are employees allowed to review their files privately, or must they have someone from the department in the room with them?

MR. KALLAS:

Each individual agency has its own rules and regulations in this regard.

Section 6, subsection 3, paragraph (b) refers to the so-called "Garrity warning" as required by *Garrity v. New Jersey*, 385 U.S. 493 (1967). This is a statement advising the officer that if he refuses to answer questions in an investigation, he could be held insubordinate and terminated for insubordination.

Section 7 specifies how and when an officer is notified that he is the subject of an internal investigation. There has been much variation on this. This sets the standard as written notice at least 48 hours before the investigation begins. An officer may voluntarily waive this 48-hour notice; he might choose to do this if the matter is minor, for example, and he would rather have it over with.

Section 8 is cleanup language required by the other provisions of the bill.

Section 9 allows the employee to have two representatives present at the investigation or interrogation.

SENATOR BEERS:

Subsection 2 of section 9 states: "A representative of a peace officer must assist the peace officer during the interrogation or hearing." This seems to be stating the obvious and is also a subjective standard. Does it allow the officer to later claim his representative did not assist him? What would be the impact if this sentence were omitted from the bill?

MR. KALLAS:

Since the employee has the right to fair representation in any case, omitting the sentence would likely have little impact.

SENATOR RAGGIO:

The sentence should probably say "may" instead of "must."

MR. KALLAS:

I am happy to make that change.

SENATOR HARDY:

Subsection 2 seems to be trying to establish that the employee's representative has standing to be involved. This can be accomplished by replacing

subsection 2 with the single sentence: "A representative of a peace officer may assist the peace officer during the interrogation or hearing."

MR. KALLAS:

I defer to your judgment on that. The language was intended to establish a Statewide standard. Some agencies allow the representative to object in specific circumstances, but others may not. Without a subjective standard, it will be left to the subjective judgment of the interviewers.

SENATOR HARDY:

Was it the intent to limit representatives to the specific actions mentioned in subsection 2 of section 9?

MR. KALLAS:

We would like them to have official standing, but we do not want them to interfere with the investigators' questions. We do not want them to impede the administration's ability to ask those questions.

KIM GUINASSO (Committee Counsel):

One way to handle this concern would be to say, "The law enforcement agency conducting the interrogation or hearing shall, without limitation, allow a representative of the peace officer to" That would make it more flexible while still avoiding a situation in which the representative impeded the investigation.

SENATOR HARDY:

That resolves my concern.

MR. OLSEN:

I have no objection to the language.

MR. KALLAS:

I have no objection to the language.

Subsection 5 of section 9 gives the employee and his representatives access to recordings of the interview, whether stenographic, digital or magnetic. The original language restricted this to magnetic recordings. Subsection 6 of section 9 gives the employee and his representatives access to the internal investigation files once the investigation is complete.

The remainder of the bill makes small technical changes consistent with the first part of the bill.

SENATOR BEERS:

Section 2, subsection 1 refers to investigations conducted in response to a complaint. Are investigations ever conducted in the absence of a complaint?

MR. KALLAS:

Yes. Investigations are also conducted in response to criminal charges.

SENATOR BEERS:

Is this bill then eliminating such investigations?

MR. KALLAS:

It by no means limits such investigations. This language specifies that this bill refers solely to internal investigations. Criminal investigations are covered by other statutes.

MR. OLSEN:

If someone calls the internal affairs department of a police department and makes a statement that a police officer has done something criminal, an investigation will be launched. None of those involved in working on this bill intended to limit the ability of management to conduct those investigations.

I would like to go on record saying this bill represents a fragile agreement between the parties. None of us left the table completely happy; the language in this bill is the best compromise we could manage. It was our mutual agreement that there would be no attempt to amend the bill, and we are in opposition to any amendments.

It is our intent if an employee is arrested and a photograph is released, it is not necessarily going to be from the jail facility where the person was booked.

SENATOR BEERS:

What behavior are we trying to correct with this bill?

MR. KALLAS:

We are not so much trying to correct behavior as set a Statewide standard. For example, currently some agencies will give an employee accused of misconduct

access to personnel files, and some do not. Some agencies give an employee notice of a hearing 24 or 48 hours in advance, and some give no notice at all.

MR. OLSEN:

There have been errors on the part of both management and labor in the investigation process. Officers have been told at the end of their swing shift to report to a site on the other side of the State at 8 a.m. On the labor side, there have been incidents where representatives have interfered with investigations. This bill sets the standard for labor and management across the State.

