

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

**Seventy-Fourth Session
March 29, 2007**

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:54 p.m., on Thursday, March 29, 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 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 Settelmeyer

COMMITTEE MEMBERS ABSENT:

Assemblyman Chad Christensen (excused)



GUEST LEGISLATORS PRESENT:

Assemblyman Jerry Claborn, Assembly District No. 19

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Terry Horgan, Committee Secretary
Trisha Moore, Committee Assistant

OTHERS PRESENT:

Larry Sokol, representing National Popular Vote, Mountain View, California
Gail Tuzzolo, representing the Nevada AFL-CIO
Lynn Chapman, State Vice President, Nevada Eagle Forum
Ross Miller, Secretary of State
Matt Griffin, Deputy for Elections, Office of the Secretary of State
Kristi Geiser, Assistant to the Deputy for Elections, Office of the Secretary of State
Alan Glover, Carson City Clerk-Recorder
Barbara Griffin, Douglas County Clerk-Treasurer
Craig Walton, President, Nevada Center for Public Ethics

Chair Koivisto:

[Roll called.] We will start today with Assembly Bill 384.

Assembly Bill 384: Enacting the Agreement Among the States to Elect the President by National Popular Vote. (BDR 24-874)

Assemblyman Jerry Claborn, Assembly District No. 19:

I am introducing this bill because I believe every vote for President should be equal. A vote in Florida or Ohio should not be more valuable than a vote in Nevada or Idaho. The public believes the candidate who gets the most votes should be elected. This is the guiding principle for all other elections and it should be that way when electing the President of the United States. I would like to introduce Larry Sokol, with the National Popular Vote organization, who will make a brief statement.

Larry Sokol, representing Nation Popular Vote, Mountain View, California:

What A.B. 384 seeks to do is create a national popular vote for President so the candidate who receives the most votes across the country in all 50 states gets

elected President. This is part of a nonpartisan movement around the country. Last year, identical legislation was introduced in 6 states; this legislative session, we have commitments for its introduction in 47 states. We have more than 260 bipartisan sponsors or co-sponsors. Just in the last three months, similar legislation passed the Colorado Senate, the Senate in Hawaii, and the Arkansas House. Yesterday it passed out of the Maryland Senate, and last year it passed both Houses in California.

In addition to being a movement we are pursuing, this is a proposal that has a tremendous amount of support from the general public. The Gallup Organization has been polling people on the question of a national popular vote for more than 60 years and its polls routinely indicate between 65 and 70 percent support.

The proposal takes two provisions in the federal *Constitution* and combines them. Right now, states have the sole authority to decide how they award their electoral votes and currently, 48 of the 50 states award their electoral votes through a winner-take-all system. That has not always been the case throughout United States history. The current system has just evolved. The winner-take-all system is not in the *Constitution* or in any federal legislation.

The other aspect the *Constitution* provides for are interstate compacts, which are binding, legal contracts. For example, here in Nevada you are part of the TRPA (Tahoe Regional Planning Agency) as well as the Colorado River Compact. These are binding contracts among or between the states. This proposal is actually an interstate compact that says that all the states that ratify the compact agree to award their electoral votes to the candidate who receives the most votes in all 50 states.

The trigger mechanism, the compact itself, does not go into effect until it is ratified by enough states so that, together, they comprise the majority of the Electoral College. For example, if Maryland and Arkansas are the only states that ever ratify the compact, nothing in the current system changes. The compact says, "the candidate who receives the most votes in all 50 states," so even if a state does not join the compact, that state is not disadvantaged. That state's votes still get counted when determining the candidate who got the most votes in all 50 states.

We believe a national popular vote is part of the evolution of democracy in the United States. The Founding Fathers lived in a very, very different time without modern communications. The majority of the population was illiterate, and women and African Americans did not have the right to vote. Originally,

U.S. Senators were not directly elected by the people. We think a national popular vote's time has come and is a next step in that evolutionary process.

A national popular vote for President makes every vote equal. Currently, candidates only campaign in about 16 states. Approximately 99 percent of campaign events, time, effort, energy, advertising, and candidate visits occur in just 16 states. The rest of the country is essentially disenfranchised. If you do not live in a battleground state, the presidential candidates from both major parties are going to ignore you. Under a national popular vote that will change dramatically because now, candidates will actually have to campaign across the country. It will no longer be about winning particular individual states, but about trying to gather as many votes as you can. There are votes to be had in every state, so candidates will change the way they campaign across the country.

The current system is biased so every vote is not equal. If one takes a look at what happened in Ohio in 2004, there are two interesting things worth mentioning. Ohio has about 11 million people and 20 electoral votes. The 13 smallest states combined have 11 million people and twice the number of electoral votes as Ohio, and yet the candidates literally set up shop and lived in Ohio because that was a battleground state. They ignored the 13 smallest states, despite the fact those states have as much population and twice as many electoral votes.

It is also worth noting that in Ohio in 2004, if 60,000 votes had shifted from President Bush to Senator Kerry, Senator Kerry would have carried the state of Ohio, Senator Kerry would have won the Electoral College, and he would be President, despite the fact that President Bush received 3.5 million more votes than Senator Kerry.

Assemblyman Mortenson:

It is tough to run a presidential campaign because it is a night and day marathon. I agree with you that the popular vote is the way to go.

