

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

**Seventy-Fourth Session  
May 15, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:54 p.m., on Tuesday, May 15, 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 Ed Goedhart  
Assemblyman Ruben Kihuen  
Assemblywoman Marilyn Kirkpatrick  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom  
Assemblyman James Settlemeyer

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Committee Policy Analyst  
Terry Horgan, Committee Secretary  
Gillis Colgan, Committee Assistant

Minutes ID: 1302



**Chair Koivisto:**

[Roll taken] We are going to work session bills we have already heard, so let us start with Senate Bill 78 and Patrick Guinan will explain the bill.

**Senate Bill 78: Revises the provisions relating to misconduct in the signing or filing of petitions. (BDR 15-770)**

**Patrick Guinan, Committee Policy Analyst:**

[Mr. Guinan read a summary of the bill from his work session document ([Exhibit C](#)).] Assemblyman Conklin noted that he was not comfortable with the provisions in Section 1, subsections 5 and 6 of the bill, that penalize a petition signer for accepting compensation for signing or withdrawing his signature from a petition or for willfully subscribing to a false statement concerning his personal information.

**Assemblyman Conklin:**

The bill is very straightforward, so I would be happy to make a motion if it is your intent to move it. However, I recommend deleting the words "or other qualifications" in Section 1, subsection 2, on line 15. "Other qualifications" is too vague. This part of the bill refers to things that qualify a person to sign a petition. There are only so many items of information that should be put on an initiative petition—who the individual is, where the individual lives, and the individual's age. If the signer forgets to date his signature, but all the signatures are dated July 1, and the petition is turned in on July 5, it is pretty safe to assume the signatures were collected somewhere between July 1 and July 5. The signature gatherer for the petition should not be held liable if one of the signers forgot to date his signature, and the gatherer filled in that piece of missing information. "Other qualifications" is too broad and should be deleted.

In Section 1, subsection 5 on lines 38 and 39 where the language reads "A person shall not, for any consideration, gratuity or reward sign his own name ...," the word "willful" needs to be added in that line because there is no standard to measure people by. I am okay with a misdemeanor penalty for the petition gatherer because he has more responsibility, but we do not want to discourage people from signing; we just want a clean industry. Those are the two areas I think need to be fixed.

**Chair Koivisto:**

It might need to be worded along the lines of "a person who willfully violates" the provisions of this subsection.

**Assemblyman Conklin:**

Yes. Mr. Guinan also pointed out that the phrase "other qualification" is also in Section 1, subsection 6. I am not certain the phrase should be removed in that subsection because if a person completes the petition and intentionally backdates it, that is an entirely different matter.

**Assemblyman Segerblom:**

With respect to that last comment concerning "willfully" violates, my concern is if you took money in return for signing a petition, that would be "willful," but it would not necessarily mean the individual knew he was violating the law. It might have to say "knowingly and willfully" violating the law. You want to have some language indicating the person knew what the law was and knowingly violated it.

**Chair Koivisto:**

Yes, maybe it should read that a person shall not "willfully, for any consideration" or shall not "knowingly for any consideration."

**Assemblyman Segerblom:**

Do you think a person who "willfully violates the provisions" of this law means that the person understands the law?

**Chair Koivisto:**

No.

**Assemblyman Segerblom:**

Ignorance is an excuse in the context we are talking about. We are trying to differentiate between someone who took money for their signature and someone who knew he was violating the law.

**Assemblyman Conklin:**

Is this already covered in Section 1, subsection 3? Subsection 3 says a petition gatherer "shall not willfully offer consideration or ... gratuity." Do we have to go after the signer who does not know the difference and is not going to read the law? The petition gatherer is going to read the law, or should read it. The petition gatherer should know what his obligation is to get signatures, and that is really what we are talking about. The person coming out of Wal-Mart who is offered a box of Girl Scout cookies to sign a petition, may not know it is illegal, especially if the person likes the petition.

**Assemblyman Segerblom:**

Just eliminate subsection 5.

**Assemblyman Conklin:**

Delete subsection 5 and assume subsection 3 covers the situation. I have real heartburn about penalizing the signer of a petition.

**Chair Koivisto:**

I do too, except if the signer is taking money for signing, or for removing his name. I have a problem with that. I really would like to leave that in the bill and ask our Legal Counsel if they can modify the language.

**Assemblywoman Gansert:**

I understand Mr. Conklin's point because most people who sign something do not even know what the laws are. I also have a concern about that subsection. Instead of changing the language, why not remove the misdemeanor penalty. Maybe some people will "willfully" sign. Maybe the addition of "willfully" would make it work because then the individual knows it is wrong.

**Assemblyman Segerblom:**

I would just eliminate subsection 5. It would be too hard to determine whether someone knew what they were doing.