MR. DREHER:

We support this bill. I have passed out a position paper on this bill ([Exhibit C](#)). We have no objection to the changes proposed by Ms. Guinasso to section 9 of the bill. We are opposed to any other amendments that might be offered.

FREDERICK SCHLOTTMAN (Administrator, Offender Management Division, Department of Corrections):

We support this bill. This is indeed a fragile agreement, and we oppose any amendments to the bill.

MICHELLE M. YOUNGS (Washoe County Sheriff's Office):

This bill represents a compromise rather than a consensus. We support it as it is currently written and would oppose any further amendments outside the Committee.

ROGER VIND (Lieutenant, Rural Traffic Operations, Nevada Highway Patrol):

We support this bill as written with the amendments of the Committee.

MR. WOLFF:

We support this bill. I have amendments to propose ([Exhibit D](#)).

I will withdraw the amendment regarding section 10. This is too complicated an issue for this bill and should be removed to a separate bill. I want to go on record that we have a serious problem with agencies running internal affairs and criminal investigations concurrently. The Garrity warning compels the person being investigated to answer the investigators' questions, whereas in a criminal investigation, the person being investigated may refuse to answer a question by virtue of the Fifth Amendment of the U.S. Constitution. We will be bringing a separate bill on this issue at the next Legislative Session.

The other two amendments in [Exhibit D](#) are not related to A.B. 259's main goals. They are housecleaning measures that I bring forward because State liabilities are involved.

In NRS 289.290, section 3 forbids specific officers from retiring before age 60. This is in conflict with current Public Employees' Retirement System (PERS) laws under NRS 286.510. We recommend section 3 be deleted.

MR. KALLAS:

I agree this is a conflict with PERS statutes. I do not know why it is in statute and have no objection to its deletion.

MR. WOLFF:

The last amendment addresses an issue regarding State officers. A few years ago, there was an incident in which someone stole an airport taxi, abducted a woman and drove at high speeds away from the airport, seriously and deliberately injuring a Nevada Highway Patrol officer in the process. By statute, airport control officers have no peace officer powers off airport property and thus would be precluded from pursuing that suspect. This is a serious liability issue for the State and for the officers. The amendment would give an officer the right to stop and detain a suspect if immediate action is required on behalf of public safety. We do not want airport control officers patrolling city streets. However, if an officer encounters a crime in progress, we do not want to put jurisdictional boundaries on him to stop him from taking enforcement action.

I would also like to remark that I was not part of any agreement not to propose any further amendments to this bill.

SENATOR RAGGIO:

I was under the impression that officers have the right to pursue a suspect beyond their jurisdiction. Is this amendment needed?

MR. WOLFF:

That is true for almost all officers. However, in NRS 289.340, subsection 2 states: "An airport control officer is a peace officer only when on duty at the airport." The issue might be settled by specifically giving airport control officers the right to detain suspects to keep them from leaving the airport.

SENATOR RAGGIO:

Do you consider this a friendly amendment?

MR. KALLAS:

I would defer the matter to the agencies as a jurisdictional issue.

SENATOR HARDY:

The wording of this amendment may be too broad by not specifically limiting it to airport control officers. The language may need some refinement.

MR. WOLFF:

Thank you. Rather than using the new language proposed in [Exhibit D](#), I would recommend deleting subsection 2 of NRS 289.340.

MR. OLSEN:

By current statute, a peace officer of any kind has the ability to pursue when they see a felony in progress. This amendment is not needed.

ROSE E. MCKINNEY-JAMES (Clark County School District):

I would like to make it clear that any agreement not to bring forth amendments to the bill occurred after I left the discussion.

We have a policy concern regarding section 2, subsection 2, paragraph (b). This provision would prevent an agency from keeping any record of an investigation. Essentially, the agency would be prevented from defending itself in the event of a subsequent legal action. If, for example, we were sued for failing to take prompt remedial action to stop the illegal activity of an officer, we would need to produce that record. The officer would be adequately protected by the removal of the material from his personnel record. It is not necessary to make the record cease to exist.

MS. GUINASSO:

The issue is resolved by the definition of "administrative file" in section 5, subsection 1. This definition specifically does not include any file relating to an investigation conducted pursuant to section 2 or a criminal investigation of a peace officer. Therefore, there is no limitation on retention of the agency's record of the investigation itself.

MR. KALLAS:

That was our intent.

MS. MCKINNEY-JAMES:

Thank you for the clarification.

My second concern is in section 3, the provision regarding the exclusionary rule for evidence received in violation of chapter 289 of the NRS. The example given to me was that if the notice to an officer of an upcoming investigation gives the name but not the rank of the officer conducting the investigation, the entire investigation will be thrown out. This is an extremely harsh remedy. Under most circumstances, procedural violations are dealt with by the arbitrator, who routinely makes a determination about the appropriate remedy.