Assemblyman Munford:

Your explanation made it appear very simple. Many people in the United States have difficulty understanding the electoral system and how the Electoral College works. Even with your system, I believe the small states would be neglected to some degree. The candidates believe their concentration should be on the larger states because they have larger populations and that is where the bulk of the popular vote would be determined.

What you have is a good idea, but I am from the old school and understand the Electoral College system very well. I thought it was a good system in some ways, but the democratic way would be the popular vote, probably. What is the percentage of states that are ready to sign on to this?

Larry Sokol:

The bill will be introduced, or has already been introduced, in 47 states this year. Clearly, it is not going to make its way through even the majority of those states; but we view this as an ongoing project, with our ultimate goal being to have this system in place for the 2012 Presidential Election.

Assemblyman Munford:

It will not make it by 2008, is that what you are saying?

Larry Sokol:

The likelihood of enough states passing it this year is virtually none. This is a project that is going to take several years, which is how it should be. As you mentioned, this is a system that a lot of people do not understand and we need to go through the educational process with folks, which is why we have opened up that dialogue in all the states.

Assemblyman Munford:

So many people still think their popular vote is what counts because they do not understand the Electoral College system.

Larry Sokol:

We believe small states will be among the greatest beneficiaries of a national popular vote system because, currently, the small states are essentially ignored. The 13 smallest states have the same population as Ohio, they have twice as many electoral votes as Ohio, and yet they were summarily ignored because 6 of the 12 states were considered "safe" states. Six were safe Democratic states; six were safe Republican states. It is not really about whether you are a big or small state; a Republican or Democratic state; it is whether you are a battleground state.

Assemblyman Munford:

Nevada is a relatively small state and we only have five electoral votes. Would we be considered among the states like Montana, the Dakotas, Idaho, and Wyoming? Some of them only have four electoral votes. Would we be considered a small state?

Larry Sokol:

The example I used referred to those states that just have three or four electoral votes, so Nevada would not necessarily be in that category. The small states, because they are "safe" states, receive no attention. Under a national popular vote plan where there would be motivation for presidential candidates to get every vote they can, there will be a much greater incentive for them to campaign in the smaller states. I am not going to say that national campaigns are all of a sudden going to set up headquarters in South Dakota; however, they will advertise in South Dakota, and might very well visit South Dakota, Nebraska, Kansas, Idaho, Montana, Delaware, Connecticut, or a lot of the states that are currently being ignored. Even though the bigger states, such as Texas, Ohio, Florida, California, and New York, will get more attention, smaller and middle-sized states that currently receive no attention will receive a dramatically increased amount.

Assemblyman Munford:

If Al Gore had won the State of Nevada in 2000, he would have won the election. All he needed was a small state.

Assemblyman Settelmeyer:

How could a state law change the Electoral College? Are you also suggesting modifications to Article 2, Section 1, of the Twelfth Amendment?

Larry Sokol:

We do not believe there are any constitutional concerns with the bill. No one has said it is unconstitutional. They may not agree with its goals or what it is ultimately trying to do, but we have yet to come across any law professors, scholars, or activists who say it is unconstitutional. The proposal is based on two provisions of the *Constitution*. The *Constitution* allows states the plenary power to award their electoral votes the way they see fit; and the *Constitution* also provides for interstate compacts. All this bill and this interstate compact do is combine those into one.

Assemblyman Segerblom:

Is this a way to replay the 2000 Election so Gore can win?

Larry Sokol:

We get that a lot, that this is a proposal by bitter Democrats still smarting from seven years ago. This is a bipartisan effort across the country. The reality is, if the 2000 and 2004 Elections had been conducted under a national popular vote scenario, the entire campaign would have been conducted differently. There would not have been such a concentration of resources in Florida, Iowa,

Wisconsin, and the other battleground states. Those resources would have been much more evenly dispersed, so who knows what the results would have been? As an analogy, I am a Los Angeles Lakers fan because I grew up in Los Angeles. If the Lakers are playing a game and Kobe Bryant is out hurt and the Lakers barely lose, you cannot honestly say that if Kobe Bryant had played, the Lakers would have won. What you would say is, "The game would have been different." The Lakers may very well have won; they may very well have lost. That holds true here. If national popular vote had been in effect, the entire campaign would have been conducted differently, which is ultimately what we are trying to make happen. We are trying to force presidential candidates to conduct national campaigns, as opposed to campaigns in half a dozen to a dozen battleground states.

Assemblyman Conklin:

The Electoral College was never designed such that the candidate who won a state got all the votes. That is the way states have gone—winner take all. The real intent was to protect the people from a poor decision. Originally, one would have expected that the votes would always reflect the popular vote.

Larry Sokol:

The winner-take-all system is something that has evolved over the course of U.S. history, because states found that was a way they could maximize their power and influence. The way the system is now, even with a winner-take-all system in 48 of the 50 states, 32 of those states are still irrelevant because of the system. The society the Founding Fathers lived in bears little to no relationship to where we are now. Whether it is the size of the country, our ability to communicate with one another, or the literacy of our population, the Founding Fathers clearly wanted, at some point, a buffer between the people and the election of the President, which we think is no longer needed.

