

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

**Seventy-Fourth Session  
May 8, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:58 p.m., on Tuesday, May 8, 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/](http://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](mailto: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 Ruben Kihuen  
Assemblywoman Marilyn Kirkpatrick  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom  
Assemblyman James Settelmeyer

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Ed Goedhart (excused)



**GUEST LEGISLATORS PRESENT:**

Senator Bob Beers, Clark County Senatorial District No. 6  
Senator Dina Titus, Clark County Senatorial District No. 7

**STAFF MEMBERS PRESENT:**

Michelle Van Geel, Principal Research Analyst  
Patrick Guinan, Committee Policy Analyst  
Terry Horgan, Committee Secretary  
Trisha Moore, Committee Assistant

**OTHERS PRESENT:**

Mary Bryant, Chairperson, Nevada Governor's Council on Developmental Disabilities  
Tiffany Hunter, Member, People First of Nevada, Carson City Chapter;  
Member, Nevada Governor's Council on Developmental Disabilities  
Santa Perez, representing People First of Nevada; Member, Nevada Governor's Council on Developmental Disabilities  
David Kilton, Member, People First of Nevada  
Diane Rossmann, Representing, People First of Nevada  
Matt Griffin, Deputy for Elections, Office of the Secretary of State  
Patrick Hearn, Executive Director, Commission on Ethics  
Craig Walton, President, Nevada Center for Public Ethics  
Janine Hansen, President, Nevada Eagle Forum

**Chair Koivisto:**

[Roll called] We will go to Senate Bill 491 (1st Reprint).

**Senate Bill 491 (1st Reprint): Establishes the preferred manner of referring to persons with disabilities in Nevada Revised Statutes and the Nevada Administrative Code. (BDR 17-297)**

**Michelle Van Geel, Principal Research Analyst:**

Senator Cegavske asked me to present this bill to you as she has two bills in the Senate Finance Committee right now. As an employee of the Legislative Counsel Bureau, I cannot advocate or oppose any legislation; I am just presenting background on this bill.

As you know, S.B. 491 (R1) came out of the Legislative Committee on Persons with Disabilities. The Disability Committee worked closely with the Strategic

Plan Accountability Committee for People with Disabilities to prepare recommendations to improve services for people who are disabled. One of the issues brought back to the Committee concerned identifying people first when referring to people with disabilities. Testimony indicated that the acceptable language to use in describing people with disabilities has changed over time. Rather than saying "disabled person," it is now more acceptable to say "person with a disability."

Senate Bill 491 (1st Reprint) establishes the preferred manner of referring to persons with disabilities in the *Nevada Revised Statutes* (NRS) and in the *Nevada Administrative Code* (NAC) by requiring the Legislative Counsel, to the extent practicable, to ensure that persons with physical, mental, or cognitive disabilities are referred to in the NRS and NAC using language commonly viewed as respectful and using sentence structure that refers to the person before referring to his disability.

**Chair Koivisto:**

Are there any questions from the Committee? [No response.] I will call the people up who have indicated they want to speak.

**Mary Bryant, Chairperson, Nevada Governor's Council on Developmental Disabilities:**

[Ms. Bryant read from her letter in support of the bill ([Exhibit C](#)).] I am also an advisor to People First of Nevada, a self-advocacy organization. They have provided you with respectful language posters we hope you will display ([Exhibit D](#)).

**Tiffany Hunter, Member, People First of Nevada, Carson City Chapter; Member, Nevada Governor's Council on Developmental Disabilities:**

We would like your support for the respectful language bill.

**Santa Perez, representing People First of Nevada; Member, Nevada Governor's Council on Developmental Disabilities:**

People First of Nevada is a support group for people with developmental disabilities. Our main focus is promoting self-advocacy and self-determination skills. I am also a member of the Governor's Council on Developmental Disabilities. According to the *Olmstead* decision [*Olmstead v. L. C.*, 527 U.S. 581 (1999)], people with disabilities should live, recreate, and work in an integrated environment.

I own my own home; I have a voice. I am telling you this before I tell you that I have a disability. I feel it is so important that society looks at us as people first and not at our disabilities. I hope you will support this bill.

