

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

**Seventy-Fourth Session
April 26, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:51 p.m., on Thursday, April 26, 2007, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen Koivisto, Chair
Assemblyman Harry Mortenson, Vice Chair
Assemblyman Chad Christensen
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Heidi S. Gansert
Assemblyman Ed Goedhart
Assemblyman Ruben Kihuen
Assemblywoman Marilyn Kirkpatrick
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom
Assemblyman James Settlemeyer



STAFF MEMBERS PRESENT:

Lorne Malkiewich, Director
Paul Townsend, Legislative Auditor
Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Trisha Moore, Committee Assistant

OTHERS PRESENT:

David Fraser, Exec. Director, Nevada League of Cities and Municipalities
William Kohbarger, City Manager, City of Carlin
C. Sue Smith, City Clerk, City of Wells
Larry Lomax, Registrar of Voters, Clark County
Terri Barber, Chief Legislative Advocate, City of Henderson
Lisa Foster, representing Boulder City
Carole Vilardo, President, Nevada Taxpayers Association
Mike Alastuey, representing Clark County
Janine Hansen, President, Nevada Eagle Forum
Lynn Chapman, State Vice President, Nevada Families

Chair Koivisto:

[Roll called.] Our first bill today is Senate Bill 121 and then we can go right into Senate Bill 122 because they both do the same thing.

Senate Bill 121: Amends the Charter of the City of Carlin to change the time for election of certain officers. (BDR S-312)

David Fraser, Executive Director, Nevada League of Cities and Municipalities:

Senate Bill 121 changes the election in the City of Carlin from June to November to correspond with the county's election cycle. The primary purpose for the change is because of the efficiencies and cost savings that would occur if the two elections could be combined.

William Kohbarger, City Manager, City of Carlin:

This bill will move our regular election date from June of odd-numbered years to the general election in November of even-numbered years. In doing research, we found this change would increase voter turnout approximately 18 percent to 20 percent, and the savings to the Cities of Wells and Carlin would be tremendous, especially now that we all must use the new Sequoia voting machines. To borrow the county's Sequoia machines for this year's June Election would have cost us an additional \$6,000, had the Secretary of State's

Office not approved our old machines for use. If we hold our elections when the county does, it will only cost \$3,000 to \$5,000, instead of the \$12,000 it costs now, and 18 to 20 percent more voters will turn out for a general election than for a city election.

To make this work mechanically, we will take two seats on the city council that will be up for election in November 2008, and change the terms for those seats to year-and-a-half terms because they will be elected this coming June. The remaining seats will be up for election in 2010, and those will be four-year terms. By then, all the seats will be on a four-year cycle in alignment with the November general elections.

Assemblyman Mortenson:

You said you borrowed voting machines from the county in your last election. How does that work mechanically? Is your specific information on the county's machines and do people vote for both city and county offices on one machine?

William Kohbarger:

The county will include elected officials for the Cities of Carlin and Wells on the official general election ballots. The ballots will all be run through the county on their qualified Sequoia machines, which are now mandated.

Chair Koivisto:

Are there any other questions from the Committee? [No response.] It is my understanding that Senate Bill 122 is going to do the same thing for the City of Wells.

Senate Bill 122: Amends the Charter of the City of Wells to change the time for election of certain officers. (BDR S-292)

C. Sue Smith, City Clerk, City of Wells:

Yes, it will. It will take us a little longer because of the way our terms are staggered. We will have a 2007 General Election and a 2009 General Election as we normally would, and then we will be on the 2010 and 2012 ballots.

Chair Koivisto:

Are there any questions from the Committee? [No response.] Last session we heard this on one combined bill, and it passed out of the Committee.

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS
SENATE BILL 121 AND SENATE BILL 122.

ASSEMBLYMAN COBB SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN, GANSERT, KIHUEN, AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

Now, we will take up Senate Bill 149 (1st Reprint). This bill deals with changing election dates in incorporated cities in Clark County.

Senate Bill 149 (1st Reprint): Makes various changes to provisions governing elections. (BDR 24-4)

Larry Lomax, Registrar of Voters, Clark County:

Although this is not my bill, I can speak for it, and Clark County endorses and supports it. It is essentially the same plan as the other two bills you just discussed, but it will take a little longer to get the terms aligned. The first municipal elections as a result of this bill would not occur until 2013, and by 2014 the municipal elections would be aligned with the state and county elections.