Assemblyman Conklin:

The Electoral College has always been a fascination of mine. It is just one of those things that becomes obsolete in a short period of time and, while I think the *Constitution* is a wonderful, living document, this is one of those interesting, fascinating pieces of it that never made sense.

Assemblyman Cobb:

Representing individuals in Nevada, my concern is for my constituents. In the last two presidential elections, we were a swing state and received quite a bit of attention from presidential candidates. They were required to address our concerns, needs, and other things that matter to Nevadans. This bill would essentially eliminate that. You are going to have states that are so populous,

like California, New York, Florida, and pretty much the vast majority of other states, being prioritized ahead of us. Why would we want to pass this bill knowing that we are going to become less important because of it?

Larry Sokol:

The people support it. Between 65 and 70 percent of the people in any poll we have seen on this issue, going back to the 1940s, routinely show that the people think the candidate who gets the most votes should get elected. This proposal will make every state a battleground state. Votes in Nevada will still be very significant to any candidate, just as votes in Montana, Idaho, Iowa, California, or New York would be. A vote is going to be a valuable commodity to any candidate and they will all be equal under a national popular vote, so candidates will pursue those votes wherever they can find them.

Another aspect worth mentioning is that under a winner-take-all system, in most states, a significant minority of the population is not only disenfranchised, but their votes get counted toward their opposition. If you are a Democrat living in Texas, not only does your vote not really matter in the national count, but, for all intents and purposes, you voted for President Bush in 2004. The same thing holds true everywhere.

Assemblyman Cobb:

I do not think it is going to be a good idea to lower our importance. My colleague from Clark County has been very active getting the Democratic candidates to our State. Being exposed to our issues and listening to what we have to say really is benefiting the entire West. This is the first time we are having a primary or a caucus so far in advance of a presidential convention that they need to pay attention to Western issues in general, and Nevada issues in particular. I do not agree with you. We have been a swing state the past two elections, and will be for the foreseeable future, and now we have set up our caucuses. Should we lower our importance because of the national issues being pushed by your group and the national poll numbers?

Larry Sokol:

The notion of being a battleground state is a transitory one. Ohio was not a battleground state in the 2000 election, but in 2004 it was the center of the presidential universe. Obviously, moving the date of the primary up, or having caucuses, will dramatically increase Nevada's impact in terms of the primary process. National popular vote increases and maintains that increased attention for the general election.

Assemblyman Cobb:

I would imagine you would be pushing for a uniform date for the primaries as well, and if not, why not? That is the fairest, most equal way to get everyone the same amount of attention and all their issues heard, which is your goal, apparently. I do not see why you can be in support of one and not the other.

Larry Sokol:

Our bill is only concerned with the general election.

Assemblyman Cobb:

You brought up the issue of the primary elections.

Gail Tuzzolo, representing the Nevada AFL-CIO:

We are very much in favor of this proposal because we work hard to engage our members and other citizens in civic participation. We work hard encouraging them to register to vote. We believe that is how you have a voice. This legislation would definitely increase voter registration and voter participation. People will feel as though their vote counts. When you ask someone why they have not voted, or why they are not intending to vote in an election, more often than not they say, "My vote does not count. Why bother?" This definitely levels the playing field.

The early caucuses we are blessed with in Nevada are not our determination and we do not know how long that will last. We hope that Nevada is going to turn out lots of people to vote in the primary elections. This proposal is a good one even if we do have the early primary.

Assemblyman Conklin:

If a presidential candidate came to Nevada and won 60 percent of the vote, that individual would get five electoral votes, but the dilemma we have is that the votes are not equal. By receiving 60 percent of the vote, the candidate garners 100 percent of the result. It is not equal. We have an equal rights clause in the *Constitution* and we are, theoretically, one person, one vote; but that is completely diminished by the way the states have handled the Electoral College. One of the things I like about this proposal is the fact that the highest vote-getter wins the election. Every vote is equal. Do you believe this nation was founded on the principle of one person, one vote, or not? Is that what you are getting at?

Larry Sokol:

That is exactly our point. We mailed a 620-page book entitled *Every Vote Equal* to all Committee members several weeks ago. As you pointed out, there is

currently not a presidential candidate who would not rather have a vote in Tallahassee, Florida, than a vote in any city in Montana. A vote in Tallahassee, Florida, or in Iowa, Wisconsin, Ohio, or any of the traditional battleground states is worth more to a presidential candidate than a vote in New York, Texas, or California.

Chair Koivisto:

Seeing no further questions from the Committee, I am going to ask the one person signed up in opposition to come forward.

Lynn Chapman, State Vice President, Nevada Eagle Forum:

I am distributing a handout to the Committee members ([Exhibit C](#)). I will not read from it, but there is some very interesting information in it from the U.S. National Archives and Records Administration, plus lots of frequently asked questions.

We are not in support of this bill. It has always been interesting to try and figure out how they ever came up with this idea, but it seems to have been working for the last couple of centuries. The thing about the Electoral College is that the presidential candidates would really spend more time in other parts of the country and in the whole country, rather than in just a small number of states. Why would a candidate worry about Nevada with a population of only 2 million people, when they could go next door to California and get millions of votes over there? That is why we have the Electoral College. It also saves us having to recount votes in all 50 states, if there is a problem.

Because of the third parties, which we do have, a popular vote process would make it very difficult for a candidate to ever receive 50 percent of the popular vote, and we would always be saddled with Presidents without an adequate base of support.