**Senator Dina Titus, Clark County Senatorial District No. 7:**

I want to say "hello" to Santa Perez and remind this Committee that Santa was a very strong advocate for the bill that allows people to use stamps instead of writing their names. Many of you voted for that bill in the past.

**David Kilton, Member, People First of Nevada:**

I hope everyone will support this bill because it is very important that people see people with disabilities as people first instead of seeing their disabilities first.

**Diane Rossmann, representing People First of Nevada:**

People first language is a way to communicate about people with disabilities by reinforcing that we are people before we are disabled. The language preference now is "disabled" not "handicapped" or "retarded." Please recognize that we are people, first. We have many qualities that make us unique. We have feelings, and we can do a lot of things that some people do not expect us to be able to do. We just want a chance to prove ourselves. We want to show everyone that we are more than our disability. This bill will help us accomplish that goal.

**Chair Koivisto:**

Do we have anyone else who wants to testify either for or against this bill? [No response.] I will take a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO DO PASS  
SENATE BILL 491 (1st REPRINT).

ASSEMBLYWOMAN GANSERT SECONDED THE MOTION.

Is there any discussion? [No response.]

THE MOTION PASSED. (ASSEMBLYMEN CHRISTENSEN,  
CONKLIN, GOEDHART, AND OHRENSCHALL WERE ABSENT FOR  
THE VOTE.)

Let us go to Senate Bill 425 (1st Reprint).

**Senate Bill 425 (1st Reprint): Makes various changes relating to campaign practices. (BDR 24-905)**

**Senator Dina Titus, Clark County Senatorial District No. 7**

Senate Bill 425 (1st Reprint) establishes legal defense funds as one of the characteristics of political activity and applies the blackout period, 30 days before the legislative session, during the session, and 30 days after the session, to collection of funds or contributions to that kind of fund, as well as to a campaign fund. It applies to members of the Legislature, the Lieutenant Governor, Governor, Lieutenant Governor-Elect, and Governor-Elect.

If you are collecting money during a legislative session, whether for a legal defense fund or for a campaign fund, you are in a position to put pressure on people who might be appearing before you with legislation. We deemed that to be inappropriate a number of sessions ago for campaign dollars; it is equally inappropriate for dollars that go into a legal defense fund.

**Assemblyman Segerblom:**

Has the Senate put forward any bills dealing with legal defense funds?

**Senator Titus:**

The Secretary of State's bill is currently being considered in the Senate. That bill contains the details of what a legal defense fund is, when it can be set up, what the contribution caps are, and what the reporting requirements are. There is one clause in that bill that is contradictory to this bill, and I believe they are looking at changing that language to this language because this language is more comprehensive.

**Assemblyman Segerblom:**

So this bill is designed to fit with the bill we passed?

**Senator Titus:**

Exactly.

**Matt Griffin, Deputy for Elections, Office of the Secretary of State:**

Because Senator Titus' bill is more specific to the blackout period for donations during the session, according to Ms. Brenda Erdoes [Legislative Counsel], the blackout period in Senator Titus' bill applies. The Senate said it was going to work toward erasing that provision in the Secretary of State's bill. Conversely and for the same reasons, the definition of the legal defense fund as passed out of this House in the Secretary of State's bill, will apply. The Legal Division of the Legislative Counsel Bureau stated that they would work to make the language in both bills consistent.

**Assemblyman Settelmeyer:**

Why does this not apply to all constitutional offices?

**Senator Titus:**

That discussion came up. In the existing statute, the blackout period applies to the Legislature, the Governor, and the Lieutenant Governor because they are the ones who would be susceptible to influence during the legislative session, as opposed to the Secretary of State or the State Treasurer who are not being lobbied to pass any kind of legislation. The bill was written to mirror existing campaign finance law.

**Chair Koivisto:**

Are there any other questions from the Committee? [No response] We will bring S.B. 425 (R1) back to the Committee and hold it for our work session. Do we have someone here to present Senate Bill 495 (1st Reprint)?

**Senate Bill 495 (1st Reprint):** **Makes various changes relating to ethics in government. (BDR 23-566)**

**Patrick Hearn, Executive Director, Commission on Ethics:**

[Mr. Hearn read a letter in explanation of the bill ([Exhibit E](#)).]

**Chair Koivisto:**

Are there any questions from the Committee?