The advantages to this plan are similar to the testimony you just heard from Wells and Carlin. To give you an example, the combined turnout in the primary election that was held earlier this month for the five cities was 15 percent. In the 2005 primary, the turnout was 8 percent, and in the 2005 General Election the turnout was 12 percent. You can compare those turnouts with that of past even-year elections. Turnout in the gubernatorial elections in Clark County averages just under 60 percent, and in the last Presidential Election, the turnout was 80 percent. From a fiscal perspective, we estimate by not conducting odd-year elections, the taxpayers will save about \$1.5 million.

Assemblyman Conklin:

Approximately how many contests were voted on in the last November general election? When I receive a ballot, how many items do I vote on?

Larry Lomax:

If you are talking about the 2006 Election, there were approximately 30 contests, depending upon geographic location. In an earlier election we had people voting on as many as 60 different contests or candidates. Every 12 years there is a cycle when all the judges come up for election.

Assemblyman Conklin:

In this most recent city election, how many items were voted on?

Larry Lomax:

In most cases, two contests.

Assemblyman Conklin:

Only two contests?

Larry Lomax:

Yes, two contests. In the upcoming general election in Las Vegas, five of the six wards will be voting on one contest. They will be selecting between two municipal judges for one position.

Assemblyman Conklin:

Is that because no one is running in these races?

Larry Lomax:

No, it is because that is all the races that are up for election.

Assemblyman Conklin:

Obviously, there is no race for mayor because that was determined in the primary election.

Larry Lomax:

That is correct.

Assemblyman Conklin:

My city councilman was determined in the primary, and that was true in many contests, right?

Larry Lomax:

It is common that contests are determined in the primary election, and in the City of Las Vegas primary, everyone voted for mayor, everyone voted for one municipal judge, and three of the wards selected a city councilman. The most anyone voted for were three positions, and in two of the three wards, the councilmen were elected in the primary because they each received more than 50 percent of the vote.

Assemblyman Conklin:

Do you have any data on the drop-off in a typical fall election? If there are 60 items on a ballot, what would be the typical drop-off as the voter moves down the ballot?

Larry Lomax:

I do not have any specific data on that, although I am absolutely confident that, even in a gubernatorial election where overall turnout is about 60 percent, it is going to be significantly above the turnout now.

Assemblyman Munford:

As the ballot gets longer, Mr. Conklin thinks there would be less participation at the lower end of the ballot and that people might just give up. I am strongly in support of moving the city elections to the November general election.

Assemblyman Cobb:

Even if there was a drop-off at the bottom of a ballot in a situation like this, I agree with the Registrar that the turnout would still be much higher than what we saw in the past election. Having a higher turnout and saving money seems to make sense.

Assemblyman Segerblom:

Mr. Lomax, could you explain the proposed transitional phases in Las Vegas elections over the coming years? I believe you said it would be fully implemented in 2013?

Larry Lomax:

Yes. As I said, this is not my bill, but as I read the bill, no incumbents' terms are shortened. Terms in all the cities have been extended by a year to get them aligned, and because of the judges' terms, complete alignment is pushed out to 2014.

Assemblyman Segerblom:

When would a city council member who was just elected be up for re-election?

Larry Lomax:

If that person was elected in 2007, then I am not sure because they still have a 2011 election in this bill. The 2013 election is the first one that disappears, but I am not an expert on this bill or on the particulars concerning how the adjustments were made. When this bill was heard in the Senate, it was made clear that no one's term was shortened.

Assemblyman Segerblom:

It sounds as though a city council member's term would be increased by one year.

Larry Lomax:

It is my understanding that to get the terms into alignment, term lengths for all the various positions were extended a year in a manner that got them into alignment by 2014.

Assemblyman Ohrenschall:

Do you have any data how bad voter drop-off is in the fall primary and general elections? After people have voted for President or Governor, how bad is the drop-off by the time they get down to contests such as for school board?

Larry Lomax:

I do not have any specific data on that. I can assure you it is not as low as the turnout in these municipal elections.

Chair Koivisto:

Are there any further questions from the Committee? [No response.] We have some people who want to testify.