The elimination of the Electoral College would make irrelevant the votes of Americans in about 25 different states because candidates would zero in on piling up all the votes in the large populations. Eleven states have a lot of the population, and that would be the biggest problem. In rare instances, the electoral voter would defect and not vote for his or her party's candidate. That would be the only problem, but there are ways to handle that.

Assemblyman Munford:

In your research, did you find any effect on the minority vote, such as leverage or political impact? Candidates always try to focus to some degree on minorities, because those minorities can determine outcomes. Would the

popular vote being proposed take that impact away? I always thought the Electoral College gave some leverage to minorities in determining outcomes of elections. Did you see anything in your research about this effect?

Lynn Chapman:

Each party chooses who will be on the Electoral College for each state and minorities are included, so they would have a say, just as anyone else would.

Chair Koivisto:

Did you find anything specific in your research?

Lynn Chapman:

No, I did not see anything specific, but minorities were included among the electoral voters.

Assemblyman Munford:

In some large metropolitan areas, the minority vote does have an impact. I am looking at both ways of voting to see which one would take that away. It gives minorities a voice, and I want to see which proposal tends to retain that aspect.

Assemblyman Segerblom:

It really depends upon which state the minorities are in. If you are in a battleground state, minorities would have a lot of impact; but if you are in California or New York, minorities do not matter. With respect to Mr. Cobb's statement, I would like to state that when I became chairman of the Nevada Democratic Party in 1992, no presidential candidate had visited Nevada since 1968, because we were perceived as a Republican state. That is the problem. Right now, we might be on the cusp of being a battleground state, but tomorrow when we are not, we are never going to see anybody. This proposition would at least give us equal votes over the long term.

Chair Koivisto:

I am closing the hearing on A.B. 384 and bringing it back to Committee. We will now open the hearing on Assembly Bill 517.

[Assembly Bill 517](#): Makes various changes to election laws. (BDR 24-542)

Ross Miller, Secretary of State:

I would like to introduce A.B. 517, which is the Secretary of State's general election bill that had been submitted by my predecessor, Dean Heller. My Deputy for Elections will walk through some of the specifics of the bill, as well as some proposed amendments.

Getting ready for the 2008 elections, it became apparent that there were some necessary procedural modifications that needed to take place, and that is what this bill addresses. A major component of the bill removes the statutory references to punch card ballots in voting. That is important because we are at least two years overdue and it is necessary to ensure Nevada is in full compliance with federal law. The references are irrelevant since we no longer have punch card voting machines. Similarly, there are provisions of the bill that do not allow for a voter ID (identification) card to be presented as an official form of identification. That is because a voter ID card establishes a voter's residence at the time the card is issued.

Sections 23 and 49 of the bill provide that a sample ballot be mailed to each registered voter before the period of early voting in order to allow voters to make educated decisions when they cast their votes. The bill also requires that all documents, submitted for signature verification on a petition for an initiative or referendum that was circulated in more than one county, must be submitted to each county clerk on the same day. Currently, they are required to be submitted at the same time, and this language clarifies that to mean that they would be submitted on the same day.

Other provisions of the bill would codify and put into law practices already occurring in the elections. Matt Griffin, my Elections Deputy, will walk you through some of the proposed amendments and answer any questions you may have.

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

We are proposing a few amendments to this legislation ([Exhibit D](#)). We will start with *Nevada Revised Statutes* (NRS) 293.755, which has been brought to the attention of the Committee before. Tampering with a voting machine with the intent to alter the results of an election would become a category A felony.

The next amendment in NRS 294A.160 defines "candidate" as being someone who has either filed or raised over \$100 in preparation for a campaign.

Changes at NRS 29AA.373 conform with the previous amendment and add NRS 294A.160 into the statutes affected under subsection 1.

The next amendment deals with NRS 293C.315 and works in conjunction with the second handout I provided to the Committee ([Exhibit E](#)) and concerns military absentee voting status. There are federal guidelines currently in place for when a service member, or his or her family, is stationed overseas. There are provisions already in place in Nevada to fax a ballot to those servicemen and

women, but there is no provision allowing them to fax it back. Federal guidelines require a plausible way to return a ballot. The language includes an oath that the individual is the person who voted on the absentee ballot. There is also a waiver of confidentiality, because there would need to be disclosure to a third party of the name associated with the ballot when it is received by the polling office. This bill is primarily a cleanup measure, because there is language in the statutes currently not being employed in practice.

There is one other amendment to the bill dealing with Section 23, subsection 3, where the language reads, "Not later than 10 days before" Ten days is a requirement that the clerks cannot meet. They requested the bill be amended, and we agree, so that the language would say that the absentee ballot would be received prior to the commencement of early voting, but without putting that ten-day limit on the county clerks, especially in the larger counties.

There is a bill in the Senate with language consistent with our military voting amendment here, that more thoroughly encompasses all the issues regarding it. Once I have talked with the bill's sponsor and the appropriate chair, I will report back to this Committee, and let you know about it.

Chair Koivisto:

During the last session, we had a long discussion in this Committee about faxed ballots. We could fax the ballot to the voter, but it could not be faxed back.

Kristi Geiser, Assistant to the Deputy for Elections, Office of the Secretary of State:

That is correct. Currently in statute, a ballot can be faxed to a voter but it cannot be faxed back. This vehicle would provide the ability for the voter to fax it back.