MR. KALLAS:

Section 3 specifically refers to evidence that was obtained wrongly. It does not pertain to procedural matters. The standard used is whether it is prejudicial to the officer. It was not our intention that mistakes such as the wrong date and time or the name of the investigator would trigger this provision.

MS. MCKINNEY-JAMES:

Thank you. That resolves my concern.

I do not have a position regarding Mr. Wolff's second amendment. However, the language would seem to have implications for the Clark County School District police.

MR. WOLFF:

The amendment refers only to State officers rather than local agencies. It would not apply to school police.

MR. DREHER:

I am opposed to all amendments on the principle that all parties agreed to the bill in its printed form, and any additional changes can only upset the delicate balance achieved. The retirement question can be dealt with by PERS regulations. The jurisdictional matter is not an issue in practical terms. Any peace officer has a right and an obligation to perform that duty, regardless of boundaries. I do not believe we need to legislate the officer's discretion in an emergency situation.

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):
I support this bill. Mr. Wolff's amendments seem to have merit, but I do not want to see them complicate the compromises reached in this bill.

CHAIR CEGAUSKE:

We will meet first with our legal staff and then with the representatives, then bring this bill back to the Committee for a work session next week.

I will close the hearing on A.B. 259 and open the hearing on A.B. 46.

ASSEMBLY BILL 46 (1st Reprint): Makes various changes concerning provision of child welfare services. (BDR 17-666)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

This bill accomplishes several things with regard to the Legislative Committee on Children, Youth and Families (LCCYF).

First, it extends the operation of the LCCYF to June 30, 2007. The Committee was set to expire on June 30, 2005. The extension is proposed to help the LCCYF tackle several important issues, including higher levels of care for children in foster care.

Second, the bill gives the LCCYF the authority to study, comment and make recommendations on Nevada's child support collection process. Currently, the State's child support collection is doing poorly. We were recently threatened with a penalty from the federal government for our failure to meet their benchmark goals. The summary of an audit done of the Clark County District Attorney's Family Support division ([Exhibit E](#)) shows that collections per case have not increased since 1996, even though collection techniques and legislation have improved dramatically in that time. This poor performance is indicative of a program in serious need of improvement. We would like to get to the cause of this problem. Some of it is due to inadequate staffing, but we could do better by reengineering this function without spending another dime.

Third, the bill would allow the LCCYF to make recommendations on best practices regarding children. Nevada is always at the top of statistics we would rather not appear in at all, such as teen pregnancies and teen suicides. This would allow the LCCYF to hear testimony and make recommendations on how to lower these numbers.

SENATOR RAGGIO:

Is it unusual to allow an interim committee to conduct investigations and hold hearings?

ASSEMBLYWOMAN BUCKLEY:

I did not draft the specific language. The intent was to allow the LCCYF to look at the problems and make recommendations.

CHAIR CEGAVSKE:

Who would conduct the investigations referred to in section 1, subsection 2?

ASSEMBLYWOMAN BUCKLEY:

This will mostly involve the child support agencies from around Nevada, plus the State Welfare Division. The purpose is to get at the root of what is wrong and what we can do. If you would like to change the language to make it more standard, I would have no objection.

SENATOR BEERS:

I would imagine Nevada's higher number of transients also plays a part in our standing regarding child support.

ASSEMBLYWOMAN BUCKLEY:

I agree. This is a multifaceted problem. We have not had a comprehensive child support study in over ten years.

CHAIR CEGAVSKE:

What is the purpose in section 3, subsection 3, of appointing nonvoting members to the LCCYF?

ASSEMBLYWOMAN BUCKLEY:

This is a way of giving more people a voice. There are many experts and advocates in the community we would like to hear from. The language is permissive; it will depend on the preference of the chair, whoever that might be.

CHAIR CEGAVSKE:

In section 5, subsection 1, paragraph (a), subparagraph (6), you mention compliance with federal requirements. Are we out of compliance at this time?

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ASSEMBLYWOMAN BUCKLEY:

Not necessarily. This language is a catch-all phrase.

DIANA GLOMB-ROGAN (Nevada Youth Care Providers):

We support this bill. I have written testimony ([Exhibit F](#)).

ROBERTA (BOBBIE) GANG (Nevada Women's Lobby):

We support this bill. We believe the operation of the LCCYF should be extended. The work it has done in the past has been extremely valuable, as witnessed by the number of important bills that came forth this Legislative Session.