Terri Barber, Chief Legislative Advocate, City of Henderson:

The City of Henderson has a neutral position on this bill, but I would like to offer a couple of amendments to our specific Charter and relative to the discussion you just had with Mr. Lomax ([Exhibit C](#)).

The first amendment has to do with the term of office for our current sitting mayor. He was elected in the April Primary Election and not in the June General Election. As a result, his 12-year term would be up in April as opposed to June. If we do not elect someone in April, then there would be a couple of months during which we would not have a mayor. The change I am offering has an effect only on the Charter of the City of Henderson and would allow the mayor to stay in office until the second regular meeting of the City Council after the date for the general municipal election.

The second change I am offering has to do with our municipal court judges. The way the bill is structured, all three of our municipal court judges would be running for office at the same time. That is a direct violation of our Charter which says our positions must be staggered. The last page of my handout is a spreadsheet showing the years the three judges would be elected. As it currently stands, the judge in Department 1 was just elected in the primary

election. Should this change not be put into effect, his term would be shortened by a substantial amount of time. He ran for a six-year term of office and should be able to fulfill that term.

Assemblyman Conklin:

What were the circumstances in the primary election for mayor?

Terri Barber:

He received more than 50 percent of the vote.

Assemblyman Conklin:

There was no sitting mayor at the time?

Terry Barber:

He was the sitting mayor.

Assemblyman Conklin:

Most terms are standardized so even if you win the primary election, you are not technically elected until the general election is complete.

Terri Barber:

Right, but in our situation you are, because he actually took office in April.

Assemblyman Conklin:

He was already in office.

Terri Barber:

That is the same as the first time he won, because he has always won in the primary.

Assemblyman Conklin:

So, the sitting mayor was short-changed the first time this mayor won?

Terri Barber:

I do not know the answer to that question because I was not at the City of Henderson then.

Assemblyman Conklin:

Rather than carving it out this way, I suggest you end the term in June, as it is in every other election.

Terri Barber:

That is what this amendment does. It says the mayor's term will be finished at the second meeting after the general municipal election, and that is in June. His term is not finished at the first meeting in June because that is when we canvass the vote.

Assemblyman Conklin:

You do not have a qualifying provision for general elections in your Charter?

Terri Barber:

I do not know what you mean by that.

Assemblyman Conklin:

Someone has to be elected in a general election and typically ...

Terri Barber:

They are elected in the primary if they receive more than 50 percent of the vote, and then they are certified.

Assemblyman Conklin:

I was elected in my primary, but I still did not take office until the general election.

Terri Barber:

But our mayor did take office in April.

Chair Koivisto:

Under their Charter, if they win in the primary they do not appear on the general election ballot.

Terri Barber:

That is correct.

Lisa Foster, representing Boulder City:

My suggested change is very simple. At every opportunity when our Charter is opened, Boulder City has tried to make the term "council members" and "councilmen" consistent, because both of those terms are in our Charter. In Section 4, council members are called "councilmen" and "councilman," but in the rest of this bill they are referred to as "council members." We want to make a change to the term "council members" from "councilmen" and "councilman" in Section 4.

Another change I believe needs to be made concerns language in Section 7, subsection 8, that was left in this bill inadvertently. I have discussed this issue with Patrick Guinan and Kim Guinasso, your Committee staff.

Patrick Guinan, Committee Policy Analyst:

I have not had an opportunity to review Ms. Foster's suggested amendment yet, but briefly looking at it, I do not see any problem. Legal Counsel will review it for us before we finalize the bill.

Lisa Foster:

Section 7, subsection 8, speaks to continuing to hold elections in the spring and then holding elections in the fall, and I think that language was left in the bill inadvertently.

Patrick Guinan:

I just had confirmation from our Legal Counsel who believes that Ms. Foster is correct.

Chair Koivisto:

Are there any further questions from the Committee? [No response.] I will close the hearing on S.B. 149 (R1). We need to hear from the people in Las Vegas before we do anything with this bill.

We will open the hearing on Senate Bill 490.

Senate Bill 490: Revises provisions governing the prefiling, reprinting and transmittal of bills and resolutions. (BDR 17-789)

Lorne Malkiewich, Director:

This bill was requested by the Secretary of the Senate and the Legislative Counsel to clean up some statutes.