Matt Griffin:

The primary concern, from what I have read, is the uncertainty about the fax machine, who might see the ballot, whether the vote would still be private, and if there might be coercion or intimidation at the polling place. The language in federal legislation, and included in this amendment, put up safeguards for those measures. I can provide additional information on that.

Chair Koivisto:

Does federal legislation allow a faxed ballot to be returned to register the vote?

Matt Griffin:

That is correct.

Assemblyman Mortenson:

If someone is particularly sensitive about having their ballot seen by people, is there another option? Do they have to fax their ballot back or can they put it in an envelope and send it back?

Matt Griffin:

This is not the exclusive means of returning a ballot. All the other statutory privileges for returning the ballot remain in place. This allows the opportunity for a serviceman or woman to balance the risks between giving up their voting anonymity versus voting.

Assemblyman Mortenson:

I was concerned that fax in/fax out might be the rule, but it is not.

Chair Koivisto:

Other questions from the Committee? [No response.] You covered all your amendments?

Matt Griffin:

We have, Madam Chair. As Secretary Miller noted, this is an essential bill so that our office conforms with common practice today.

Assemblywoman Gansert:

The bill is pretty thick. Are there any regulations in it requiring someone to provide ID when they vote?

Matt Griffin:

There are. All the regulations in effect today, remain in effect. This language clarifies that a voter ID card is not sufficient proof to establish one's residence. If I have a voter ID card from the 2005 election and use it as identification in the 2006 election, I may have moved within the county but not within the same district during that time. There is no photograph requirement on that voter ID so that is not going to be sufficient under our proposal; it will be the existing statutory requirements.

Assemblywoman Gansert:

What are the existing statutory requirements?

Matt Griffin:

Any combination of several forms of identification, including a valid driver's license with the individual's residence listed, also a photo ID with some type of utility bill that would establish a residence address, would satisfy the

ID requirement. The whole thrust of the regulation is that the picture matches the person, and the person has an address.

Assemblywoman Gansert:

Do you know what section this language is in? It may not be in this bill if it is in current statute.

Matt Griffin:

I believe this language is contained within the *Nevada Administrative Code*.

Assemblywoman Gansert:

Could you provide a copy of that?

Matt Griffin:

I sure can.

Assemblyman Cobb:

There is nothing in this bill or in the amendments that requires proof that the person has the right to vote, such as a government ID, a photo ID, or anything like that, is there?

Matt Griffin:

No, there is not.

Assemblyman Cobb:

You have a provision in your amendment that provides for a very, very serious penalty if someone tampers with an election with the intent of fraudulently influencing the results, correct?

Matt Griffin:

That is correct. In our view, there can be very few crimes that are more injurious to the democratic process than tampering with the results of an election. So many fundamental principles of our democracy are based upon this election process. It is one thing to tamper with a voting machine to affect the vote of one person, but it is a wholly separate issue to do so with the intent of altering an election.

There was a movie that portrayed someone in a software company tampering with something that altered the outcome of an election. Whether that is true or not is not the issue. The public perceives it as being a potential problem, so this penalty would serve as a deterrent to the very few people who might cause this to occur. That is why we ask that the crime be considered a category A felony.

Assemblyman Cobb:

I agree with you that it is a very serious situation if someone is trying to fraudulently influence the results of an election. That is why I am bringing up the concept of requiring a government-issued, photo ID when you vote. You would like someone who fraudulently influences an election to be prosecuted with a category A felony, which is punishable by up to life in prison; yet an individual who does not have the right to vote, but is still voting, fraudulently influences that election by doing so. Do you agree that a simple showing of a photo ID would help eliminate that very serious violation?

Matt Griffin:

I would not agree that a photo ID would suffice. I believe the ID requirements we have in place now allow the county clerks to sufficiently identify who is voting and their residence. Our bill does not speak to those requirements outside the voter ID card.

The category A felony does not speak to one voter's vote being incorrectly cast. It speaks to someone who by himself, herself, or as an organization, alters the entire election. Their goal is not to say a specific individual does not have a vote in this election. Their goal is to say that a certain candidate is going to win this election, no matter how anyone votes. That is where I differentiate the two.

Assemblyman Cobb:

When I showed up to vote this last election, I pulled out my ID and they shunned me. They said they were not allowed to look at IDs. I do not know if that is the case, but they made it clear they were not allowed to ask for a photo ID when voting. Certainly, groups of people can influence an election by tampering with the voting machines. I agree with you there. I think the penalty you have prescribed in this bill might be a bit harsh; however, if you are going to be prescribing a penalty that could include life in prison, on the other end we should be worried about people who are not eligible to vote, such as felons or people from outside the State, using our voter rolls and voting because we do not require they show us a simple photo ID.

Matt Griffin:

With respect to the language in our amendment, NRS 293.775, Section 1(a) deals with what you are referring to ([Exhibit D](#)). It is existing law dealing with interfering with a single voter's right to vote and has it as a category D felony. The language we are amending speaks to the election itself, as opposed to an individual voter.

Chair Koivisto:

I believe there is a bill somewhere in the process dealing with voter ID.

Assemblyman Settlemeyer:

I would like to hear the Secretary of State's opinion about the concept of showing a photo ID to vote.