**Assemblyman Conklin:**

Mr. Hearn, in current statute violators are guilty of a gross misdemeanor but the last section of the bill strikes out the misdemeanor and replaces it with forfeiture of any honorarium received. Is that correct?

**Patrick Hearn:**

Yes, that is correct.

**Assemblyman Conklin:**

What was the logic behind that change?

**Patrick Hearn:**

It was in the Commission's original bill, but I did not participate in the creation of that bill draft request. However, it is my understanding that it was inconsistent with the rest of the ethics in government law which provides for civil penalties but not for any criminal sanctions.

**Craig Walton, President, Nevada Center for Public Ethics:**

We want to support this amended version of S.B. 495 (R1). [Mr. Walton provided Committee members with more detail concerning the Nevada Center for Public Ethics' support of the amended version of the bill ([Exhibit F](#)).]

**Chair Koivisto:**

Mr. Hearn, which timelines were removed in the bill?

**Patrick Hearn:**

There were provisions proposed that would have extended the timelines that now exist. For example, existing statute requires that the Commission complete its investigation in 45 days. The Commission's proposal was to extend that period to 60 days; however, that was not approved by the Senate committee.

**Chair Koivisto:**

They probably will not like our 120 days then, either.

**Patrick Hearn:**

I do not know.

**Chair Koivisto:**

Are there any other questions from the Committee? [No response]  
Janine Hansen has signed up to speak against this bill.

**Janine Hansen, President, Nevada Eagle Forum:**

I do not have any specific opposition to this particular bill except to voice my continuing concerns about the unaccountable and unelected Ethics Commission. People who are charged with ethics violations are guilty until proven innocent. They are denied due process because the Commission's process does not provide for a right to trial by jury, which circumvents the Nevada constitutional guarantee for all actions whether criminal or civil. Because the proceedings are administrative, they circumvent that guarantee.

I would like to ask again that a right to *trial de novo*, or a new trial that could look at all the facts regarding an ethics violation, be available to people who are judged guilty by the Ethics Commission. Right to a new trial would provide a guarantee that their constitutional protections would not be abused. It would also provide for a check on the Ethics Commission. We believe in checks and balances. Under the current law, an appeal is only a very limited one. That has always been my concern about the Ethics Commission and the laws that deny people their constitutional right to access to a meaningful appeal.

**Chair Koivisto:**

I do not have anyone else signed up to testify either for or against the bill so we will bring it back to the Committee and close the hearing on S.B. 495 (R1).

**Assemblyman Settlemeyer:**

Mr. Walton indicated he wanted to make some remarks about S.B. 425 (R1). If we have an opportunity, now might be a good time.

**Chair Koivisto:**

We can do that. We will reopen the hearing on Senate Bill 425 (1st Reprint) if Mr. Walton wants to present his testimony.

**Senate Bill 425 (1st Reprint):** **Makes various changes relating to campaign practices. (BDR 24-905)**

**Craig Walton, President, Nevada Center for Public Ethics:**

[Mr. Walton had his written testimony in support of the bill distributed to Committee members ([Exhibit G](#)).] I wanted to add two comments to the amended S.B. 425 (R1). This is a portion of our law that has never before been developed, but it had to be done.

In conversation in front of the Senate committee, a concern was raised by several people as to whether we want to forbid a legal defense fund to any elected, highly responsible official, no matter the circumstances. There was consideration of trouble with the earlier wording. It is because of that concern that you now have in the amended bill the wording at subsection 3 that says if the "official becomes subject to any civil, criminal, or administrative proceedings arising from a campaign, the electoral process or the performance of his official duties." That wording confines the scope of the defense fund and we think it is a constructive change.

We are very aware that a bill passed out of this Committee this session that overlaps and sometimes complements S.B. 425 (R1), and we are happy to hear the bills are being worked on and melded so the best features of the two will be put together.

**Assemblyman Settlemeyer:**

Is it your opinion that this would not prevent the establishment of a legal defense fund for defense of a non-political cause of action?



**Craig Walton:**

Correct. That was argued over repeatedly, and various examples, such as traffic accidents or other occurrences having nothing to do with an individual's work as a public official or as an elected official, were given. It was felt that it was very important to draw a sharp line. The lines I just read are meant to make the distinction clear. It is still not a perfect distinction. For law-making purposes, no one in the Senate hearing could figure a better way than this one.