In Section 1 there is a provision that requires the Legislative Counsel to deliver all requests made by the Supreme Court to the Chairs of the Judiciary Committees. However, some of those requests do not go to Judiciary because some of them are appropriations, and those would go to Ways and Means or Senate Finance. We would like to take that provision out and just have the bills delivered to the appropriate committees.

Section 2 discusses prefiling of bills. The language struck at the bottom of page 2 and at the top of page 3 indicates that prefiled bills should be referred to committees based upon the Standing Rules and recommendations used during

the preceding session. That makes no sense at all and is not what we do. We determine the rules for referring bills based upon the upcoming session and refer them accordingly.

Sections 3 and 4 relate to the issue of waiving reprints of bills. In the language that has been struck starting at lines 17 through 20 and lines 38 through 41 on page 3, only in certain instances can a reprint be waived, such as bills of over 32 pages, or preambles, or things like that. We waive reprints with a two-thirds vote on any bill. This removes that limitation and leaves in the general rule that the reprinting may be dispensed with on a two-thirds vote. We hope we do not have to do a lot of that, but sometimes near the end of session, or if we are up against a deadline, we do waive reprints so a vote on a bill can be taken immediately. If we do need to waive a reprint, the new amendment format really makes that a lot easier because you will actually be able to see the entire bill in the amendment.

Finally, Section 5 of the bill changes a provision that directs that when a bill or resolution is passed by both Houses, it be immediately transmitted to the Legislative Counsel to be enrolled. Generally, they wait until towards the end of the Floor Session, just in case something has inadvertently passed or someone detects a mistake, so the action can be rescinded and the bill can be caught before it is gone. So the more appropriate practice is that, upon adjournment, all the bills are taken down to the Legislative Counsel for enrollment. We are leaving in the option that a bill could be immediately sent to the Legislative Counsel for enrollment if so desired.

A member of the Senate has indicated a desire to look at the issue of bill draft request limits and the form for legislative requests, and that individual has eyed this bill as a potential vehicle for those changes. If this Committee is interested in those proposals, and if the Legislator is interested in coming forward with those proposals, we will bring them to this Committee. If not, the bill is "good to go" from our viewpoint.

Assemblyman Conklin:

Can you disclose what the possible bill draft request limitations would be?

Lorne Malkiewicz:

The idea of limitations on bill draft requests always surfaces around deadline times—deadlines for introduction, deadlines for passage. The number of bill draft requests allowed various people and entities are all in statute, so it is a simple matter of amending the statute to lower the number allotted to certain requesters, or somehow adjusting the numbers or manner.

Assemblyman Conklin:

Whoever that might be, if he or she is looking at limiting the number of bill draft requests, that individual is more than welcome to call me.

Lorne Malkiewich:

I believe that is the idea—either limiting or changing the manner. One of the issues concerns non-legislative requesters and perhaps having more of those entities bring their issues through legislators and legislative committees. This is a huge issue. I do not know if you want to do anything with it. If we could come to some agreement, the nice thing with this bill is, if the change is being proposed by a Senator, when the bill goes back to the Senate, they would just concur in the amendment and we would be done. Amending this bill would not slow up the process.

Assemblyman Ohrenschall:

I did not prefile any bills. Are prefiled bills referred to committees prior to the beginning of the session? Is that decided by the Legal Division? How does that work?

Lorne Malkiewich:

That is precisely what is done. You would turn the bill into the front desk or into the Legal Division and they would determine where the bill needs to be referred because when the bill is prefiled, that is one of the things indicated on the cover of the bill. We need to make that determination ahead of time. Generally, we will work with incoming leadership and that is one of the reasons we try to get the recommendations for referral in the Assembly done ahead of time so we can prefile. Once we have the recommendations, we will look at the prefiled bills and direct them to committees. Leadership also looks them over and confirms the jurisdictions.

Assemblyman Ohrenschall:

With the proposed change in Section 2, would prefiled bills not be referred until the first day or days of the session?

Lorne Malkiewich:

This is only making the statute match our practices. For instance, we did not refer any bills to Growth and Infrastructure; we referred them to Taxation. We referred bills based on the upcoming session. This amendment would codify the practice of getting the upcoming session's recommendations for referral rather than using the past session's.