Ross Miller:

I am not opposed in principle with putting safeguards in place that would ensure that only those who are qualified are casting ballots. On the flip side of it, I think we can also take a much tougher stance toward addressing fraud where we see it and put penalties in place in order to deter people. There are a number of bills on this subject, and we will send representatives to testify as to specific voter ID requirements and whether they make sense given the way the language is written.

Chair Koivisto:

I believe the Senate committee just passed a voter ID bill that requires identification.

Assemblyman Goedhart:

If the Senate and Assembly both pass a voter ID bill, in your mind would that be a significant enhancement that could help you ensure that elections are conducted fairly and honestly?

Matt Griffin:

I am only familiar with the Senate bill, but as the Secretary mentioned, safeguards that protect the ability to identify who the voter is, and what their residence is, are always looked at favorably and given the benefit of the doubt. On the other hand, you also have to look at whether there is a cost to that benefit or if there are other ways to accomplish the same result. Until I see the Assembly bill, I cannot comment on it.

Assemblyman Goedhart:

I believe the likelihood of someone altering the outcome of an election by tampering with the machines would be much less than the likelihood of different folks who were not authorized to vote in a particular precinct or district banding together and voting. That has a much greater likelihood of occurring, so when we look at the cost/benefit analysis, we should also look at the frequency of such an occurrence.

Chair Koivisto:

In the Help America Vote Act (HAVA), what are the voter ID requirements?

Matt Griffin:

There is quite a substantial list of those requirements. Our ID requirements in our voter registration forms, or applications, are based on HAVA language. The way to verify voter eligibility is derived straight from HAVA. I can send you the full list.

Chair Koivisto:

That would be good. My recollection is that the federal requirements are aimed at helping people vote. Are there other questions from the Committee? [No response.]

Alan Glover, Carson City Clerk-Recorder:

We are in support of the bill. We desperately need this cleanup language to get punch card provisions out of our statutes. We are very much in support of the change in language on page 21, line 32, that would revert to the old language that said, "Before the period for early voting." We cannot make the 10-day period currently in the bill. Irregardless of the lawsuits that have occurred over ballot questions, which hold us up, just printing and getting the post office to deliver the sample ballots is a challenge. We do everything we can to get those out in plenty of time so people have an opportunity to review them before they early vote, because it really makes life easier if they have their sample ballots with them.

The Senate bill Mr. Griffin mentioned for faxing ballots to servicemen and women has a couple of technical problems with timing, but we have no problem sending ballots out and receiving them. Some sense of privacy is lost when you do that; but at least in our office, we only have one fax machine with one person in charge of it and we do not necessarily know who the absentee voters are. When they come into our office, we issue them an absentee ballot, hold it aside, and fax them a copy of it. When it comes back, the duplicating board duplicates that ballot, we save the one they faxed to us in case there is ever any challenge, and then we run the duplicate through the card reader and count it. It really works quite well.

We certainly ask your support of the bill. We needed this legislation two years ago and we are certainly hoping it will make it through both Houses this year.

Chair Koivisto:

How do you feel about the category A felony?

Alan Glover:

Tampering with an election, as is being talked about, is really, truly serious. I have never seen it happen. I do not think it would, but I think you need to send a clear message to anyone who would be that daring, or that clever. If they can pull it off, they should be prosecuted to the full extent of the law.

Barbara Griffin, Douglas County Clerk-Treasurer:

I will be very brief and say, "Me, too."

Chair Koivisto:

I am going to bring this bill back to the Committee, close the hearing on A.B. 517 and open the hearing on Assembly Bill 342.

Assembly Bill 342: Makes various changes to the process of casting a mailing ballot in mailing precincts. (BDR 24-689)

Assemblywoman Heidi S. Gansert, Assembly District No. 25:

Assembly Bill 342 is a bill that would allow people who are in mail precincts, which are precincts with 200 or fewer people, to vote at the polls. This would apply only in counties with populations over 100,000. There is an amendment we have provided Committee members with ([Exhibit F](#)). Alan Glover was kind enough to poll all the different registrars in the State and logistically, in a lot of the rural areas, they cannot handle voters in mailing precincts coming in to vote. They cannot get those voters off their records because they do not have live data when people are voting.

Assembly Bill 342 allows people in mailing precincts in Clark or Washoe Counties to go into the polls and vote, because those counties do have computer systems that could handle it. I had a voter in a mail precinct who tried to vote and was unable to do so. Since Clark and Washoe Counties do have computer programs to handle this situation, this bill would allow voting at the polls in those two counties by mailing precinct voters.

Assemblyman Segerblom:

I really support this bill, but where would those people go to vote in person?

Assemblywoman Gansert:

I am not exactly sure. In Washoe County the data is live, and during early voting you can vote at any polling place. It would be my hope that mail precinct voters could also vote at any polling place. I think they can vote at any polling place in Clark County.

Assemblyman Segerblom:

In the past, we have not allowed this, but it is a problem because we both have mail precincts. They can go early vote, but they cannot go on election day, and it would be great if they could.

Assemblyman Kihuen:

I would like to commend you for bringing this bill forward. I had 20 or 30 constituents affected by this and we need to promote allowing people to go vote, rather than putting up roadblocks. I, too, would like to support this bill.