**Chair Koivisto:**

Are there any other questions for Mr. Walton? [There was no response.] We will once again close the hearing on S.B. 425 (R1), bring it back to the Committee, and open the hearing on Senate Bill 548 (1st Reprint).

**Senate Bill 548 (1st Reprint): Revises various provisions relating to public offices. (BDR 23-1434)**

**Senator Bob Beers, Clark County Senatorial District No. 6:**

Senate Bill 548 (1st Reprint) is a bill relating to the financial disclosure statements we file listing the sources of our income and the sources of our family members' income through the first degree of consanguinity. Essentially, it specifies that these disclosures would be for the year preceding. Currently, there is a silence in the law as to whether the disclosures should be made for the year preceding, for this point in time, or for the year following. We get a combination of all three types when the statements are all stacked up together. This would specify that financial disclosure statements would be for the year previous.

On Second Reading, Senator Titus noticed that someone could file an annual report in January, have a change of circumstances, and in the following May when that person filed for reelection, the report on file for that person would be inaccurate. The amendment the Senate placed on the bill says if there has been a change in your circumstances since you filed your last report, you must file a new one when you file for either election or reelection. If there has been no change in your circumstances, your annual January filing would suffice. For the majority of legislators, for example, this would remove the duplicate filing that takes place in May that oftentimes is nothing more than a photocopy of what was filed in January.

The bill also requires that statements that expressly advocate the election or defeat of a candidate contain a disclosure about who is responsible for publishing it in a quest for truth in campaigning.

**Assemblyman Conklin:**

I am all for streamlining the process. This Committee passed a bill recently that combines the C and E (contributions and expenditures) report and the financial disclosures into one form. The financial disclosure information is filed more often, but you file one form to one location. The form does not add any information, it just streamlines the process for us, but in streamlining, it also adds some disclosure. You would include only information between the filing times so the dates are always the same. As I read this, I understand the need for it, but would this conflict with Assembly Bill 605 (1st Reprint), and which bill has the best chance to move forward.

**Senator Beers:**

They would partially conflict because it does still assume that there is a second form filed by people who do not necessarily file a campaign finance form. Those would be people who are appointed to positions and who are required to file financial disclosure forms even though they do not have campaigns or campaign funds.

You say we are going to hear the other bill on Thursday. The piece of this bill that may have to be moved into that bill, or whichever bill moves forward, would specify the period of time for the reporting, I suspect; whether it is last year or next year. The bill will also determine whether or not an elected official running for reelection needs to file a May report if that individual has had no change in income structure or family income structure through that five-month period.

**Assemblyman Conklin:**

There are a large number of appointed officials who need to make financial disclosures and who need clarification and are not on the C and E filing rotation.

**Senator Beers:**

Right. Would that one form fit all?

**Assemblyman Conklin:**

Would that not be nice; and online, too? No paper would be really nice.

**Chair Koivisto:**

Senator, do you remember we did something connected with freedom of speech and the question of who was paying for mailers? How does that relate to this?

**Senator Beers:**

I do not know how that reconciles with this bill. This creates a new section. What has been done in the past is to try to define this in terms of the organization behind it. This bill attempts to go directly to the statement itself, regardless of where it is coming from. If a statement is made, it must indicate who is disseminating it.

**Assemblyman Conklin:**

Not having an independent expenditure myself, is this attempting to get at independent expenditures?

**Senator Beers:**

Yes.

**Assemblyman Conklin:**

Currently, a true independent expenditure has no budget, no reporting mechanism, and is simply advocacy by one group, individual, et cetera, an expression of free speech not brought about by any party involved, either with the candidate or with some organization opposing the candidate that is consulting with an opposing candidate. Those people report nothing.

**Senator Beers:**

Right.

**Assemblyman Conklin:**

Now we are saying "If I am Joe Blow, and I take out a full-page advertisement saying someone who is running for the Board of Regents is a criminal," I have to report that?

**Senator Beers:**

No. What this says is your ad has to say, "Paid for by Joe Blow."

**Assemblyman Conklin:**

So, in political free speech, there shall be no such thing as anonymity?