Chair Koivisto:

I think we will hold this bill for a few days and wait to hear from whatever Senator is suggesting limiting bill draft requests. If that person wants to limit bills, this is the place to come and talk about it. We will close the hearing on S.B. 490 and take up Senate Bill 87.

Senate Bill 87: Provides for audits by Legislative Auditor of entities which are not state agencies but which receive appropriations of public money. (BDR 17-91)

Carole Vilardo, President, Nevada Taxpayers Association:

I have been unable to locate the bill's sponsor, Senator Amodei. Since this is a bill we did support, do you wish to take testimony on it now or wait?

Chair Koivisto:

We are going to try to find him, but Mr. Townsend, do you want to start off the testimony on S.B. 87 while we are waiting for Senator Amodei?

Paul Townsend, Legislative Auditor:

I am here to respond to any questions the Committee may have, so perhaps I should wait.

Assemblyman Cobb:

Is it the intent of the bill that you could audit agencies or organizations that have received appropriations or public money in the past? Would this bill be retroactive in its effect?

Paul Townsend:

I must defer to Legal Counsel to answer those questions. I believe one of the intents of the bill is to address a lot of the special appropriations that are distributed. Many times as a condition of the appropriation, the entity must make itself available for an audit by our Division if the Legislative Commission so directs, but that condition is not always placed on all bills. This bill would make that audit condition a blanket coverage within the audit statutes.

Assemblyman Settelmeyer:

Would this audit be for one-time appropriations, for routine appropriations, or for both?

Paul Townsend:

Once this bill is passed, I believe we would be able to go back any time. A lot of times there is a time lag because there will be an appropriation, but the entity

will have several years to spend the money. At that point, the Commission could say, "You have had time to spend the money, now let us go back and have the auditor take a look at what it was spent on."

Assemblyman Ohrenschall:

If S.B. 87 becomes part of the statutes, what happens if a non-state agency receives an appropriation and the Legislative Counsel Audit Division wants to conduct an audit? If the entity refuses, what recourse do you have to compel them to open up their books?

Paul Townsend:

The bill references our existing audit statutes which provide for full access to records, confidential or otherwise. The audit has to be directed by the Legislative Commission, and at that point, the Commission can take whatever action is appropriate to compel them to open their records.

Assemblyman Mortenson:

I am curious about the genesis of this bill. Was there some incident that occurred that led to this bill?

Paul Townsend:

There has been discussion about special appropriations and the desirability to have more audit coverage of them, but perhaps Senator Amodei would be better able to respond to any specifics.

Assemblywoman Kirkpatrick:

Who pays for these audits, and do we have the staff for them?

Paul Townsend:

This bill did not have a fiscal note. Not all agencies receive appropriations, so the audits would be conducted on a special-request basis by the Commission, and another audit would be delayed. In that case, the audit expenses would be included as part of our operating budget. Often times, these are General Fund appropriations, and since we are funded by the General Fund, it was felt to be a good use of our resources.

Assemblywoman Kirkpatrick:

Say, Marilyn Kirkpatrick ABC, a nonprofit agency, came to the Legislature, needed \$13 million for a safe house, and got the appropriation. Are you saying you would have to speculate that my group had done something wrong, or could you call upon me at any time and ask for an accounting of where that

money had gone? I dislike the idea that we would be delaying a state agency's audit, but at the same time, everyone should be accountable.

Paul Townsend:

The audit would be at the discretion of the Legislative Commission. The audit request would come from a constituent through a legislator who would bring it to the Legislative Commission. The Legislative Commission would decide at that point if they wanted to assess a fee for the cost of the audit. It would be up to the Commission, because it would be the one authorizing the audit and the Commission could also determine if there needed to be payment.

Assemblyman Conklin:

I know there is a cost factor involved if we choose to audit. Why do we not have some requirement that anyone who receives state money has to have a certified public accountant or accounting firm perform an audit, so we at least know the entity is a bona fide business with assets and liabilities?

Paul Townsend:

I am not exactly sure of all the thought processes that went into the bill. A lot of times with these special appropriations there will be a clause that the entity must provide a report to the Interim Finance Committee, usually in December of the year before the session. If we did an audit that would be something we would look at. One of the first things we review are all the recent audits for the entity, and we review them by looking for any concerns that may have been brought up that we can follow up on or assess our risk accordingly.