I would like to address the study regarding child support enforcement. Many measures have been put in place to aid in the identification, location and enforcement aspects of child support collection. However, as you have heard, they have not been effective. In 2003, 136,000 children in Nevada were supposed to receive court-ordered child support. Only 35 percent of these children got that support. The 88,000 children who are not receiving child support are owed \$889 million. In many instances, these families are on public support. Locating the responsible parents and collecting the money they owe to their children would reduce the State's financial obligations considerably. There are too many problems with the system to fix with one piece of legislation. For this reason, the work of the LCCYF is needed to pull everything together to see what can be done to solve the problem.

ASSEMBLYWOMAN BUCKLEY:

I have a copy of the full report for the record ([Exhibit G](#), original is on file at the Research Library).

CHAIR CEGAVSKE:

I will close the hearing on A.B. 46.

WILLIAM FREED (Religious Alliance in Nevada):

I have a proposal for a study of a master plan for Nevada's tax system ([Exhibit H](#)). This was previously presented to the Interim Finance Committee.

CHAIR CEGAVSKE:

I will 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):

This bill was requested by the Secretary of the Senate and the Chief Clerk of the Assembly. There are employees who work for the Legislative Counsel Bureau (LCB) during the interim and for the Legislature during the Legislative Session. For a few of these people, working for the Legislature entails a pay cut. This bill corrects that.

First, if a person has worked for the LCB in previous sessions, he or she can get credit for that previous service in working for the Legislature. Right now, we have a step system in the Legislature itself, so someone who has worked as a committee secretary for three sessions will come back as a fourth-session employee. This recognizes the fact that if someone has worked for the LCB for the last three sessions, he or she also may be entitled to the same benefit. This is totally at the discretion of the Secretary of the Senate and the Chief Clerk of the Assembly. It is not an entitlement for the employee.

The second change is hourly versus daily pay. Employees working for the Legislature get daily pay, whereas most LCB employees get hourly pay. This bill gives the Secretary and the Clerk the ability to authorize employees moving from the LCB to the Legislature to continue to receive hourly pay. Again, this is not an entitlement.

This bill will have a minor impact, since only a few employees move back and forth from the LCB to the Legislature.

CHAIR CEGAVSKE:

I will close the hearing on A.B. 542.

SENATOR BEERS MOVED TO DO PASS A.B. 542.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS RAGGIO AND TITUS WERE ABSENT FOR THE VOTE.)

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CHAIR CEGAVSKE:

I will open the hearing on A.B. 185.

ASSEMBLY BILL 185 (2nd Reprint): Revises provisions governing petitions for initiative and referendum. (BDR 24-711)

MICHAEL STEWART (Committee Policy Analyst):

Please refer to the work session document ([Exhibit I](#)). At Chair Cegavske's request, I have included a comparison of the single-subject provisions of A.B. 185 and Senate Bill (S.B.) 224, which was previously passed by this Committee.

SENATE BILL 224 (1st Reprint): Revises provisions relating to elections. (BDR 24-698)

MR. STEWART:

Both bills require an initiative to embrace only one subject and matters necessarily connected; however, S.B. 224 makes the same requirement of a referendum, whereas A.B. 185 does not. Also, A.B. 185 goes on to require an accurate 200-word description of the effect of the initiative. In this bill, subsection 2 of section 1 gives a further definition of the single subject.

SENATOR BEERS:

Could this same language apply to referendums?

MR. STEWART:

Yes, if that is the policy choice of the Committee.

SENATOR BEERS:

Perhaps we need to add language stating the petitioner will write the 200-word description, and the petitioner must rewrite it if the Secretary of State determines that it is inaccurate. We do not want the government to write the description.

SENATOR RANDOLPH J. TOWNSEND (Washoe County Senatorial District No. 4):

Senate Bill 224 was written to help small groups in Nevada navigate the initiative process without having to resort to a lawyer. The initiative process is the public's way of petitioning their government, and that is an important thing to protect.

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ASSEMBLYWOMAN HEIDI S. GANSERT (Assembly District No. 25):

In looking at the comparison of the two bills, I see A.B. 185 should include the requirement that the subject be clearly indicated in the title of the initiative. I would like to keep the 200-word description. People will more likely understand an initiative proposal if they have a succinct description to read first.

SENATOR BEERS:

Who writes the 200-word description and determines its accuracy?

MR. STEWART:

The bill does not specify. Typically, the language on the petition is supplied by the petitioners.

SENATOR WIENER:

The word "accurate" is a problem. How do you verify the accuracy of a position?