**Senator Beers:**

That is the intent in paid advocacy. If Joe Blow were to use his own money and pay for that newspaper ad, he could still do so anonymously under this law. But if he is given money by the candidate, an opponent of the candidate, or a person, party, or committee required to report expenditures, then he must disclose who paid for it.

**Assemblyman Conklin:**

Did Legal Counsel or anyone on your committee question this policy from a free speech standpoint?

**Senator Beers:**

We have a long history of passing laws that violate the First Amendment.

**Assemblyman Conklin:**

It needs no further comment.

**Senator Beers:**

I do not remember if there was a specific question asked.

**Assemblyman Segerblom:**

It sounds as though this legislation affects people who are already reporting. If I am a candidate running against you, and I run an ad in the newspaper against you, I must say I paid for it.

**Senator Beers:**

Yes, we are not technically censoring or limiting speech, we are requiring more disclosure.

**Assemblyman Segerblom:**

Yes, someone "out of the blue" who paid for an ad would not necessarily have to disclose; just someone filing an expenditure report, who already has to report what he does, has to identify in the ad that he paid for it.

**Senator Beers:**

Exactly; in my opinion, this is not close to the more egregious abridgments of free speech that have occurred over the course of my last ten years in the Legislature. This does not suppress speech in any way; it just requires more of it.

**Chair Koivisto:**

If the person publishing this ad is receiving compensation from the candidate, the candidate is already reporting that expenditure.

**Assemblyman Segerblom:**

The ad itself would have to indicate who paid for it.

**Chair Koivisto:**

No, it does not say it has to be in the ad. The committee required to report expenditures needs to make the disclosure.

**Assemblyman Segerblom:**

Would the ad itself say who paid for it?

**Senator Beers:**

On line 38, page 4, the language reads, "A statement which" fits the qualifications outlined in lines 39 on page 4 through line 2 on page 5, "must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person, party or committee providing that compensation." What we are getting at is, "this ad is paid for by ...."

**Chair Koivisto:**

I still have some questions about this. I would like to figure out what we did last session.

**Senator Beers:**

Part of this legislation is trying to get at who is funding the statement. In the last four or six years we have seen a lot of organizations created specifically for one election that have names like "Nevadans for Nevada." During my campaign four years ago, an organization was created called the "Committee for Political Truth," which had a fine, Orwellian ring to it. What this bill is getting at is, essentially, if the Committee for Political Truth is operating with funding from two people or one person or three people, they have to disclose in the ad who is paying for that ad. We get that information eventually, but well after the fact, well after the election.

**Assemblyman Mortenson:**

Could you avoid this? I like the basic intent of this legislation because there have been so many brochures distributed against me, although I had an idea where the money for those brochures was coming from. Could an entity like "Nevadans for Truth" get its money from an entity called "Nevadans with Money" and report that but not go back another step and report that "Nevadans with Money" was actually Joe and Sam Blow?

**Senator Beers:**

That would be consistent with our history of legislative initiatives being defeated by special interest money in elections.

**Assemblyman Mortenson:**

Could you correct the situation so the ultimate source is revealed?

**Senator Beers:**

We do, every session. It is a never-ending battle. As soon as we come up with something, the money comes up with something else. That is the way it has gone for most of the last decade.

**Assemblyman Mortenson:**

It is like the manufacturers trying to make their DVDs (digital video discs) copy-proof. It will never happen. Someone always finds a way around it.

**Chair Koivisto:**

Are there any other questions from the Committee? [No response] I will close the hearing on S.B. 548 (R1) and bring it back to the Committee. We will hold it to get some answers. Is there anything else to come before the Committee? [No response] We are adjourned [at 4:55 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblywoman Ellen Koivisto, Chair

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

**EXHIBITS**

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

**Date: May 8, 2007**

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

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance roster
SB 491 (R1)	C	Mary Bryant, Chairperson, Nevada Governor's Council on Developmental Disabilities	Letter in support
SB 491 (R1)	D	Mary Bryant, Advisor to People First of Nevada	Posters
SB 495 (R1)	E	Patrick Hearn, Executive Director, Commission on Ethics	Letter in explanation of the bill
SB 495 (R1)	F	Craig Walton, President, Nevada Center for Public Ethics	Letter in support
SB 425 (R1)	G	Craig Walton	Letter in support