Assemblyman Conklin:

For any appropriation made from state coffers that does not go to a state or sub-state entity, are any requirements placed on those entities or do we simply give them money?

Paul Townsend:

Generally, there will be the type of requirement I just mentioned through either the Senate Finance Committee or the Assembly Ways and Means Committee. A clause will be added that a report be provided to the Interim Finance Committee. There will also, generally, be a clause that, upon the request of the Commission, the Legislative Auditor can perform an audit similar to what has happened here, but it is not on every single appropriation.

Assemblyman Munford:

Can any legislator authorize an audit of any organization, non-profit group, or anyone who received any monies from the State, if we have suspicions or concerns about how that money is being used?

Paul Townsend:

I believe that was an issue Senator Amodei wanted to address and clarify with this bill. The Legislative Commission directs audits, so as a legislator you can go to the Legislative Commission and make that request, and there are instances when those requests are granted. We have done audits based on those types of requests.

Assemblyman Munford:

A lot of money has been appropriated from the State for organizations in my district, and many of those organizations came to the State requesting one-shot funding. Are these organizations also subject to auditing when they receive one-shot money?

Paul Townsend:

Yes, there is language common to a lot of the one-shot appropriations that provides a clause for an audit if the Commission were to direct the Legislative Auditor to do it. This bill would create a blanket requirement for an audit so language requiring audits does not have to be included in every one-shot appropriation.

Assemblyman Mortenson:

Referring to Mr. Conklin's earlier question, many times appropriations are very small, and the entity is required to report back how the money was spent. To audit one of those would probably cost the State more money than the appropriation was. I do not think it would be good to audit every entity that asks for an appropriation.

Assemblywoman Gansert:

As far as auditing the smaller entities is concerned, I agree with Assemblyman Mortenson. On most of our large appropriations, we always ask for some sort of report back, but I like this legislation because it provides a catch-all in case we do need to have an audit performed on someone.

Chair Koivisto:

Mr. Guinan will read into the record Senator Amodei's testimony when he presented this bill to the Senate Committee on Legislative Affairs and Operations.

Patrick Guinan:

I will quote Senator Amodei's testimony for the record:

The bill draft behind S.B. 87 originally came from former Assemblyman Lynn Hettrick. Last interim, Carson Tahoe Regional Medical Center conducted a mental health program. I do not know the exact name of the program. Several of us visited with the Board of the hospital and talked about their plans for the session and legislative matters. About a week later, an article appeared in the local paper which indicated they were discontinuing this mental health service and causing displacement of approximately 800 people who would have to find this service elsewhere in the community, as well as employee layoffs.

People began calling local officials and Hospital Board members along with members of the Legislature. I made an inquiry to the Director of the Legislative Counsel Bureau, Lorne Malkiewich, to see if we had authority to look at the validity of that business decision—to do an audit. The answer came back, "Not really, directly." But in discussions with Assemblyman Hettrick, he said, "I have a bill draft that kind of deals with that." My concern in this circumstance was the entity received state money and needed a state license to operate, but we were unable to audit them. Not that we want to go out and conduct regular audits, but, if the Legislative Commission thinks it is appropriate, this oversight tool should be available. In this specific story, I am not sure whether an audit notification procedure or something along those lines would have been appropriate.

As I look at S.B. 87, if private and public monies are commingled, what do you do in that instance, and if it becomes a public audit, what is proprietary? This issue could cross into the jurisdiction of three or four different committees, and this issue may come before Senator Washington's or Senator Hardy's Committees. [He goes on about the proper jurisdiction to look at the bill.] *Nevada Revised Statutes* 218.850, subsection 2, talks about regular special audits and investigations. Subsection 2 states that the Legislative Commission shall direct the Legislative Auditor to make any special audit or investigation that, in its judgment, is proper and necessary to carry out the purpose of this Chapter, or to assist the Legislature in the proper discharge of its duties.

I am not the Legislative Counsel, but those sound like broad words and phrases. If motivated, we may go to the Legislative Commission and do much of what S.B. 87 indicates, but S.B. 87 puts it out there for everybody to see. If there are protections for privacy, protections to ensure open records, and protections that this not happen routinely, I welcome discussions along those and other lines.