Alan Glover, Carson City Clerk-Recorder:

If a voter is in a mailing precinct, that voter was mailed a ballot to be marked, which would then be mailed back to the registrar or the clerk to be counted. As I understand the situation, the voter did not want to mail the ballot in. The individual wanted to come in and vote. To set up the vote, the clerk or registrar must program the election so that that individual's ballot style will come up on the machine, and I understand Clark County does that. Washoe County will do that at one location, probably the clerk's office because not every precinct has all the ballot styles. In Carson City, people with absentee ballots come into the Clerk's Office, surrender their absentee ballots, and vote early. If we had a mailing precinct, we would do the same thing. In rural Nevada, you cannot tell whether the ballot was mailed in already because they are not hooked up electronically. More importantly, some very small precincts may have paper ballots because they are not programmed into the software package.

Assemblywoman Gansert:

I found the answer to the question in an amendment provided by the Legal Division. The amendment says that when the ballot is mailed out, a notice is to be included providing the locations of designated polling places to which a voter who has received a mailing ballot may go on election day, or during the period for early voting, to cast their ballot in person. When you receive your mailing ballot it will give you the option to vote in person and designate the place. That language is on the amendment I provided everyone with ([Exhibit F](#)).

Chair Koivisto:

Mrs. Gansert, did you talk to Larry Lomax of Clark County about how this would work there?

Assemblywoman Gansert:

Alan Glover polled everyone for me.

Alan Glover:

Mr. Lomax has absolutely no problem with this. I have not talked to Dan Burke, the Washoe County Registrar, but it is my understanding that he has no problem implementing this either. The two counties involved have absolutely no problem with it.

Assemblyman Segerblom:

I propose we add language that would say they can vote at a location near the mailing precinct, as opposed to a centralized location. In Clark County, a lot of the mailing precincts are a long way from the Clerk's Office. Maybe we could designate a computerized regional center that would allow the Clerk to program for anyone, just as they do for early voting.

Assemblywoman Gansert:

That sounds good.

Chair Koivisto:

Are there further questions from the Committee? [No response.] Please proceed with your second bill.

Assembly Bill 322: Revises certain provisions governing elections. (BDR 24-408)

Assemblywoman Heidi S. Gansert, Assembly District No. 25:

My second bill is Assembly Bill 322 and deals with initiative petitions. Last session, we provided for the disclosure of who receives and expends money relating to initiative petitions and referendums. There is an amendment everyone should have ([Exhibit G](#)). This amendment would extend that disclosure to include questions on a ballot. So, whether it is a ballot question or an initiative, if there are groups or individuals who receive or expend more than \$10,000, those groups or individuals would be required to provide a form to the Secretary of State, that he would develop.

The second part of the measure involves problems with initiative petitions that end up going to court. Once in the courts, those initiative petitions were not required to go back to the Secretary of State to be refiled. If there was an issue with the summary or the petition, it could be remedied, but did not need to be refiled with the Secretary of State. The second portion of this bill requires that if there have been adjustments to a petition, it must be refiled and then, based on that last filed petition, signatures could be gathered. Signatures gathered under the initial petition are void and, moving forward, the petition that is final is filed, and then signatures can be gathered.

If an adjustment is made, that issue cannot be challenged again. Another issue can be challenged within the allocated time frames from past legislation, but the same issue cannot be challenged. I worked with the Secretary of State and his staff to come up with the amendments you have in writing before you.

Assemblyman Segerblom:

Are you saying the same financial reporting requirements that apply to a candidate would apply to initiatives?

Assemblywoman Gansert:

They are a little bit different. The threshold is \$10,000.

Assemblyman Segerblom:

Would there be a contribution limit? Are you talking about committees that are formed?

Assemblywoman Gansert:

These are not necessarily the contribution limits. Sometimes there are organizations for or against an initiative, and we were trying to come up with some disclosure or transparency. We did that for initiatives and referendums, but we did not address questions on the ballot. You do not file anything unless you have received or expended over \$10,000.

Assemblyman Segerblom:

If you form a committee in support of a ballot initiative, are there no reporting requirements as far as campaign donors, or limitations on what can be given, or on reporting who is giving you money, or its expenditure?

Assemblywoman Gansert:

Not necessarily, if you are a group. If you are a PAC (Political Action Committee), there are reporting requirements.

Assemblyman Segerblom:

So, MGM can give \$100,000 to defeat or support an initiative?

Assemblywoman Gansert:

I believe they can.

Assemblyman Segerblom:

Would this bill have an impact on that?

Assemblywoman Gansert:

It would, because they would be disclosed on a form filed with the Secretary of State.

Assemblyman Segerblom:

But they still could give the money?

Assemblywoman Gansert:

They could still give the money. I do not believe there are caps on the money contributed, but there is disclosure of who actually is contributing for the passage or defeat of a question or initiative.

Assemblywoman Kirkpatrick:

Would it include out of state folks who get involved in the initiative process in Nevada?

Assemblywoman Gansert:

I believe that it would. It would be anyone who expends or receives more than \$10,000.

Assemblywoman Kirkpatrick:

Would they have to file with the Secretary of State?

Assemblywoman Gansert:

For them to contribute, they would have to do business, I would expect, in this State. If any entity does that, they are required to file if it is over \$10,000. In this legislation, I have extended the reporting requirements to ballot questions.