**Chair Koivisto:**

According to our Legal Counsel, Kim Guinasso, it is either a crime or it is not a crime. As a result, we are left with the option of leaving the language in or taking it out.

**Assemblywoman Gansert:**

I am leaning toward leaving the language in and adding "knowingly and willfully" in Section 1, subsection 5. For the crime to be considered a misdemeanor, the person must know it is wrong and willfully sign the petition for some kind of consideration. Section 1, subsection 6, reads "willfully subscribe;" but we do not have that language in subsection 5.

**Chair Koivisto:**

Kim Guinasso says she can accept "willfully, for any consideration."

**Assemblyman Conklin:**

So, that is the appropriate place for "willfully." The language will now read, "A person shall not knowingly, for any consideration, gratuity or reward, sign his own name to or withdraw his own name from any petition." I am fine with that.

**Chair Koivisto:**

Patrick Guinan will clarify Kim Guinasso's email.

**Patrick Guinan:**

The language would read something to the effect that a person shall not "willfully" accept any consideration, gratuity, or reward, for signing or withdrawing his own name. The word "willfully" would be added in the first sentence of subsection 5.

**Assemblyman Mortenson:**

I still am concerned about unintended consequences, such as someone offering an individual a box of Girl Scout cookies to sign a petition. Many people could get really harmed by this because they may not even know it is against the law.

**Assemblyman Ohrenschall:**

I agree with Mr. Conklin and Mr. Mortenson. Even if someone had a motive and took a payoff to either put his name on an initiative or remove his name from one, such a prosecution could dissuade many people from ever signing a petition. People could become scared off and not want to take a chance that someone would say that they took a piece of cake or something like that, and they would be prosecuted. There could be unintended consequences. We might dissuade a lot of people from signing petitions.

**Assemblyman Settlemeyer:**

What about a concept based on the dollar amount of consideration? If someone is handing out cookies valued at 50 cents, or soda pop, it would be no big deal. Maybe that would be the line, but I do not know where that line is.

**Chair Koivisto:**

This is getting more confusing, so maybe we should go with Mr. Conklin's first suggestion to take out subsection 5. Mr. Conklin, do you want to make a motion?

**Assemblyman Conklin:**

What do you think about deletion of "other qualifications," and should the phrase be removed in both subsections?

**Chair Koivisto:**

I agree with you that the phrase "other qualifications" should remain in subsection 6 but be removed in subsection 2.

**Assemblyman Conklin:**

I think that is correct. It says, "with the intent to falsify the name or any information concerning age, citizenship or residence." That is already broad enough. If it is that broad in subsection 6, we could delete the phrase in both subsections.

**Assemblywoman Gansert:**

I believe the phrase is appropriate in subsection 6 because you could be signing your name to a false date someone else put on and you would actually know that when you were doing so.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS  
SENATE BILL 78 DELETING THE REFERENCE TO "OTHER  
QUALIFICATIONS" IN SECTION 1, SUBSECTION 2; AND  
DELETING SECTION 1, SUBSECTION 5 IN ITS ENTIRETY.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

**Chair Koivisto:**

Is there any discussion?

**Assemblyman Settlemeyer:**

I agree with all the changes except the deletion of subsection 5. I still do not like the idea that someone could be paid money to sign a petition or remove his name from one.

**Assemblyman Conklin:**

It is a class D felony for a petitioner to ask a person to sign and offer some compensation for doing so. That would serve a greater purpose than the number of people who might be dissuaded from signing because they do not understand the law or do not know it.

If I thought we could fix it, I would. I think trying to fix it would only complicate the situation. Since there is already a penalty for those people whose job it is to know the law regarding signature collection, that is where we can stop the practice if there is one. No one is going to want to risk a class D felony.

**Chair Koivisto:**

Is there further discussion? [No response]

THE MOTION PASSED UNANIMOUSLY.

We will move on to Senate Bill 495 (1st Reprint).

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

**Patrick Guinan, Committee Policy Analyst:**

[Mr. Guinan gave an explanation of the bill from his work session document ([Exhibit D](#)).] For your information, there is a summary of what was amended into and out of the bill when it was heard in the Senate ([Exhibit E](#)). There have been no amendments proposed to this bill.

**Chair Koivisto:**

Is there any discussion or comments on this bill? [No response]

ASSEMBLYMAN CONKLIN MOVED TO DO PASS SENATE BILL 495 (1st REPRINT).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

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

With no further business to come before the Committee, we are adjourned [at 4:20 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 15, 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 78       | C              | Patrick Guinan, Committee Policy Analyst | Explanation of the bill               |
| SB 495 (R1) | D              | Patrick Guinan                           | Explanation of the bill               |
| SB 495 (R1) | E              | Patrick Guinan                           | Senate amendment to the original bill |