SENATOR BEERS:

Are you suggesting we allow petitioners to file inaccurate descriptions?

SENATOR WIENER:

No. The Secretary of State verifies the accuracy of ballot questions, but a petition serves a different purpose because it advocates a position. It is not always possible to verify the accuracy of an opinion.

CHAIR CEGAVSKE:

Who is going to define whether a description is accurate?

ASSEMBLYWOMAN GANSERT:

The original version of the bill included review of the statement by the Secretary of State and allowed for appeal to the Attorney General, if desired. After working with the Office of the Secretary of State and the Office of the Attorney General, we revised it to allow for a challenge to a statement's accuracy to be filed after the petition is posted on the Secretary of State's Web site, which occurs at the beginning of the initiative process.

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JANINE HANSEN (Independent American Party):

The word "accurate" is open to interpretation. The provision would be less problematic if it simply required a description, rather than an accurate description.

LUCILLE LUSK (Nevada Concerned Citizens):

I would recommend the 200-word description be written by the LCB. They are reliably neutral.

MR. STEWART:

As noted in [Exhibit I](#), we have received a request to amend A.B. 185 to specify that any challenge to the statement must be filed within 10 days after the Secretary of State notifies the petitioners the petition has qualified.

ASSEMBLYWOMAN GANSERT:

That was not the intention of the bill. We wanted to make the challenge a front-end process. The original intent was that the ten days start when the petition is posted on the Secretary of State's Web site.

RENEE PARKER (Chief Deputy Secretary of State, Office of the Secretary of State):

The amendment is with reference to the legal sufficiency of the petition itself, not the 200-word description. The bill originally had all legal challenges to the petition at the beginning of the process, but the section dealing with this appears to have been inadvertently deleted from the bill.

MS. LUSK:

Challenges to a petition's legal sufficiency would have to be after the fact, since it has to do with whether the signatures are valid.

MS. PARKER:

Legal sufficiency has been used in that way, but it has also been used to question the constitutionality of the proposal.

CHAIR CEGAVSKE:

We will need to look into the matter of the omitted language. I will close the hearing on A.B. 185 and open the hearing on A.B. 443.

ASSEMBLY BILL 443 (1st Reprint): Amends certain city charters to revise timing of municipal elections. (BDR S-512)

J. DAVID FRASER (Nevada League of Cities and Municipalities):

This bill changes the election dates of three chartered cities in the county of Elko — Carlin, Wells and Elko — from the June cycle to the November cycle. The timing is such that they make this move at different times. Carlin will move in 2006 and 2008, Wells in 2008 and 2010, and Elko in 2010 and 2012.

SENATOR BEERS:

Some of the small communities resist this change because they want their local elections separate and distinct from State and national elections.

MR. STEWART:

Several small amendments to this bill are noted in [Exhibit I](#). The date changes refer to the month the newly elected officials take office. This change was requested by the communities in question.

CHAIR CEGAVSKE:

I will close the hearing on A.B. 443.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 443.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS RAGGIO AND TITUS WERE ABSENT
FOR THE VOTE.)

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CHAIR CEGAVSKE:

I will open the hearing on Assembly Joint Resolution (A.J.R.) 8.

ASSEMBLY JOINT RESOLUTION 8 (1st Reprint): Proposes to amend Nevada Constitution to specify time of determination of number of signatures required on petition for initiative or referendum. (BDR C-1069)

MR. STEWART:

This resolution was requested by the Office of the Secretary of State to address a situation that occurred in the last election cycle in which some initiatives were submitted to the county clerk for signature verification after the 2004 general election. As you recall, the number of signatures required is based on the number of votes cast in the preceding general election. This resolution clarifies that the number of signatures required is determined when the petition is filed with the Secretary of State before the petition is circulated.

It should be noted that this resolution will have an impact on those portions of A.B. 497 having to do with when petitions are filed with the county. The concern is that A.J.R. 8 could be used to move the front end of that filing with the Secretary of State earlier as well.

ASSEMBLY BILL 497 (1st Reprint): Revises provisions relating to initiatives and referendums. (BDR 24-442)

SENATOR WIENER:

Are you talking about the change from 180 days to 150 days?

MR. STEWART:

Yes.

SENATOR BEERS:

Would this shorten the amount of time allowed to gather signatures?

MR. STEWART:

No. It would have no effect on that.

SENATOR BEERS MOVED DO PASS A.J.R. 8.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR RAGGIO WAS ABSENT FOR THE VOTE.)

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CHAIR CEGAVSKE:

Is there any further comment? Hearing none, I will adjourn this meeting at 4:59 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: _____