Chair Koivisto:

Are there further questions from the Committee? [No response.] We will close the hearing on this bill. We have a work session on Assembly Bill 143, and I am going to turn the meeting over to Patrick Guinan.

Assembly Bill 143: Revises provisions relating to the Commission on Ethics.
(BDR 23-855)

Patrick Guinan, Committee Policy Analyst:

[Read an explanation of the bill and proposed amendments from prepared text ([Exhibit H](#)).]

Chair Koivisto:

In the bill, the length of time between a filing date and a panel proceeding is one year. I think 120 days would be a good compromise.

Assemblyman Conklin:

I want to be certain the outer limit is reasonable both for the Ethics Commission, that has limited resources, and the person who has made a claim.

Chair Koivisto:

If we are talking about something happening during an election and the time line is too long, the election will be over and you might as well throw the complaint out.

Assemblywoman Kirkpatrick:

I spoke with Mr. Goedhart. I think this is a good bill, but I think one year is too long and not fair to either party. I understood the Ethics people to say someone could ask for a waiver of time. It does no good to have a process if it does not work. I do not want to support the one-year time line. It needs to be shortened so people can move forward, and there is the possibility of a waiver in case the Ethics Commission gets behind. This bill would encourage the Commission to move the complaint along.

Chair Koivisto:

I am not sure the Ethics Commission asks for the waiver; the person being complained against asks for the waiver.

Assemblyman Settlemeyer:

My understanding was that the individual being accused was who gave the waiver.

Assemblywoman Gansert:

Looking at the information provided by the Nevada Commission on Ethics ([Exhibit H](#)), it appears 2005 was their worst-case scenario, when it took, on average, 297 days between the filing date and the panel hearing. In 2006, there were 18 complaints at an average of 150 days. If someone files a complaint about an individual, it needs to be remedied very quickly. I do not want to extend that to more than 120 days.

Assemblyman Conklin:

If 120 days is the will of the Committee, I do not want to stand in the way. The person being charged with a complaint is the only person who can ask for a

waiver. In 2005, part of the reason you saw an average of 297 days between the filing date and the panel proceeding may have been the complexity of the cases, or they did not have the requisite number of Commissioners available to hear the cases. I do not want the Commission to find someone guilty who is actually innocent because it did not have time to thoroughly review a case. Conversely, I do not want the Commission to find someone innocent who is guilty and certainly would not file any waiver allowing the Commission to have more time to thoroughly do its job. That is my only concern, and it is not enough to hold up this bill. The direction the Committee is headed in is the right direction.

Chair Koivisto:

We also need to consider that when an elected person, a candidate, or someone else is asking for an advisory opinion, that time frame has to be shorter. You are asking the Commission to clarify existing rules, so there should not be a need for investigation. They should be able to just respond.

Assemblyman Goedhart:

I will go along with the will of the Committee, and 120 days sounds reasonable. Craig Walton did want to distinguish between the length of time between an investigation of a complaint and the panel proceeding versus providing a written opinion. We are on the right track if we can differentiate between the two. For an investigation, we want the Commission to have enough time to conduct its investigation. We want to narrow the loophole that a few people have used during the last year or two. At the same time, we are asking the Commission to provide prompt and timely opinions in regard to advisory requests by elected officials.

Chair Koivisto:

That is exactly right. It probably would not be unreasonable to have 45 days when asking for an advisory opinion. Once 120 days has been exceeded, that is too long. There is no sense of urgency, and there should be.

Craig Walton, President, Nevada Commission on Public Ethics:

There is a possibility that the 297-day average in 2005 had to do with change of counsel. There was a lot of confusion at that time. Your 120-day proposal makes a lot of sense, and I support it. It does put pressure on the Executive Director to replace staff quickly, if needed, but I am sure Mr. Hearn would agree to that idea. The timeliness issue is so important. If they do lose counsel, which is what may have occurred in 2005, then they would be motivated to replace counsel quickly.

I agree that 45 days for an advisory opinion to be issued sounds very sensible. It is a matter of counsel drafting a digest of what, in existing opinion, touches on the person's request. After that it is merely a matter of putting the information together, typing it up, and getting agreement from the Commissioners.

Chair Koivisto:

Are there comments or questions from the Committee? [No response]

ASSEMBLYWOMAN GANSERT MOVED TO AMEND AND DO PASS ASSEMBLY BILL 143 WITH THE AMENDMENT BEING A 120-DAY TIME FRAME BETWEEN THE FILING DATE OF A COMPLAINT AND THE PANEL PROCEEDING ON THAT COMPLAINT, AND A 45-DAY TIME FRAME FOR THE RENDERING OF AN ADVISORY OPINION.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

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

Is there anything else to come before the Committee? [No response] We are adjourned [at 5:34 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: March 29, 2007

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
AB 384	C	Lynn Chapman, State Vice Pres., Nevada Eagle Forum	Articles in opposition
AB 517	D	Matt Griffin, Deputy for Elections, Office of the Secretary of State	Proposed amendments
AB 517	E	Matt Griffin	Proposed amendments
AB 342	F	Assemblywoman Gansert	Proposed amendments
AB 322	G	Assemblywoman Gansert	Proposed amendments
AB 143	H	Patrick Guinan, Committee Policy Analyst	Work Session document