Since we are a part-time, citizen Legislature in session 120 days every 2 years; the Legislative Auditors perform key oversight functions. Those folks go year-round seeing what we said and how we appropriated funds. A good example is the case of the Nevada Department of Transportation process audit from a few years ago.

Chair Koivisto:

Thank you. A number of people have signed up to testify on this bill.

Carole Vilardo:

We spoke in support of the bill with an amendment in the Senate hearing. The amendment was not accepted. I spoke with Senator Amodei about another amendment, which he did accept. He told me to be sure to remind him that it was a friendly amendment before the hearing on this bill today.

This bill does not apply only to non-profits or other groups. It applies to local governments as well when they receive a special allocation. For appropriations proposed within the Executive Budget, there were two items that involved local governments and four items that involved non-profits. The amounts, respectively, were \$2.1 million and \$40.5 million. Outside of the Executive Budget, there have been 24 bills requested for one-shot appropriations for local government that total approximately \$135 million. There have been 37 bills requested for non-profit groups which total approximately \$59 million, the smallest amount being \$50,000 and the largest amount being \$20 million.

Because of those kinds of appropriations, we believe this is an excellent tool. The amendment I had suggested in the Senate, and which would go to a comment made by Assemblyman Conklin, was that if an audit was to be conducted for a local government, that it would probably be less expensive to put language in the bill that would require a local government that received state funds to have its annual audit include the information necessary relative to those funds. We have done that previously and used the entity's own financial statement. The auditors who prepare those financial statements are requested

to look at a specific issue and that might minimize some costs to local governments.

If you will look at page 2 of the bill, on lines 6, 8, and 10 there is the phrase "public" money. "Public" money is much more extensive than state funds. Public money can be federal funds; it can be grants, and so on. I do not think you want to be auditing federal funds or worrying about grants. The concern, if you choose to pass this bill, which I hope you will, is when the State is providing money to a non-state entity, a local government, or to a non-profit. If it is believed necessary, you should have the ability to audit that particular local government or non-profit entity. So, I offer those two suggestions for the Committee's consideration.

Chair Koivisto:

Carole, is it your recommendation that we change "public" money to "state" money?

Carole Vilardo:

Yes, and in those three places.

Assemblyman Mortenson:

If the situation arises that one wishes to audit an entity, it would seem to me that the reason for the audit was because there was some perceived irregularity; something has prompted this audit. If we depend upon an entity to do its own auditing and provide that information in its annual report, are we letting the "fox guard the chicken coop"?

Carole Vilardo:

I do not believe so. The audit I am talking about is the outside, certified financial audit, an audit not performed by the entity but performed by an outside accountant.

Assemblyman Mortenson:

Are not outside accountants chosen because they arrive at the "right" results?

Carole Vilardo:

Those auditors have a very specific set of guidelines, and if it is found that the audit has not been done in accordance with those guidelines, they can be sanctioned.

Assemblyman Mortenson:

During the energy scandals, very highly regarded audit firms were implicated in much of what went on.

Carole Vilardo:

That may have been why the Senate committee did not accept my amendment.

Assemblyman Settelmeyer:

The dialogue from the Senate testimony indicated that the state auditor tends to perform a different type of audit; more of a performance review. That data is more desirable.

Carole Vilardo:

It would be a performance-based audit, but it could also be a financial audit—it would depend upon the direction given by the Legislative Commission. Performance-based audits are most generally requested because if you are giving the money to build something, for instance, and then equipping that building in such a way as to provide a particular service, that would be considered "performance." An audit would make certain the recipients of the funding had done what they told the Legislators they were going to do.

There could be a situation where public money was given to an entity that also received federal money, and a federal audit triggered questions about the expenditure of the funds. In that case, the Legislative Commission could ask for a financial audit of the state funds that went to that group or entity.

Mike Alastuey, representing Clark County:

We entirely agree with Ms. Vilardo's testimony. We are also in support of what we believe to be a friendly amendment to change the reference from "public" money to "state" money.

Janine Hansen, President, Nevada Eagle Forum:

We supported this bill in the Senate and are here to support it in this Committee. We also are in support of Carole Vilardo's amendments. It is only proper that taxpayers are made aware of what is happening with their tax money and that you know what is happening with the money you appropriate and distribute.

There are a lot of good organizations that receive money from the State. The mission statement of the Children's Cabinet ([Exhibit D](#)) states their philosophy of a "lasting public-private partnership." If they are truly a public-private

partnership, there ought to be some oversight of that money given to them by the State.

Notice in the bill that every organization that receives money every year does not get audited. Audits are performed only if directed by the Legislative Commission, so it is not automatic. Not every entity is audited, nor is an audit conducted every time an entity receives money. If the money is given on a continuing basis, audits are conducted at the behest of the Commission to give Legislators and taxpayers information we all need. It is appropriate to have accountability for money that comes from the taxpayers, so we support this bill.

Assemblyman Conklin:

The reason non-profits generally get money is certain services are not provided at the local level. Instead of creating a larger bureaucracy, we give money to private services that, in most cases, are non-profit. There is a certain accounting method that goes along with that. There is a performance audit that wants an answer to the question, "We gave you X amount of money; how many people did you help?" The other audit is a true financial audit which has the entity providing information about its income sources and how that income was spent—how many people were employed; what percentage of the funds went to direct services, et cetera. From the State's point of view, do you think that is the way the money should be accounted for by the CPA (certified public accounting) firm?

Janine Hansen:

That is appropriate. This bill is important because if the oversight is available on a case-by-case basis, the Legislative Commission can determine that it wants certain issues looked at in an audit that might not be covered by the standard audit you have been talking about. There ought to be good scrutiny of those kinds of issues, especially for non-profits that are receiving government money. What you are describing certainly sounds like appropriate scrutiny, but there may be a case where someone does not have the best interests of the State or the non-profit in mind, and there needs to be some option for the State to have a separate audit; not just a standard audit, but the State could actually ask for specific things.

If you are asking if we just want the standard audit here, I would say this bill is important because it would provide the Legislative Commission with the option to ask for whatever kind of information it wants.

Assemblyman Conklin:

I am not objecting to this bill, I am thinking in addition to this bill. If an entity is going to get the money, it ought to provide an audit. In return, if we want to, we still reserve the right to audit you from a different standpoint—money or program.

Janine Hansen:

I support you in that because it is appropriate and long overdue. A requirement like this one would lead to awareness by all these organizations of what is expected of them and would create a very good standard.

Chair Koivisto:

When non-profits or other groups come to us asking for funding, they need to have a budget. They need to present a budget showing what they want the money for; what they will be spending the money on; and how the money is going to be used. No one comes to us saying that they want money and are just given money. They tell us how they are going to spend it before they get it.

Janine Hansen:

You can follow up on that with the kind of audit Mr. Conklin is discussing and, in addition, when you need to, you can use this if it is appropriate. One other thing is sometimes missing. When one-shot money or funding is spent, is a report furnished to the Legislative Commission on what was accomplished with that funding? Do they report back to the Legislature on what they actually were able to accomplish with the money that came from the State? That is important so that you know what happened to that money and what was accomplished with it. It would be a "return and report" situation after the funding was received. It would be important to be able to track whether or not the money you are giving non-profits is actually accomplishing the goals you set and the reason you gave them the money in the first place. It would also be important to know which non-profits were most successful. It is very important for the taxpayers to know these answers as well.

Lynn Chapman, State Vice President, Nevada Families:

We are in support of this bill. In the Senate hearing, Senator Amodei described the bill as being "just a tool." This is a very important tool because, whether it is state money or public money, it still comes from you and me and all of us in Nevada. We should have accountability.

Chair Koivisto:

Sergeant Roshak of Metro (Las Vegas Metropolitan Police Department) signed up to testify. Do you still want to testify? [Sergeant Roshak said, "Me, too."]

ASSEMBLYWOMAN GANSERT MOVED TO AMEND AND DO PASS
SENATE BILL 87 WITH THE AMENDMENT SUGGESTED BY
CAROLE VILARDO TO CHANGE THE WORD "PUBLIC" TO
"STATE."

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS
ABSENT FOR THE VOTE.)

With there being nothing more to come before the Committee, we are adjourned
[at 5:10 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Ellen Koivisto, Chair

DATE: _____

EXHIBITS

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

Date: April 26, 2007

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
SB 149 (R1)	C	Terri Barber, Legislative Advocate, City of Henderson	Proposed amendments
SB 87	D	Janine Hansen, President, Nevada Eagle Forum	Children's Cabinet Mission Statement